

**No. 2025-CA-00380-SCT**

---

**In the Supreme Court of  
Mississippi**

---

**PHIL BRYANT & DEBORAH BRYANT**  
*Appellants,*

**v.**

**DEEP SOUTH TODAY d/b/a MISSISSIPPI TODAY, et al.,**  
*Appellees.*

---

On Appeal from the Circuit Court of Madison County, Mississippi

---

**BRIEF OF PROPOSED AMICI CURIAE THE REPORTERS COMMITTEE  
FOR FREEDOM OF THE PRESS AND THE MISSISSIPPI PRESS ASSOCIATION  
IN SUPPORT OF APPELLEES**

---

Bruce Brown\*  
Lisa Zycherma\*  
Mara Gassmann\*  
Matthew Singer\*  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
1156 15th Street NW  
Ste. 1020  
Washington, D.C. 20005

*\* Of Counsel*

Freddie E. (Trey) Bourn III (MB #100067)  
BRADLEY ARANT BOULT CUMMINGS LLP  
One Jackson Place  
188 E. Capitol Street, Ste. 1000  
Jackson, MS 39201  
(601) 592-9977 Direct  
(601) 948-8000 Telephone  
(601) 948-3000 Fax  
tbourn@bradley.com

*Counsel of record for amici curiae*

## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	ii
STATEMENT OF INTEREST AND IDENTITY OF AMICI CURIAE .....	1
INTRODUCTION .....	2
ARGUMENT .....	3
I.    Meritless libel lawsuits chill news reporting, even when media defendants are ultimately successful in court, so newsrooms depend on procedural and substantive protections to avoid protracted litigation. ....	3
A.    Defending against meritless claims imposes serious harms on media defendants. ....	3
B.    Courts can and should promptly dismiss claims brought by public figures who fail to plead constitutional actual malice. ....	7
II.    Local news reporting, which has been in steep decline, is a vital public good and must be protected from meritless litigation. ....	9
CONCLUSION .....	15
CERTIFICATE OF SERVICE .....	17

## TABLE OF AUTHORITIES

### Cases

<i>Arpaio v. Cottle</i> , 404 F. Supp. 3d 80 (D.D.C. 2019) .....	8
<i>Biro v. Condé Nast</i> , 807 F.3d 541 (2d Cir. 2015) .....	9
<i>Blake v. Gannett Co.</i> , 529 So. 2d 595 (Miss. 1988) .....	4, 7
<i>Brimelow v. New York Times Co.</i> , No. 21-66-cv, 2021 WL 4901969 (2d Cir. Oct. 21, 2021) .....	9
<i>Bryant v. Rosenberg</i> , No. 3:24-CV-260, 2025 WL 906243 (S.D. Miss. Mar. 25, 2025) .....	9
<i>Chalk v. Bertholf</i> , 980 So. 2d 290 (Miss. Ct. App. 2007) .....	9
<i>Counterman v. Colorado</i> 600 U.S. 66 (2023) .....	7
<i>Cuba v. Pylant</i> , 814 F.3d 701 (5th Cir. 2016) .....	5
<i>Fairfax v. CBS Corp.</i> , 2 F.4th 286 (4th Cir. 2021) .....	8, 9
<i>Ferguson v. Watkins</i> , 448 So. 2d 271 (Miss. 1984) .....	7
<i>Gertz v. Robert Welch, Inc.</i> , 418 U.S. 323 (1974) .....	4
<i>J. Publ’g Co. v. McCullough</i> , 743 So. 2d 352 (Miss. 1999) .....	7
<i>Lee v. TMZ Prods. Inc.</i> , 710 Fed. App’x 551 (3d Cir. 2017) .....	9
<i>Mason v. Am. Prospect, Inc.</i> , No. 23-2238, 2024 WL 4345855 (D.D.C. Sep. 30, 2024) .....	8
<i>Mills v. Alabama</i> , 384 U.S. 214 (1966) .....	3

<i>New York Times Co. v. Sullivan</i> , 376 U.S. 254 (1964).....	4, 7
<i>Nunes v. WP Co. LLC</i> , 513 F. Supp. 3d 1 (D.D.C. 2020) .....	8
<i>Peterson v. Gannett Co.</i> , No. 21-15057, 2021 WL 5507338 (9th Cir. Nov. 24, 2021) .....	9
<i>Prewitt v. Phillips</i> , 25 So. 3d 397 (Miss. Ct. App. 2009) .....	9
<i>St. Amant v. Thompson</i> , 390 U.S. 727 (1968).....	7
<b>Statutes</b>	
Miss. Const. art. 3, § 13 .....	4
<b>Other Authorities</b>	
<i>A Small Newspaper in Iowa Wins a Libel Suit, but Legal Costs May Force It to Close</i> , First Amendment Watch (Oct. 10, 2019), <a href="https://perma.cc/UT5L-7TC5">https://perma.cc/UT5L-7TC5</a> .....	5
<i>American Views 2022: Part 2, Trust Media and Democracy</i> , Knight Found. (Feb. 15, 2023), <a href="https://perma.cc/2M72-CA3P">https://perma.cc/2M72-CA3P</a> .....	10
Andrew DeMillo, <i>A Mississippi Judge Ordered a Newspaper to Remove an Editorial. Press Advocates Are Outraged</i> , A.P. (Feb. 19, 2025), <a href="https://perma.cc/J8TR-ULHK">https://perma.cc/J8TR-ULHK</a> .....	6
Ashton Pittman & William Pittman, <i>Hinds County Moved Two Polling Places Hours Before Polls Opened</i> , Mississippi Free Press (Aug. 7, 2023), <a href="https://perma.cc/7JNZ-EVQG">https://perma.cc/7JNZ-EVQG</a> .....	15
Ashton Pittman & William Pittman, <i>Mississippi Officials Made 164 Voting Precinct Changes Since November 2022</i> , Mississippi Free Press (Aug. 7, 2023), <a href="https://perma.cc/72XC-G7L6">https://perma.cc/72XC-G7L6</a> .....	15
Blake Kaplan, <i>Mississippi Press Will Stop Printing Newspapers in 2023 as Focus Shifts to Online</i> , SunHerald (Nov. 3, 2022), <a href="https://perma.cc/2JAL-A97A">https://perma.cc/2JAL-A97A</a> .....	12
Brad Adgate, <i>Newspapers Have Been Struggling and Then Came the Pandemic</i> , Forbes (Aug. 20, 2021), <a href="https://perma.cc/3CKC-PSUD">https://perma.cc/3CKC-PSUD</a> .....	11

