

YECHESKEL "CHARLIE" SCHWAB  
and DATAMAP INTELLIGENCE, LLC,

Plaintiffs-Appellants,

v.

JOYCE BLAY, HERSHEL  
HERSKOWITZ a/k/a HAROLD  
HERSKOWITZ, SHLOMIE KLEIN  
a/k/a SHLOMO KLEIN, ABRAHAM  
SHARABY, JOHN DOES 1-10 and  
ABC CORPS. A-J,

Defendants-Respondents.

SUPERIOR COURT OF NEW JERSEY,  
APPELLATE DIVISION,  
Docket No. A-001312-21T2

CIVIL ACTION

ON APPEAL FROM SUPERIOR COURT  
OF NEW JERSEY, LAW DIVISION,  
OCEAN COUNTY,  
Docket No. OCN-L-2695-18

Sat below:  
HON. JAMES DEN UYL, J.S.C.

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**BRIEF AND APPENDIX OF AMICI CURIAE THE REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS & 10 MEDIA ORGANIZATIONS IN SUPPORT OF  
DEFENDANT-RESPONDENT SHLOMIE KLEIN SEEKING AFFIRMANCE**

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## PRELIMINARY STATEMENT

This appeal arises out of Plaintiffs-Appellants' (collectively, "Plaintiffs") allegations that Defendants-Respondents, including Shlomie Klein ("Klein"), published defamatory articles concerning Plaintiffs on the websites jleaks.com ("jleaks") and hefkervelt.blogspot.com ("hefkervelt") (collectively, the "Articles"). Klein, the publisher of the blog firstamendmentactivist.blogspot.com, as well as the "First Amendment Activist" Facebook page, [www.facebook.com/FAALAKEWOOD/](http://www.facebook.com/FAALAKEWOOD/) and the "First Amendment Activist" YouTube channel, <https://www.youtube.com/channel/UCYzS9UEZsa88YsKgePUDxoA>, submitted a sworn affidavit to the trial court stating that he is not the publisher of jleaks or hefkervelt and that he had no involvement in publishing the Articles. Plaintiffs produced no direct evidence to rebut Klein's sworn statement. Instead, Plaintiffs presented an assortment of attenuated circumstantial evidence concerning Klein's personal relationship to Defendant-Respondent Abraham Sharaby ("Sharaby")—whom Plaintiffs contend has a role in publishing jleaks and hefkervelt—to argue that Klein is also a publisher of the websites and of the Articles.

The trial court correctly held that Plaintiffs had failed to "present competent evidence from which a jury could reasonably infer" that Klein was the publisher of jleaks, hefkervelt, or the Articles, and awarded summary judgment in Klein's favor.

Plaintiffs argue that the trial court erred in finding that the “admittedly circumstantial” evidence proffered by Plaintiffs was insufficient to establish that Klein published the Articles. Plaintiffs further contend that Klein’s invocation of the New Jersey’s newsperson’s privilege, more commonly known as the “Shield Law,” N.J.S.A. 2A:84A-21 to -21.8, when questioned about jleaks and hefkervelt during his deposition contradicts his testimony that he is not the publisher of the Articles and that the trial court thus erred in crediting Klein’s purportedly “sham affidavit.”

Amici curiae are news media and other organizations dedicated to protecting the First Amendment interests of the press and the public.<sup>1</sup> Lead amicus the Reporters Committee for Freedom of the Press is an unincorporated nonprofit association founded by leading journalists and media lawyers in 1970, when the nation’s news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

Amici write to emphasize the importance of the Shield Law to both traditional and nontraditional journalists, like Klein; the

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<sup>1</sup> Descriptions of all amici can be found in the appendix.

Shield Law protects information obtained in the course of a reporter's professional activities, even if the reporter had no involvement in publishing the articles at issue. Amici further write to detail the potential chilling effect on newsgathering and reporting should this Court reverse the trial court's finding that Plaintiffs' circumstantial evidence, which "only tangentially connect[s] Klein" to jleaks and hefkervelt, was insufficient to establish that Klein was a publisher of the Articles.<sup>2</sup> Accordingly, amici respectfully urge this Court to affirm the trial court's award of summary judgment for Klein.