Charles Ornstein, <i>Our Editor Won a 6-Year Legal Battle. It Didn't Feel Like a Victory</i> , ProPublica (Aug. 30, 2024), <a href="https://perma.cc/NT3G-NY26">https://perma.cc/NT3G-NY26</a> .....	5
D. Victoria Baranetsky & Alexandra Gutierrez, <i>What a Costly Lawsuit Against Investigative Reporting Looks Like</i> , Colum. Journalism Rev. (Mar. 30, 2021), <a href="https://bit.ly/3AjdlbO">https://bit.ly/3AjdlbO</a> .....	5
David Keating, <i>Estimating the Cost of Fighting a SLAPP in a State with No Anti-SLAPP Law</i> , Inst. for Free Speech (June 16, 2022), <a href="https://tinyurl.com/5c588da5">https://tinyurl.com/5c588da5</a> .....	4
Denise-Marie Ordway, <i>How They Did It: Mississippi Today and The New York Times Reveal Sex Abuse, Torture Allegations at Sheriff's Offices</i> , The Journalist's Resource (Mar. 20, 2024), <a href="https://perma.cc/HEH6-RU46">https://perma.cc/HEH6-RU46</a> .....	15
Dianna Wray, <i>With Accelerating Growth, Nonprofit News Ushers in New Era of Journalism</i> , Arnold Ventures (June 30, 2022), <a href="https://perma.cc/CEX2-UMN2">https://perma.cc/CEX2-UMN2</a> .....	14
Dominic Minadeo, <i>Southern Mississippi to Deploy Students in 10-County Region to Confront 'Intense News Desert'</i> , Mississippi Today (July 9, 2024), <a href="https://perma.cc/XN7H-D37X">https://perma.cc/XN7H-D37X</a> .....	11
Elisa Shearer et al., <i>Americans' Changing Relationship with Local News</i> , Pew Rsch. Ctr. (May 7, 2024), <a href="https://perma.cc/8HD4-ULCV">https://perma.cc/8HD4-ULCV</a> .....	10
Elizabeth Grieco et al., <i>About a Third of Large U.S. Newspapers Have Suffered Layoffs Since 2017</i> , Pew Rsch. Ctr. (July 23, 2018), <a href="https://perma.cc/Y9ES-DT47">https://perma.cc/Y9ES-DT47</a> .....	11
George Freeman & Lee Levine, <i>An Increase in Libel Suits Shows Why We Need to Keep Protections for the News Media</i> , Wash. Post (Mar. 8, 2022), <a href="http://tinyurl.com/z62tf969">http://tinyurl.com/z62tf969</a> .....	4
George W. Pring & Penelope Canan, <i>SLAPPs: Getting Sued for Speaking Out</i> (Temple Univ. Press., 1st ed. 1996) .....	5
Jonas Hesse et al., <i>When the Local Newspaper Leaves Town: The Effects of Local Newspaper Closures on Corporate Misconduct</i> , 145 J. Fin. Econ. 445 (2022) .....	13
Josh Stearns, <i>Democracy Dies Without Local News</i> , U.S. News (Oct. 30, 2024), <a href="https://perma.cc/6QXH-PUD9">https://perma.cc/6QXH-PUD9</a> .....	13

Joshua P. Darr et al., <i>Newspaper Closures Polarize Voting Behavior</i> , 68 J. Commc'n 1007 (2018) .....	13
Kelly McBride, <i>McClatchy Could Hire 10 Reporters for the Money It Will Spend to Get Devin Nunes Lawsuit Dismissed</i> , Poynter (Apr. 11, 2019), <a href="https://perma.cc/8RFS-LZYU">https://perma.cc/8RFS-LZYU</a> .....	4
Lara Takenaga, <i>More Than 1 in 5 U.S. Papers Has Closed. This Is the Result</i> , N.Y. Times (Dec. 21, 2019), <a href="https://perma.cc/S58B-29EK">https://perma.cc/S58B-29EK</a> .....	11
Lauchlin Fields and Mary Margaret, <i>The Power of Local News in Mississippi</i> , Mississippi Today (Dec. 24, 2021), <a href="https://perma.cc/Y4UT-SC4J">https://perma.cc/Y4UT-SC4J</a> .....	11
Lee Shaker, <i>Dead Newspapers and Citizens' Civic Engagement</i> , 31 Pol. Commc'n 131 (2014) .....	10
<i>Local Journalist Index 2025</i> , Muck Rack & Rebuild Local News (2025), <a href="https://muckrack.com/research/local-journalist-index">https://muckrack.com/research/local-journalist-index</a> .....	11
Mary Ellen Klas, <i>Less Local News Means Less Democracy</i> , Nieman Reports (Sep. 20, 2019), <a href="https://perma.cc/VYD4-K2KA">https://perma.cc/VYD4-K2KA</a> .....	13
Michael Norwick, <i>New York Times v. Sullivan: The Case for Preserving an Essential Precedent</i> (Media Law Res. Ctr. 2022) .....	8
Mina Haq, <i>Local News is Pivotal in the Fight to Save Democracy, Expert Says</i> , PEN Am. (Sep. 25, 2024), <a href="https://perma.cc/ZT9T-R5BQ">https://perma.cc/ZT9T-R5BQ</a> .....	13, 14
<i>Mississippi Today Wins Collier Award for Ethics in Journalism for Welfare Scandal Coverage</i> , Mississippi Today (Apr. 14, 2025), <a href="https://perma.cc/6BAU-K8K2">https://perma.cc/6BAU-K8K2</a> .....	3
Naomi Forman-Katz et al., <i>Nonprofit News Outlets Are Playing a Growing Role in Statehouse Coverage</i> , Pew Rsch. Ctr. (Apr. 29, 2022), <a href="https://perma.cc/5LBA-CSS9">https://perma.cc/5LBA-CSS9</a> .....	14
<i>News Deserts and Ghost Newspapers: Will Local News Survive?</i> (Ctr. for Innovation & Sustainability in Local Media, Univ. N.C. 2020), <a href="https://perma.cc/4PSK-3QUY">https://perma.cc/4PSK-3QUY</a> .....	12
Nikki Usher & Sanghoon Kim-Leffingwell, <i>How Loud Does the Watchdog Bark? A Reconsideration of Losing Local Journalism, News Nonprofits, and Political Corruption</i> , 29 INT'L J. PRESS/POL. 960 (2023) .....	13

Pengjie Gao et al., <i>Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance</i> , 135 J. Fin. Econ. 445 (2020), <a href="https://perma.cc/96AN-VSYZ">https://perma.cc/96AN-VSYZ</a> .....	12
Regina G. Lawrence et al., <i>Assessing Oregon’s Local News &amp; Information Ecosystem</i> , Agora Journalism Ctr. (October 2022), <a href="https://perma.cc/YL7E-TN9G">https://perma.cc/YL7E-TN9G</a> .....	10
Rickey Cole, <i>Strong Local News Sources Make Strong Communities</i> , Mississippi Free Press (Mar. 28, 2024), <a href="https://perma.cc/WY8Q-LASF">https://perma.cc/WY8Q-LASF</a> .....	11
Robin Guess, <i>How Lawsuits, Power of Public Entities and Politicians Threaten Journalists</i> , Voice of America (July 15, 2024), <a href="https://perma.cc/W6ZS-GDTY">https://perma.cc/W6ZS-GDTY</a> .....	6
Ruby Belle Booth, <i>Local News Helped Young People Get Ready to Vote in 2020</i> , Center for Information & Research on Civic Learning and Engagement (Sep. 9, 2021), <a href="https://perma.cc/BU9B-BH36">https://perma.cc/BU9B-BH36</a> .....	11
Sarah Lehr, <i>‘Even if We Win, We Lose:’ Wisconsin News Site Raises Money for Legal Fees After Politician Sues for Defamation</i> , Wausau Pilot & Rev. (Aug. 17, 2023), <a href="https://perma.cc/5Q2Y-JPEC">https://perma.cc/5Q2Y-JPEC</a> .....	4, 5
Sarah Raza, <i>Closure of Midwest-Based Newspaper Chain Leaves Communities Without a News Source</i> , ABC News (Aug. 7, 2025), <a href="https://perma.cc/RVC6-MHVP">https://perma.cc/RVC6-MHVP</a> .....	11
Steven Waldman, <i>Our Local-News Situation is Even Worse Than We Think</i> , Colum. Journalism Rev. (Feb. 25, 2022), <a href="https://perma.cc/36Q4-SA3Z">https://perma.cc/36Q4-SA3Z</a> .....	13
Ted Matherly & Brad N. Greenwood, <i>No News is Bad News: Political Corruption, News Deserts, and the Decline of the Fourth Estate</i> , PNAS, <a href="https://perma.cc/SW4L-PSBF">https://perma.cc/SW4L-PSBF</a> .....	12
Zach Metzger, <i>The State of Local News: The 2024 Report</i> (Northwestern Univ. Medill Sch. 2024), <a href="https://perma.cc/3W7R-DQ2L">https://perma.cc/3W7R-DQ2L</a> .....	12

## STATEMENT OF INTEREST AND IDENTITY OF AMICI CURIAE

Proposed amici curiae are the Reporters Committee for Freedom of the Press (“Reporters Committee”) and the Mississippi Press Association (“MPA”), organizations that defend the First Amendment and newsgathering rights of the press. Together, amici serve traditional and nonprofit newsrooms in and outside Mississippi. Many are, like *Mississippi Today*, local or statewide news organizations that focus their newsgathering and reporting on issues in their respective communities. Amici thus have direct experience with the real-world consequences of uncurbed defamation litigation on local news reporting. They share a strong interest in the correct application of the law of defamation, including the constitutional “actual malice” standard, and the early disposition of cases that do not have merit under that law.

Lead amicus, the Reporters Committee, is an unincorporated nonprofit association founded by journalists and media lawyers in 1970, when the nation’s press 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. The Reporters Committee regularly files amicus briefs in courts around the country in defamation matters against news organizations. *See* Br. of Amici Curiae Rep. Comm. & others, *Sapulpa v. Gannett Co.*, No. DF-122044 (Okla. Sup. Ct. Sep. 11, 2024); Br. of Amici Curiae Rep. Comm. & others, *Spears v. The N.Y. Times*, No. SC-2025-0370 (Ala. Sup. Ct. July 30, 2025); Br. of Amici Curiae Rep. Comm. & others, *Goguen v. NYP Holdings*, 544 P. 3d 868 (Mont. Sup. Ct. 2024) (No. DA 22-0512).

The MPA, founded in 1866, is the sixth-oldest association of its kind in the United States and continues to be a leader in service to print and digital journalism within the state and across the nation. Through its charitable foundation, it particularly focuses on strengthening local



journalism and training the next generation of journalists through its programs at Mississippi colleges and universities.

Amici write to emphasize that the circuit court properly applied the law, and in doing so, helped ensure that this and future news organizations are protected from meritless, retaliatory litigation.