**STATEMENT OF FACTS AND PROCEDURAL HISTORY**

For the purpose of this brief, amici accept the counterstatement of facts set forth in Defendant-Respondent Klein's opposition brief filed in this Court on April 27, 2022.

**ARGUMENT**

**I. AS A JOURNALIST, KLEIN CAN INVOKE THE SHIELD LAW'S PROTECTIONS, EVEN IF HE DID NOT PUBLISH THE ARTICLES.**

The Shield Law plays a critical role in ensuring journalists' ability to gather news and keep the public informed. By providing absolute protection in civil cases for reporters' sources and information obtained in the course of pursuing their professional

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<sup>2</sup> Amici write only to address the trial court's holding that Plaintiffs failed to present sufficient evidence to establish that Klein published the Articles. Amici do not address the other issues presented and fully addressed in Defendant-Respondent Klein's Opposition Brief.

activities, N.J.S.A. 2A:84A-21, the Shield Law enables reporters to obtain newsworthy information so they may then share that information with the public. The Shield Law applies fully to journalists connected with nontraditional news media outlets, including blogs. Once the Shield Law applies, it protects journalists from the compelled disclosure of their sources of information or any information obtained in the course of their professional activities, Too Much Media, LLC v. Hale, 206 N.J. 209, 242 (2011), even if a party in civil litigation seeks to question them about news articles they did not write or publish.

**A. The Shield Law applies to journalists connected with nontraditional news media, including Klein.**

The Shield Law may be invoked by any "person engaged on, engaged in, connected with, or employed by news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public or on whose behalf news is so gathered, procured, transmitted, compiled, edited or disseminated." N.J.S.A. 2A:84A-21. The statute defines "news media" as "newspapers, magazines, press associations, news agencies, wire services, radio, television or other similar printed, photographic, mechanical or electronic means of disseminating news to the general public." N.J.S.A. 2A:84A-21a(a). It defines "news" as "any written, oral or pictorial information gathered, procured, transmitted, compiled, edited or

disseminated by, or on behalf of any person engaged in, engaged on, connected with or employed by a news media and so procured or obtained while such required relationship is in effect.” N.J.S.A. 2A:84A-21a(b). These definitions are interpreted broadly. See In re Jan. 11, 2013 Subpoena by Grand Jury of Union Cty., 432 N.J. Super. 570, 587 (Law Div. 2013) (“In re Jan. 11, 2013 Subpoena”).

Unlike other states that have limited the category of persons who may invoke their shield laws, the New Jersey Supreme Court has explained that the Shield Law’s protections are not limited to “professional journalists.” Too Much Media, 206 N.J. at 240; Compare e.g., N.Y. Civ. Rights Law § 79-h (stating that the New York shield law applies only to “professional journalists and newscasters”). Instead, the Shield Law only “requires those seeking the privilege to have some connection to ‘news media.’” Id. at 230.

New Jersey courts have found on several occasions that journalists publishing in nontraditional news media, such as bloggers like Klein, have the “requisite connection with news media,” id. at 240, to invoke the protections of the Shield Law. Courts have upheld the Shield Law’s application to a wide range of defendants, including videographers of a reality-based television

show,<sup>3</sup> the author of a nonfiction book,<sup>4</sup> and a Spanish-language tabloid.<sup>5</sup> See also Too Much Media, 206 N.J. at 233 (citing those cases with approval).

Under the statute, "news media" includes electronic means of disseminating news "so long as they are similar to traditional news media." Id. Thus, in In re Jan. 11, 2013 Subpoena, 432 N.J. Super. at 592, the court found that the Shield Law applied to a blogger whose posts covered local county politics.<sup>6</sup> In determining whether the blogger had a sufficient "nexus" to the "news media," the court stated that "the relevant inquiry is whether [the blogger] is connected or employed by an entity that is sufficiently similar to the traditional news media sources enumerated in the Shield Law." In re Jan. 11, 2013 Subpoena, 432 N.J. Super. at 587

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<sup>3</sup> Kinsella v. Welch, 362 N.J. Super. 143, 153-55 (App. Div. 2003).