## INTRODUCTION

Our system of self-governance depends on the free flow of information to, and open debate among, an informed public. That system comes under threat when powerful individuals bring libel lawsuits that cannot succeed on the merits but are instead filed to suppress speech or punish the speaker. Such litigation forces speakers, including the press, into a perverse cost-benefit analysis, in which they must weigh the value of participating in the public square against the burden of defending a meritless lawsuit. When filed against news organizations, libel lawsuits hang ominously over reporters' newsgathering activities and impede their ability to deliver the news. The reason for this is straightforward but bears emphasis: The burden and expense of costly and lengthy litigation for a newsroom, particularly a local non-profit newsroom, can be crippling and even ruinous. Aggressive libel lawsuits thus stem the flow of news and information to the public and shrink and distort the marketplace of ideas.

To protect the ability of the press to report on matters of public concern, courts must be free, consistent with the established rules of procedure, to dismiss cases that lack merit, including cases filed by public figures who cannot adequately allege that the news organization defendant published with the requisite constitutional "actual malice." In this case, former Mississippi Governor Phil Bryant and his wife ("Appellants") have sought to punish *Mississippi Today*, a non-profit news outlet based in Mississippi, and its reporters ("Appellees"), over a five-part, Pulitzer Prize-winning series that examined how, as governor, he had steered state dollars to benefit family

and friends. See *The 2023 Pulitzer Prize Winner in Local Reporting: Anna Wolfe of Mississippi Today, Ridgeland, Miss.*, The Pulitzer Prizes, <https://www.pulitzer.org/winners/anna-wolfe-mississippi-today-ridgeland-miss>. That series, titled “Backchannel,” reported on this multimillion-dollar welfare funds scandal that led to criminal charges against numerous other individuals. *Mississippi Today* continues to receive recognition for this award-winning journalism. See, e.g., *Mississippi Today Wins Collier Award for Ethics in Journalism for Welfare Scandal Coverage*, *Mississippi Today* (Apr. 14, 2025), <https://perma.cc/6BAU-K8K2>. Appellants notably failed to plead facts in their two-hundred-page complaint alleging knowing falsehoods, and based on well-settled law requiring them to do so, it is evident, on its face, that this lawsuit is meritless. The circuit court correctly dismissed the complaint for failure to state a claim.

Affirmance of the circuit court’s order protects the ability of news organizations, particularly local newsrooms, to report in the public interest. Among the challenges facing local journalism, meritless lawsuits intended to tie news organizations up in protracted litigation, is no minor challenge. It is more necessary than ever to ensure that the press is not forced to spend precious resources defending against lawsuits designed to chill speech, just for gathering and reporting the news. The alternative would lead to a less informed public and less accountable leaders and institutions, a result anathema to our constitutional system.

## ARGUMENT

- I. Meritless libel lawsuits chill news reporting, even when media defendants are ultimately successful in court, so newsrooms depend on procedural and substantive protections to avoid protracted litigation.**
  - A. Defending against meritless claims imposes serious harms on media defendants.**

Under our system of government, “the press serves and was designed to serve as a powerful antidote to any abuses of power by governmental officials and as a constitutionally chosen means

for keeping officials elected by the people responsible to all the people whom they were selected to serve.” *Mills v. Alabama*, 384 U.S. 214, 219 (1966). The press seeks out and provides news and information to the public, supporting an informed citizenry able to perform its democratic function. This constitutionally enshrined role of the press is recognized under both the U.S. and Mississippi Constitutions. See *Blake v. Gannett Co.*, 529 So. 2d 595, 600 (Miss. 1988) (“[Mississippi] describes freedom of the press as a sacred right” (citing Miss. Const. art. 3, § 13)).

Courts have recognized that uncurbed libel litigation by public figures threatens the ability of the press to report on matters of significant public concern. See *New York Times Co. v. Sullivan*, 376 U.S. 254, 278 (1964) (explaining that “the pall of fear and timidity” created by excessive libel judgments “is an atmosphere in which the First Amendment freedoms cannot survive”); *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 340 (1974) (noting that libel suits create “risk of inducing a cautious and restrictive exercise of the constitutionally guaranteed freedoms of speech and press”). Plaintiffs may pursue meritless libel cases against media defendants with little chance of success because inflicting the burden of costly, years-long litigation on their targets is an end in itself. See George Freeman & Lee Levine, *An Increase in Libel Suits Shows Why We Need to Keep Protections for the News Media*, Wash. Post (Mar. 8, 2022), <http://tinyurl.com/z62tf969> (explaining that some libel cases are not actually expected or intended to secure compensation for an actual injury to reputation but “intended to punish the media for speaking truth to power and to dissuade it from doing so in the future”). And it is no small burden. Defending against such suits, even when successful, can cost media defendants hundreds of thousands of dollars in legal expenses. See David Keating, *Estimating the Cost of Fighting a SLAPP in a State with No Anti-SLAPP Law*, Inst. for Free Speech (June 16, 2022), <https://tinyurl.com/5c588da5>; see also Kelly McBride, *McClatchy Could Hire 10 Reporters for the Money It Will Spend to Get Devin Nunes Lawsuit*

*Dismissed*, Poynter (Apr. 11, 2019), <https://perma.cc/8RFS-LZYU> (“The average cost to get a defamation or libel suit against a newspaper dismissed is \$500,000.”); Sarah Lehr, ‘*Even if We Win, We Lose: Wisconsin News Site Raises Money for Legal Fees After Politician Sues for Defamation*’, Wausau Pilot & Rev. (Aug. 17, 2023), <https://perma.cc/5Q2Y-JPEC> (detailing how Pilot & Review defeated a defamation suit but racked up between \$150,000 and \$200,000 in legal bills, putting the small news outlet in danger of shutting down); *A Small Newspaper in Iowa Wins a Libel Suit, but Legal Costs May Force It to Close*, First Amendment Watch (Oct. 10, 2019), <https://perma.cc/UT5L-7TC5> (describing how the *Times Herald*, a small newspaper in Iowa, successfully defeated a libel suit but had to raise \$140,000 for costs related to the suit that were not covered by libel insurance).<sup>1</sup>

Outside of the sheer monetary costs and pressure on speech, meritless libel lawsuits also divert journalistic resources toward litigation defense. See Charles Ornstein, *Our Editor Won a 6-Year Legal Battle. It Didn’t Feel Like a Victory*, ProPublica (Aug. 30, 2024), <https://perma.cc/NT3G-NY26> (discussing mental toll, time drain, and distraction caused by libel suits, in addition to financial pain); D. Victoria Baranetsky & Alexandra Gutierrez, *What a Costly Lawsuit Against Investigative Reporting Looks Like*, Colum. Journalism Rev. (Mar. 30, 2021), <https://bit.ly/3Ajd1bO> (describing how a non-profit newsroom deployed “two reporters and one editor working full time” to manage discovery while defending against a libel lawsuit). This, all too often, is the point: to warn journalists that “reporting on powerful or deep-pocketed

---

<sup>1</sup> These lawsuits are sometimes referred to as “Strategic Lawsuits Against Public Participation,” or “SLAPPs.” See *Cuba v. Pylant*, 814 F.3d 701, 704 n.1 (5th Cir. 2016); George W. Pring & Penelope Canan, *SLAPPs: Getting Sued for Speaking Out* (Temple Univ. Press., 1st ed. 1996) (“SLAPPs are becoming a substantial risk for ordinary citizens who ... speak out on public issues. They may also be a substantial threat to the continuation of the American political ideal of an informed and involved citizenry.”).

organizations isn't worth the risk." Baranetsky & Gutierrez, *supra*. Such suits can thus "diminish[] [a news organization's] ability to report on other important stories." Robin Guess, *How Lawsuits, Power of Public Entities and Politicians Threaten Journalists*, Voice of America (July 15, 2024), <https://perma.cc/W6ZS-GDTY>.<sup>2</sup>

Meritless libel suits can also lead to other drastic outcomes, as seen in the case of another local Mississippi newsroom. There, the City of Clarksdale filed a libel lawsuit against *The Clarksdale Press Register* over an editorial criticizing the mayor of Clarksdale and city leaders—an area of speech where First Amendment protections are at their apogee. Notwithstanding such constitutional protections, and the fact that government bodies cannot sue for defamation, a trial judge initially granted the plaintiff's request for a temporary restraining order and directed the newspaper to remove the editorial at issue. Andrew DeMillo, *A Mississippi Judge Ordered a Newspaper to Remove an Editorial. Press Advocates Are Outraged*, A.P. (Feb. 19, 2025), <https://perma.cc/J8TR-ULHK>. In this manner, a suit (over a publication about public officials)

---

<sup>2</sup> Publicly available filings in this case at least raise the question of whether Appellants, in addition to filing a complaint that does not state a viable claim for defamation, have since compounded the burden on *Mississippi Today* through unnecessary and voluminous discovery. In the span of just over a year, Appellants filed three motions to compel (Dkt. 34, 61, 63), three motions for contempt and sanctions (Dkt. 217, 238, 248), four motions to amend/correct (Dkt. 90, 120, 171, 175), and six motions for summary judgment (Dkt. 38, 41, 48, 51, 53, 56). In one of Appellants' motions for sanctions, they claimed that Appellees' motion to dismiss—the motion that was granted and is the subject of this appeal—"was a frivolous effort to delay this case and harass the Bryants." Dkt. 238 at 13. In addition, Appellants moved for a suppression order to prohibit *Mississippi Today* from speaking or writing publicly about this case, even though, as Appellees correctly stated in their opposition to the motion: "Mississippi appellate courts have never upheld a suppression order restraining the media's right to report about judicial proceedings—including where the news media is a defendant." Dkt. 231 at 1. Together, these filings support the argument that Appellants, like many libel plaintiffs that have come before them, seek to use the court system to drain *Mississippi Today*'s resources and silence its reporting on the former governor and this litigation. These litigation tactics are unfortunately not uncommon to media defendants facing meritless litigation, and the dangers are particularly acute for small outlets such as *Mississippi Today*.

that was intended to punish the Mississippi publisher led to an unconstitutional order restricting speech.

Meritless lawsuits impose serious burdens on news organizations that are felt both by the newsrooms and the public that depends on strong, resourced, and fearless journalism.

**B. Courts can and should promptly dismiss claims brought by public figures who fail to plead constitutional actual malice.**

In its seminal 1964 decision in *New York Times v. Sullivan*, the U.S. Supreme Court observed that because “erroneous statement is inevitable in free debate,” the law should allow for “breathing space,” to ensure fear of lawsuits does not stifle speech, including reporting. *Sullivan*, 376 U.S. at 271–72. The Court held that even false, defamatory statements about public officials (and later, public figures) should be tolerated in order to protect free expression, so long as they were not made with knowledge of falsity or likely falsity at the time of publication. *Id.*; accord *J. Publ’g Co. v. McCullough*, 743 So. 2d 352, 361 (Miss. 1999). This legal standard, known as constitutional actual malice, means that “liability may not be imposed for otherwise actionable libel of a public figure unless the statements in issue were made with knowledge of their falsity or in reckless disregard of whether they are true or false.” *Ferguson v. Watkins*, 448 So. 2d 271, 277 (Miss. 1984) (cleaned up); accord *Counterman v. Colorado*, 600 U.S. 66, 75 (2023) (citing *Sullivan* with approval and affirming that “[w]ith regard to defamation, a public figure cannot recover for the injury such a statement causes unless the speaker acted with ‘knowledge that it was false or with reckless disregard of whether it was false or not’”); *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968) (explaining that the actual malice standard requires “sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.”). While a watershed decision nationally, in this state it did not necessary occasion a major shift, as “[t]his same holding is found in Mississippi precedent that pre-dates the *New York*

*Times* decision.” *Blake v. Gannett Co.*, 529 So. 2d 595, 600 (Miss. 1988) (citation omitted). As both this Court and the *Sullivan* Court recognized, the actual malice standard is an important protection against retaliatory lawsuits filed to silence and intimidate journalists, whose work not infrequently draws the ire of public figures.