<sup>4</sup> Trump v. O'Brien, 403 N.J. Super. 281, 303 (App. Div. 2008).

<sup>5</sup> In re Avila, 206 N.J. Super. 61, 65-66 (App. Div. 1985).

<sup>6</sup> A blog is "a type of personal column posted on the Internet. . . . Some blogs are like an individual's diary while others have a focused topic, such as recipes or political news." Too Much Media, 206 N.J. at 219 n.1 (quoting Douglas Downing, Dictionary of Computer and Internet Terms, 58-59 (10th ed. 2009)). See also Merriam-Webster, <https://perma.cc/3ZU7-NXWX> (last visited Apr. 7, 2022) (defining "blog" as "a regular feature appearing as part of an online publication that typically relates to a particular topic and consists of articles and personal commentary by one or more authors"); id. (defining blog alternatively as a "a website that contains online personal reflections, comments, and often hyperlinks, videos, and photographs provided by the writer").

(citing N.J.S.A. 2A:84A-21(a); Too Much Media, 206 N.J. at 233). The court went on to note that the blogger's "methods of talking to sources, attending freeholder meetings, and using Open Public Records Act (OPRA) requests, reading agendas, resolutions, and ordinances, and asking questions at freeholder meetings, [wa]s sufficiently similar to the methods used by traditional news media entities enumerated in the governing statute." Id. at 589. The court also emphasized that the blogger wrote on newsworthy topics such as local corruption and wrote with relative frequency (on average, one post a week). Id. at 588-89. Thus, the court concluded that the blogger's "actions in connection with the blog and the website demonstrate the necessary connection to the news media." Id. at 589.

Klein's connection with the news media comes from his own blog, Facebook page, and YouTube channel. (Ja2026a-2027a at 2).<sup>7</sup> Klein's blog is sufficiently similar to the traditional news media outlets identified in the Shield Law to establish Klein's connection to the "news media." Klein's blog reports regularly on a particular topic: news in the Lakewood, New Jersey area. Id. Similar to the blogger in In re Jan. 11, 2013 Subpoena, Klein attends public meetings, speaks with sources, and files New Jersey Open Public Records Act (OPRA) requests as part of his journalistic

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<sup>7</sup> Ja = Joint Appendix  
Pb = Plaintiffs' Appellate Brief

work. (Ja2027-2028a at 5.) Accordingly, Klein's "actions in connection with" his blog "demonstrate the necessary connection to the news media." In re Jan. 11, 2013 Subpoena, 432 N.J. Super. at 589.

**B. Klein can invoke the Shield Law even if he denies publishing the Articles.**

Although Klein denies publishing the Articles at issue, as a journalist covered by the Shield Law, he was entitled to invoke the reporter's privilege to decline to answer questions about his sources or information obtained in the course of pursuing his professional activities, including as they may relate to jleaks or hefkervelt.

The Shield Law protects journalists from compelled disclosure of their sources of information or any information obtained in the course of pursuing their professional activities, whether or not they wrote or were otherwise involved in publishing the specific articles giving rise to the claims at issue in the case or about which they are being questioned. As the New Jersey Supreme Court noted in Maressa v. N.J. Monthly, 89 N.J. 176 (1982):

The Legislature plainly expressed its intent that all significant news-gathering activities be protected. The Shield Law protects against disclosure of the "source, author, means, agency or person from or through whom any information was procured, obtained, supplied, furnished, gathered, transmitted, compiled, edited, disseminated, or delivered." . . . It also separately protects "any news or information obtained in

the course of pursuing . . . professional activities whether or not it is disseminated." . . . This litany of protected activities was clearly intended to afford complete and pervasive security against disclosure.

[Id. at 188 (citations omitted).]

The Shield Law's text contains no requirement, nor any implied requirement, that Klein be the author of the Articles about which he would be questioned before he may assert the law's protections to shield his journalistic work product and source information from compelled disclosure. See generally N.J.S.A. 2A:84A-21. If, for example, the *Asbury Park Press* were sued for publishing an allegedly defamatory article about a local business, reporters from *The Star-Ledger* could not be compelled to testify about their sources and information they obtained in writing a separate article they published about that local business. Under the Shield Law, although *The Star-Ledger* reporters did not author the allegedly defamatory article, they nonetheless have an absolute privilege not to testify about their sources or other information obtained in the course of pursuing their professional activities in any proceeding.

Plaintiffs characterize Klein's broad assertion of the privilege during his deposition when asked about his knowledge of jleaks or hefkervelt as inconsistent with his later sworn affidavit denying he publishes the websites or the Articles. (Pb30-32). This argument fails for two reasons. First, it side-steps the

fact that the privilege can be invoked to prevent answering a wide variety of questions, including from sources obtained through the newsgathering process. Second, when reporters invoke the privilege, they necessarily must invoke it broadly when answering questions because selective invocation of the privilege renders the Shield Law ineffective. For example, if a reporter is questioned in a civil matter about who their source for a story is, and they are asked one by one whether it is individual A, B, or C, the reporter would have to invoke the privilege for each answer. If they invoked the privilege for only one of the individuals, their answer could be easily deduced. Logically, therefore, reporters can broadly invoke the Reporters privilege when being asked questions in order for the law's purpose to be vindicated.

As a journalist, Klein was well within his rights to invoke the Shield Law to decline to answer questions about his sources and any information obtained in the course of pursuing his professional activities, and this invocation is in no way inconsistent with his sworn affidavit denying publication of the Articles.

**II. EXTENDING DEFAMATION LIABILITY TO KLEIN WOULD CREATE A CHILLING EFFECT ON NEWSGATHERING AND REPORTING.**

**A. Plaintiffs failed to show that Klein is the publisher of the Articles.**

Publication is an essential element of a defamation claim. See DeAngelis v. Hill, 180 N.J. 1, 12-13, 847 A.2d 1261, 1267-68 (2004) (finding the elements of a defamation claim to include "the unprivileged publication of [a false and defamatory] statement to a third party.") (quoting Restatement (Second) of Torts § 558 (1977)). Thus, to establish liability for defamation, a plaintiff must show that the defendant "*published* or knowingly participated in the publishing of the alleged defamation." Tavoulareas v. Piro, 759 F.2d 90, 136 (D.C. Cir. 1985) (emphasis in original), vacated in part on other grounds on reh'g, 763 F.2d 1472 (D.C. Cir. 1985), and on reh'g, 817 F.2d 762 (D.C. Cir. 1987) (Tavoulareas II); see also Catalfo v. Jensen, 628 F. Supp. 1453, 1455 (D.N.H. 1986) ("[W]ithout . . . publication, there can be no liability").

Although New Jersey courts have not specifically defined what constitutes "publishing" or "publication" for purposes of defamation liability, the Second Restatement of Torts defines "publication" as the "communication" of defamatory matter "intentionally or by a negligent act to one other than the person defamed." Restatement (Second) of Torts § 577(1); see also id. cmt. a ("Any act by which the defamatory matter is intentionally or negligently communicated to a third person is a publication."). Accordingly, federal and state courts have routinely held that publication liability does not extend to defendants who did not play a central role in the communication, formulation, or review

of the story involved. See Tavoulareas II, 759 F.2d at 136 (finding that a source could not be held liable as a publisher of an allegedly defamatory news story where the source provided information but “played no role in the actual preparation of the story”); Zimmerman v. Al Jazeera Am., LLC, 246 F. Supp. 3d 257, 286 (D.D.C. 2017) (finding that an athlete, whose primary involvement in a documentary consisted of conducting an undercover interview, could not plausibly be characterized as a publisher); Catalfo, 628 F. Supp. at 1457 (awarding summary judgment in favor of a freelance photographer whose involvement in the allegedly defamatory article was limited to providing photographs).