The actual malice standard remains essential for the press. Defamation litigation is brought by politicians and public figures of every kind, arising out of reporting they perceive as critical or unfavorable, even when the pleadings do not support a cognizable claim for defamation. *See, e.g., Fairfax v. CBS Corp.*, 2 F.4th 286, 296 (4th Cir. 2021) (former lieutenant governor did not sufficiently allege actual malice in a complaint against news organization for reporting sexual assault allegations he denied); *Nunes v. WP Co. LLC*, 513 F. Supp. 3d 1, 7–8 (D.D.C. 2020) (former Congressman failed to plausibly plead actual malice in case against news organization for reporting about political leaks); *Arpaio v. Cottle*, 404 F. Supp. 3d 80, 86 (D.D.C. 2019) (former sheriff and political candidate did not plead facts to support actual malice claim in suit newspaper columnist who described sheriff’s law enforcement practices); *see also Mason v. Am. Prospect, Inc.*, No. 23-2238, 2024 WL 4345855, at \*16 (D.D.C. Sep. 30, 2024) (former executive director of a nonprofit failed to plead actual malice with respect to a libel claim arising from an article published by the nonprofit). According to new research conducted by the Media Law Resource Center, notwithstanding the high bar established by the actual malice standard, there has been an overall *increase* in the number of defamation actions filed in state and federal court. *See* Michael Norwick, *New York Times v. Sullivan: The Case for Preserving an Essential Precedent* 115–19 (Media Law Res. Ctr. 2022). The press, including, local news organizations that ensure the continuation of public interest reporting, *see* Section II, *infra*, rely on the actual malice standard to protect their ability to freely report the news.

When, as here, the allegations in fact foreclose actual malice, it is common for courts to find that the complaint cannot survive dismissal and move into costly discovery. Accordingly, courts deciding a public figure defamation case, like the circuit court here, routinely dismiss such claims for failure to plead facts alleging the essential element of actual malice. *See, e.g., Fairfax*, 2 F.4th at 296 (affirming dismissal because actual malice was not sufficiently alleged); *Peterson v. Gannett Co.*, No. 21-15057, 2021 WL 5507338, at \*1 (9th Cir. Nov. 24, 2021) (same); *Lee v. TMZ Prods. Inc.*, 710 F. App'x 551, 560 (3d Cir. 2017) (same); *Brimelow v. New York Times Co.*, No. 21-66-cv, 2021 WL 4901969, at \*3–4 (2d Cir. Oct. 21, 2021) (same); *Biro v. Condé Nast*, 807 F.3d 541, 546 (2d Cir. 2015) (same); *Prewitt v. Phillips*, 25 So. 3d 397, 399 (¶¶ 9–10) (Miss. Ct. App. 2009) (same); *Chalk v. Bertholf*, 980 So. 2d 290, 299 (¶ 19) (Miss. Ct. App. 2007) (same); *see also Bryant v. Rosenberg*, No. 3:24-CV-260, 2025 WL 906243, at \*4 (S.D. Miss. Mar. 25, 2025) (holding, in libel case filed by Bryant over a different news article that also covered the welfare fraud allegations, that he failed to plausibly allege that two media defendants acted with actual malice). Correctly applied, the law precludes meritless cases from surviving dispositive motions and imposing onerous litigation costs.

Given that Appellants here failed to adequately allege *Mississippi Today* acted with actual malice in publishing the statements at issue, the circuit court was correct in granting the motion to dismiss. Failing to affirm dismissal in such a case would undermine core substantive and procedural protections that safeguard the First Amendment.

**II. Local news reporting, which has been in steep decline, is a vital public good and must be protected from meritless litigation.**

Communities suffer without independent local news, so the harm brought on by meritless lawsuits must be understood within the context of the health of local media. It is that media,



traditional and now also non-profit, that ensures that the public can obtain news and information about their states and communities, yet it is gravely under threat across the country.

A growing number of Americans consume their news through digital platforms accessible anywhere, while at the same time, the recognized value of local news has also grown. In one 2024 study, a combined total of 85% of respondents described local news outlets as extremely important, very important, or at least somewhat important to the well-being of their local community. Elisa Shearer et al., *Americans' Changing Relationship with Local News*, Pew Rsch. Ctr. (May 7, 2024), <https://perma.cc/8HD4-ULCV>. In another study, 75% of persons described themselves as possessing moderate or high trust in local news organizations, and a majority of people believed that most local news organizations care about how their reporting affects the community in which they report. *American Views 2022: Part 2, Trust Media and Democracy*, Knight Found. (Feb. 15, 2023), <https://perma.cc/2M72-CA3P>.

Americans recognize the importance of local news for good reason—it plays a vital role in strengthening civic engagement, curbing abuses of power, and creating an informed local citizenry. For example, studies consistently show a link between the closure of local newspapers and a decline in civic engagement. See e.g., Lee Shaker, *Dead Newspapers and Citizens' Civic Engagement*, 31 Pol. Commc'n 131, 145 (2014); Regina G. Lawrence et al., *Assessing Oregon's Local News & Information Ecosystem* 14, Agora Journalism Ctr. (October 2022), <https://perma.cc/YL7E-TN9G>; see also Dominic Minadeo, *Southern Mississippi to Deploy Students in 10-County Region to Confront 'Intense News Desert'*, Mississippi Today (July 9, 2024), <https://perma.cc/XN7H-D37X>. At the most basic level, local news helps inform people about local politics, candidates, and issues, and through a shared base of knowledge and interest, it helps residents build common bonds that reduce partisanship and enable locals to confront

challenges together. See Rickey Cole, *Strong Local News Sources Make Strong Communities*, Mississippi Free Press (Mar. 28, 2024), <https://perma.cc/WY8Q-LASF>; Lauchlin Fields and Mary Margaret, *The Power of Local News in Mississippi*, Mississippi Today (Dec. 24, 2021), <https://perma.cc/Y4UT-SC4J>; Ruby Belle Booth, *Local News Helped Young People Get Ready to Vote in 2020*, Center for Information & Research on Civic Learning and Engagement (Sep. 9, 2021), <https://perma.cc/BU9B-BH36>.