Here, Plaintiffs produced no direct evidence that Klein played any role whatsoever in the development, writing, editing or publication of the Articles, let alone any evidence to show that he exerted “the level of responsibility . . . that would be necessary to demonstrate that he ‘published or knowingly participated in publishing the defamation’ at issue.” Zimmerman, 246 F. Supp. 3d at 286 (quoting Tavoulareas II, 759 F.2d at 136). Instead, Plaintiffs rely solely on “admittedly circumstantial” evidence to support their wholly speculative theory that Klein may have provided photographs or information to Sharaby. (Pb27-28). Yet even assuming, *arguendo*, that these allegations were true, this activity would be insufficient to establish liability for publication. See Tavoulareas II, 759 F.2d at 136; Zimmerman, 246

F. Supp. 3d at 286; Catalfo, 628 F. Supp. at 1457. Indeed, courts have routinely held that sharing photos, source information, or participating in an investigation is insufficient to establish publication without direct evidence that the defendant wrote, oversaw, or shared the allegedly defamatory material.

For example, in Tavoulaareas II, the D.C. Circuit affirmed a district court's judgment n.o.v. in favor of Golden, a source who participated in the investigation of an allegedly defamatory article, finding that Golden's involvement was insufficient to establish liability for publication where he "played no role in the actual preparation of the story." 759 F.2d at 136. As in the instant case, plaintiffs in Tavoulaareas II offered no evidence that Golden took "any part in the *actual* writing or editing" of the article, that he "exercise[d] any influence or control over the . . . defendants' handling of the material" or that he "read the article before publication or knew what its final contents would be." Id. (emphasis in original). Thus, the court found that the mere fact that Golden participated in the investigation, "by furnishing . . . initial information, conferring . . . on the course of the investigation, and supplying one source for the article" did not support a finding that Golden was responsible for publishing the article. Id. (noting that whatever constitutes the "quantum of participation in a defamatory article necessary for

liability . . . the First Amendment precludes its descending to the level of Golden's demonstrated participation in this case.”).

Similarly, in Zimmerman, a federal district court granted a defendant athlete's motion to dismiss a defamation claim against him in connection with his role in an allegedly defamatory documentary produced by Al Jazeera. 246 F. Supp. 3d at 288. Although the defendant assisted in the initial investigation and conducted an undercover interview, the court found that the plaintiffs' complaint failed “to allege any facts that, if true, support an inference that [the defendant] took any steps to publish” the documentary, noting that “for example, [the complaint does not allege] that [the defendant] was involved in the production (i.e., editing) of the footage that he filmed with the hidden camera that Al Jazeera provided, nor does the complaint speak to his role in the distribution of the allegedly defamatory documentary.” Id. at 287.

Similarly, here, Plaintiffs have provided no evidence that Klein wrote, edited, read, or shared the Articles. Moreover, even assuming that the alleged activity Plaintiffs attribute to Klein were true, such actions fall far short of establishing the necessary liability for publication of the Articles.

In sharp contrast to Plaintiffs' circumstantial and speculative evidence, Klein submitted a sworn affidavit in which he stated that he is not the publisher of jleaks or hefkervelt and

had no involvement in publishing the Articles. (Ja2029a at 11). This, alone, supports the lower court's finding of summary judgment in his favor. For example, in Catalfo, a freelance photographer defending against a defamation claim submitted sworn affidavits stating that he was not employed by the newspaper that published the allegedly defamatory article, that he "did not write or edit the article" or "assist or supervise in the writing of the article" and that his only responsibility in connection with the article was to provide photographs. 628 F. Supp. at 1455. Recognizing that the "purpose of the summary judgment procedure is to pierce the pleadings so that the burden of trial will not be wasted on baseless claims," the court found that where, as here, plaintiffs in the case produced no direct evidence to rebut the statements in the affidavits, there remained no "genuine issue of fact pertaining to the extent of" the defendant's "involvement in the publication" of the article and awarded summary judgment in his favor. Id. at 1156. Similarly, in Tavoulareas v. Piro, 93 F.R.D. 11, 15 (D.D.C. 1981) ("Tavoulareas I"), Katharine Graham, then the Chairman of the Board and CEO of *The Washington Post's* parent company, submitted sworn affidavits stating that she was not responsible for the *Post's* day-to-day operations. Finding that "some responsible participation" would be "clearly a prerequisite" for characterizing Graham a publisher of the allegedly defamatory articles, the court awarded summary judgment in her favor. Id.