Yet despite their importance, many local newsrooms have shrunk or disappeared in recent years as the U.S. news industry has confronted declining advertising revenue and other financial strains, which have led to smaller staffs and reporting budgets. See, e.g., Brad Adgate, *Newspapers Have Been Struggling and Then Came the Pandemic*, Forbes (Aug. 20, 2021), <https://perma.cc/3CKC-PSUD>; Lara Takenaga, *More Than 1 in 5 U.S. Papers Has Closed. This Is the Result*, N.Y. Times (Dec. 21, 2019), <https://perma.cc/S58B-29EK>; Elizabeth Grieco et al., *About a Third of Large U.S. Newspapers Have Suffered Layoffs Since 2017*, Pew Rsch. Ctr. (July 23, 2018), <https://perma.cc/Y9ES-DT47>; see also Sarah Raza, *Closure of Midwest-Based Newspaper Chain Leaves Communities Without a News Source*, ABC News (Aug. 7, 2025), <https://perma.cc/RVC6-MHVP>. A recent study found that there has been more than a 75% decline in local journalists since 2002. *Local Journalist Index 2025*, Muck Rack & Rebuild Local News (2025), <https://muckrack.com/research/local-journalist-index>. In addition, Northwestern University found that “[s]ince 2005, more than 3,200 print newspapers have vanished. Newspapers continue to disappear at a rate of more than two per week; in the past year alone, 130 newspapers have shut their doors.” Zach Metzger, *The State of Local News: The 2024 Report* (Northwestern Univ. Medill Sch. 2024), <https://perma.cc/3W7R-DQ2L>. Due to these newspaper closures, there are now 206 counties in the United States, where more than 3.5 million people live,

in which no local news outlet that consistently produces original content exists. *Id.* Northwestern's study found that there are **30 counties in Mississippi** at an elevated risk of losing their local news, and **4 counties in Mississippi** that have no local news sources. *Id.* Counties in the Southeastern United States, in particular, have the fewest number of newspapers in the country. Penelope Muse Abernathy, *News Deserts and Ghost Newspapers: Will Local News Survive?* 19–20 (Ctr. for Innovation & Sustainability in Local Media, Univ. N.C. 2020), <https://perma.cc/4PSK-3QUY>. Ultimately, across Mississippi, local newspapers have shut down. *See, e.g., Mississippi Newspaper Closing After Long Loss of Ad Revenue*, A.P. (Apr. 9, 2020), <https://perma.cc/JR9K-5SSX>; Blake Kaplan, *Mississippi Press Will Stop Printing Newspapers in 2023 as Focus Shifts to Online*, SunHerald (Nov. 3, 2022), <https://perma.cc/2JAL-A97A>.

The decline of local news poses real threats for our communities. Recent research demonstrates that local news is particularly well-suited, and necessary, to uncover political corruption and hold government officials accountable. *See* Shearer et al., *supra*. When major daily newspapers close, for example, there are documented increases in political corruption in those communities. *See, e.g.,* Ted Matherly & Brad N. Greenwood, *No News is Bad News: Political Corruption, News Deserts, and the Decline of the Fourth Estate*, PNAS, <https://perma.cc/SW4L-PSBF>. Researchers have also found that following newspaper closures, higher costs for government monitoring can increase the cost of local government for taxpayers. Pengjie Gao et al., *Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance*, 135 J. Fin. Econ. 445 (2020), <https://perma.cc/96AN-VSYZ>. Ultimately, a decrease in local news outlets leads to government officials becoming less transparent. *See, e.g.,* Mary Ellen Klas, *Less Local News Means Less Democracy*, Nieman Reports (Sep. 20, 2019), <https://perma.cc/VYD4-K2KA>. The correlation between the decline of local news and a rise in

corruption can be explained by the transparency and accountability function that the press serves; the danger of one's misdeeds being exposed incentivizes compliance with the law and local values. Nikki Usher & Sanghoon Kim-Leffingwell, *How Loud Does the Watchdog Bark? A Reconsideration of Losing Local Journalism, News Nonprofits, and Political Corruption*, 29 INT'L J. PRESS/POL. 960, 964 (2023).<sup>3</sup>

Local news' positive effects in building a more informed citizenry also help mitigate political polarization in an increasingly divided country. See Joshua P. Darr et al., *Newspaper Closures Polarize Voting Behavior*, 68 J. Commc'n 1007, 1010 (2018). Moreover, as one expert explained, local journalists' proximity to their communities allows them to understand local issues, better identify and correct false information, and earn the trust of readers from their own states or regions. Mina Haq, *Local News is Pivotal in the Fight to Save Democracy, Expert Says*, PEN Am. (Sep. 25, 2024), <https://perma.cc/ZT9T-R5BQ>. The absence of boots-on-the-ground local news reporting appears to correlate with higher rates of disinformation and mistrust in institutions. See Josh Stearns, *Democracy Dies Without Local News*, U.S. News (Oct. 30, 2024), <https://perma.cc/6QXH-PUD9>; Steven Waldman, *Our Local-News Situation is Even Worse Than We Think*, Colum. Journalism Rev. (Feb. 25, 2022), <https://perma.cc/36Q4-SA3Z>; see also Mina Haq, *Local News is Pivotal in the Fight to Save Democracy*, PEN Am. (Sep. 25, 2024), <https://perma.cc/VV2B-QBXL>. Thus, there is immense societal value in ensuring that local news outlets remain able to cover the issues affecting communities in Mississippi and across the nation.