Here, Klein's sworn affidavit states that he is not the publisher of jleaks or hefkervelt and had no involvement in publishing the Articles. (Ja2029a at 11). Plaintiffs have produced no direct evidence to contradict Klein's sworn statement and, thus, have failed to demonstrate that Klein was a publisher of the Articles. Absent this factual "prerequisite," the trial court's award of summary judgment in favor of Klein should be affirmed. See Tavoulareas I, 93 F.R.D. at 15.

**B. Allowing Plaintiffs to defeat a motion for summary judgment based on attenuated, circumstantial evidence would create a chilling effect on news reporting.**

The significance of this case extends beyond the individual actors involved. If the trial court's decision is reversed, it will hinder the ability of the news media to gather and report information of vital public interest. Plaintiffs argue, *inter alia*, that because Klein is Sharaby's rabbi and because a photo allegedly taken by Klein appeared in one of the Articles there is "circumstantial evidence" to show that Klein was the publisher of the Articles and that the trial court erred in awarding summary judgment in Klein's favor. (Pb28). This argument, if adopted, would set a dangerous precedent. Taken to its logical conclusion, such a finding may allow defamation plaintiffs to defeat motions for summary judgment brought by individuals who had no involvement in the writing, editing, or distribution of the allegedly defamatory material—such as freelance photographers and sources—

merely by drawing speculative conclusions from circumstantial connections between those individuals and the journalists who published the allegedly defamatory material. And while such attenuated evidence may fail to carry the day at trial, the threat of being drawn into lengthy and costly litigation may discourage the participation of scores of individuals, like sources, upon whom journalists and news media organizations often rely in order to produce the most accurate and robust reporting.

For example, as a result of staff reductions and technological changes, news media organizations increasingly look to independent freelance photographers to provide photographs and video to accompany news stories. T. J. Thompson, In Front of the Lens: The Expectations, Experiences, and Reactions of Visual Journalism's Subjects, 21 *Journalism & Communication Monographs*, no. 1, (Mar. 2019), at 9, <https://doi.org/10.1177/1522637918823261>. Indeed, many of the largest news media organizations, including *The New York Times*, *The Wall Street Journal*, and *The Washington Post*, rely on freelance photographers for fifty percent or more of their visual needs. Id. at 9. These photographers are not employed by the news media organizations and play no role in the writing or editing of the articles in which their photos or videos are used. Yet, if the type of attenuated evidence Plaintiffs proffer here were found sufficient to defeat a motion for summary judgment, a plaintiff may force a freelance photographer who simply provided

photographs for an article to defend against lengthy and costly defamation litigation. Photographers, sources (including independent bloggers) and whistleblowers may thus be deterred from providing news media organizations with tips, recordings, and other newsworthy information for fear of being forced to defend against protracted litigation, thus damming the flow of speech from sources to reporters, and reporters to the public. Citizens and bystanders, too, may be reluctant to provide the news media with photos, videos, or other information gathered at the scene of a newsworthy event, particularly if they have any connection to the news media outlet seeking to use the information. As sources dry up, stories that could have been published instead never see the light of day. See Tavoulaareas II, 759 F.2d at 137.

This chilling prospect is particularly acute where, as in New Jersey, no anti-SLAPP law exists to provide a mechanism for swift dismissal of meritless lawsuits designed to deter speech on matters of public concern. See Anti-SLAPP Guide: New Jersey, Reporters Committee for Freedom of the Press, <https://perma.cc/P83C-WG8H>. Even when ultimately unsuccessful, lawsuits initiated to stifle reporting can mire individuals and news outlets in costly, multiyear litigation--a consequence which smaller news outlets in New Jersey may struggle to survive. See Maressa, 89 N.J. at 196 ("The perpetuation of meritless actions, with their attendant costs, chills the exercise of press freedom."). In order to combat

this chilling effect, the New Jersey Supreme Court has held that “[o]ur courts should resolve free speech litigation more expeditiously whenever possible” and that “trial courts should not hesitate to use summary judgment procedures where appropriate to bring such actions to a speedy end.” Id.