---

<sup>3</sup> For the same reason, journalism also promotes corporate accountability. As one recent study found, closure of local news increases both the dollar penalties and number of incidents of corporate misconduct in the community. Jonas Hesse et al., *When the Local Newspaper Leaves Town: The Effects of Local Newspaper Closures on Corporate Misconduct*, 145 J. Fin. Econ. 445, 454 (2022).

Amidst the changes in the news industry, not-for-profit newsrooms, like *Mississippi Today*, have become one part of the solution and increasingly important to communities. As a recent study found, the additional watchdog journalism plays an “important, supplemental role in shoring up government accountability that can help mitigate the impact of the declines of local newspapers,” Usher & Kim-Leffingwell, *supra*, at 18, and in covering state capitols. See Naomi Forman-Katz et al., *Nonprofit News Outlets Are Playing a Growing Role in Statehouse Coverage*, Pew Rsch. Ctr. (Apr. 29, 2022), <https://perma.cc/5LBA-CSS9>; Dianna Wray, *With Accelerating Growth, Nonprofit News Ushers in New Era of Journalism*, Arnold Ventures (June 30, 2022), <https://perma.cc/CEX2-UMN2>. Such coverage of local political affairs is critical as it “deals with issues much closer to people’s lives, it can work as a counter to the negative hyper-partisan impact of national cable news, especially when it’s focused on policy and accountability as opposed to political gamesmanship.” Christopher Baxter, *Why Newsrooms Must Prioritize Covering State Legislatures*, Nieman Reports (July 18, 2022), <https://perma.cc/9A3C-3W72>. And notably, the more local coverage, whether by traditional or non-profit newsrooms, of public officials across our nation’s state governments, the more likely that those who abuse their power will face accountability. Clark Merrefield, *Public Corruption Prosecutions Rise Where Nonprofit News Outlets Flourish, Research Finds*, NiemanLab (Oct. 11, 2023), <https://perma.cc/YSL2-7ERT>.

For instance, in addition to its “Backchannel” series, *Mississippi Today* has exposed serious wrongdoing at sheriffs’ offices in multiple counties. See Denise-Marie Ordway, *How They Did It: Mississippi Today and The New York Times Reveal Sex Abuse, Torture Allegations at Sheriff’s Offices*, The Journalist’s Resource (Mar. 20, 2024), <https://perma.cc/HEH6-RU46>. Furthermore, the *Mississippi Free Press*—another non-profit news outlet based in Mississippi—has investigated and reported on important changes in voting precinct locations on the eve of an election. See

Ashton Pittman & William Pittman, *Mississippi Officials Made 164 Voting Precinct Changes Since November 2022*, Mississippi Free Press (Aug. 7, 2023), <https://perma.cc/72XC-G7L6>; Ashton Pittman & William Pittman, *Hinds County Moved Two Polling Places Hours Before Polls Opened*, Mississippi Free Press (Aug. 7, 2023), <https://perma.cc/7JNZ-EVQG>. This kind of reporting brought attention to important stories that informed the public about critical ongoing in their communities and must be protected from retaliatory defamation suits so that news organizations may continue to serve the public.

State and local newsrooms are indispensable in maintaining government accountability and promoting civic engagement. Meritless libel suits like the one at issue, aimed at intimidating and harassing them, undermine the essential functions local newsrooms perform for their communities. Allowing these lawsuits to leech time and money away from what could otherwise have been spent on more watchdog journalism is antithetical to protecting a robust and engaged community.

### CONCLUSION

For the foregoing reasons, amici respectfully urge the Court to affirm the decision of the lower court granting Appellees' motion to dismiss, denying Appellants' partial motion for summary judgment, and dismissing the Second Amended Complaint.

Date: October 14, 2025

Respectfully submitted,

/s/ Freddie E. (Trey) Bourn III

Freddie E. (Trey) Bourn III (MB #100067)

Bradley Arant Boult Cummings LLP

One Jackson Place

188 E. Capitol Street, Ste. 1000

Jackson, MS 39201

(601) 592-9977 Direct

(601) 948-8000 Telephone

(601) 948-3000 Fax

tbourn@bradley.com

*Counsel of record for amici curiae*

Bruce D. Brown, Esq.\*  
Lisa Zycherman, Esq.\*  
Mara Gassmann, Esq.\*  
Matthew Singer, Esq.\*  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
1156 15<sup>th</sup> Street NW, Suite 1020  
Washington, D.C. 20005  
[bruce.brown@rcfp.org](mailto:bruce.brown@rcfp.org)

*\*Of counsel*

## CERTIFICATE OF SERVICE

I hereby certify that, on this day, I caused a true and correct copy of the above motion and brief of proposed amici curiae to be served with the Clerk of the Court using the MEC system which sent notification of such filing to the following:

William M. Quin, II  
W. Thomas McCraney  
MCCRANEY MONTAGNET QUIN & NOBLE, PLLC  
602 Steed Road, Suite 200  
Ridgeland, MS 39157  
wquin@mmqnlaw.com  
tmcraney@mmqnlaw.com

Vicki L. Gilliam  
THE GILLIAM FIRM, PLLC  
200 East Government Street  
Brandon, MS 39042  
[gilliam@gilliamfirm.com](mailto:gilliam@gilliamfirm.com)

Henry Laird  
WISE CARTER CHILD & CARAWAY, P.A.  
2510 14th Street, Suite 1125  
Gulfport, MS 39501

Theodore J. Boutrous, Jr.  
Katie Townsend  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
[TBoutrous@gibsondunn.com](mailto:TBoutrous@gibsondunn.com)  
[KTownsend@gibsondunn.com](mailto:KTownsend@gibsondunn.com)

Lee R. Crain  
H. Chase Weidner  
GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166  
[LCrain@gibsondunn.com](mailto:LCrain@gibsondunn.com)  
[CWeidner@gibsondunn.com](mailto:CWeidner@gibsondunn.com)

SO CERTIFIED, this 14th day of October, 2025.

/s/ Freddie E. (Trey) Bourn III  
Freddie E. (Trey) Bourn III