Here, the trial court did just that, correctly finding that Plaintiffs’ circumstantial evidence was insufficient to rebut Klein’s sworn statements that he was not the publisher of the Articles. To hold otherwise would threaten to chill valuable reporting and stymie the news media’s ability to provide the citizens of New Jersey with information on matters of public concern.

#### **CONCLUSION**

For the foregoing reasons, amici respectfully urge this Court to affirm the trial court award of summary judgment to Klein.

Dated: April 27, 2022

Respectfully submitted,

*/s/ CJ Griffin*

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## APPENDIX: Statement of Identity of Amici Curiae

**The Reporters Committee for Freedom of the Press** (the "Reporters Committee") is an unincorporated non-profit association. The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nation's news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

**BuzzFeed, Inc.** is a social news and entertainment company that provides shareable breaking news, original reporting, entertainment, and video across the social web to its global audience of more than 200 million.

**Gannett** is the largest local newspaper company in the United States. Our 260 local daily brands in 46 states – together with the iconic USA TODAY – reach an estimated digital audience of 140 million each month.

**The Media Institute** is a nonprofit foundation specializing in communications policy issues founded in 1979. The Media Institute exists to foster three goals: freedom of speech, a competitive media and communications industry, and excellence in journalism. Its program agenda encompasses all sectors of the

media, from print and broadcast outlets to cable, satellite, and online services.

**MPA - The Association of Magazine Media**, ("MPA") is the industry association for magazine media publishers. The MPA, established in 1919, represents the interests of close to 100 magazine media companies with more than 500 individual magazine brands. MPA's membership creates professionally researched and edited content across all print and digital media on topics that include news, culture, sports, lifestyle and virtually every other interest, avocation or pastime enjoyed by Americans. The MPA has a long history of advocating on First Amendment issues.

**The National Press Photographers Association** ("NPPA") is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA's members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher, its General Counsel.

With an urban vibrancy and a global perspective, **New York Public Radio** produces innovative public radio programs, podcasts, and live events that touch a passionate community of 23.4 million people monthly on air, online and in person. From its state-of-the-art studios in New York City, NYPR is reshaping radio for a new generation of listeners with groundbreaking, award-winning programs including Radiolab, On the Media, The Takeaway, and Carnegie Hall Live, among many others. New York Public Radio includes WNYC, WQXR, WNYC Studios, Gothamist, The Jerome L. Greene Performance Space, and New Jersey Public Radio. Further information about programs, podcasts, and stations may be found at [www.nypublicradio.org](http://www.nypublicradio.org).

**Radio Television Digital News Association** ("RTDNA") is the world's largest and only professional organization devoted exclusively to electronic journalism. RTDNA is made up of news directors, news associates, educators and students in radio, television, cable and electronic media in more than 30 countries. RTDNA is committed to encouraging excellence in the electronic journalism industry and upholding First Amendment freedoms.

**The Society of Environmental Journalists** is the only North-American membership association of professional journalists dedicated to more and better coverage of environment-related issues.

**Society of Professional Journalists** ("SPJ") is dedicated to improving and protecting journalism. It is the nation's largest and most broad-based journalism organization, dedicated to encouraging the free practice of journalism and stimulating high standards of ethical behavior. Founded in 1909 as Sigma Delta Chi, SPJ promotes the free flow of information vital to a well-informed citizenry, works to inspire and educate the next generation of journalists and protects First Amendment guarantees of freedom of speech and press.

**The Tully Center for Free Speech** began in Fall, 2006, at Syracuse University's S.I. Newhouse School of Public Communications, one of the nation's premier schools of mass communications.