

**IN THE SUPREME COURT OF THE  
STATE OF CONNECTICUT**

**IN RE EMMA F.;**

**IN RE LOGAN F.;**

**IN RE OLIVIA F.**

S.C. 19417

**APPLICATION OF  
THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND  
48 MEDIA ORGANIZATIONS\* FOR PERMISSION TO APPEAR AS AMICI  
CURIAE AND TO FILE A BRIEF IN SUPPORT OF APPELLANT  
CONNECTICUT LAW TRIBUNE'S MOTION TO VACATE INJUNCTION  
AGAINST PUBLICATION OF A CERTAIN ARTICLE (SUPERIOR COURT FOR  
JUVENILE MATTERS, FOURTEENTH DISTRICT AT NEW BRITAIN,  
NOV. 24, 2014)**

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December 2, 2014

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\*All amici listed on Exhibit A, attached hereto.

## **IDENTITY OF AMICI CURIAE**

The Reporters Committee for Freedom of the Press and 48 media companies and nonprofit organizations submit this application for permission to appear as amici curiae and to file a brief in support of appellant Connecticut Law Tribune. For a full list of amici, see attached Exhibit A.

## **STATEMENT OF INTEREST OF AMICI CURIAE**

The Superior Court has issued an order barring a legal publication from publishing information lawfully obtained from a court document posted on the court's own public website.<sup>1</sup> The Superior Court's justification for this order remains under seal. These actions violate the central tenets of an open court system and the freedom of the press guaranteed by the first amendment to the U.S. Constitution and Article I, Section 5 of the Constitution of the State of Connecticut. Amici, as news organizations and advocates for freedom of the press, have a strong interest in challenging prior restraints on publication and being able to publish lawfully obtained information contained in court documents made available to the public by the courts.

Nothing is more threatening to free expression or freedom of the press than government censorship. Affirming the lower court order would set a dangerous precedent of restricting publication of lawfully obtained, truthful information provided to the public by the courts — in contravention of U.S. Supreme Court precedent. See *Oklahoma Publ'g Co. v. District Court*, 430 U.S.

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<sup>1</sup> T. Scheffey, *New Arguments Held in Law Tribune Prior Restraint Case*, Dec. 1, 2014, <http://www.ctlawtribune.com/top-stories/id=1202677755299/New-Arguments-Held-in-Law-Tribune-Prior-Restraint-Case>.

308 (1977) (per curiam) (holding unconstitutional an order restricting the publication of information related to a juvenile proceeding, when the reporter obtained the truthful information lawfully). Because prior restraints affect the news media everywhere, the undersigned respectfully seek permission to appear as amici curiae in support of appellant to explain why prior restraints are intolerable and why a prior restraint cannot be sustained in this case.

The Reporters Committee is a voluntary, unincorporated association of reporters and editors working to defend and preserve first amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance, and research in first amendment and Freedom of Information Act litigation since 1970, and it frequently files friend-of-the-court briefs in significant media law cases. The Reporters Committee also serves as an online news organization, reporting on legal issues that affect journalists, and has a strong interest in preserving the free press guarantees of the first amendment and the Connecticut constitution for the media at large.

Additional amici include international, national and regional news organizations; media companies; associations of news organizations, editors and publishers; and nonprofit public interest organizations dedicated to improving journalism and defending free speech, free press and open government.

### **BRIEF HISTORY OF THE CASE**

Only limited information is available about this case. On information and belief, the mother of three children involved in a child custody matter filed a

motion in New Britain Superior Court to stop the appellant from publishing a story about the case. On November 24, 2014, the Superior Court, Juvenile Division, Fourteenth District, granted the motion orally from the bench. The transcript of the proceedings and the oral opinion and order has been sealed. Counsel for appellant filed a motion in this Court to stay the Superior Court's injunction against the publication.

### **FACTUAL GROUNDS FOR APPLICATION OF AMICI CURIAE**

A reporter for the appellant apparently obtained information about a child custody case in juvenile court by being present in the courtroom before the reporter was asked to leave.<sup>2</sup> The reporter also obtained information from a public court document that was available on the Superior Court's website. *Id.* The Superior Court order prohibited appellant from publishing this information.

### **LEGAL GROUNDS FOR APPLICATION OF AMICI CURIAE**

This Court has discretion to grant applications to appear as amicus curiae. *Thalheim v. Town of Greenwich*, 256 Conn. 628, 644, 775 A.2d 947 (2001).

The U.S. Supreme Court has long recognized that "prior restraints on speech and publication are the most serious and least tolerable infringement on first amendment rights." *Nebraska Press Assn. v. Stuart*, 427 U.S. 539, 559 (1976). Any prior restraint is subject to a "heavy presumption against its

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<sup>2</sup> A. Griffin, Judge Orders Law Tribune Not To Publish Story, *The Hartford Courant*, Nov. 25, 2014, <http://www.courant.com/news/connecticut/hc-judge-orders-prior-restraint-on-connecticut-law-tribune-20141125-story.html>.

constitutional validity.” *Org. for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971). Courts should be “intensely skeptical about those measures that would allow government to insinuate itself into the editorial rooms of this Nation’s press.” *Nebraska Press Association*, 427 U.S. at 560–61.

The U.S. Supreme Court holding in *Oklahoma Publishing* is directly on point. There, a state trial court enjoined members of the media from publishing the name or picture of a minor child in connection with a juvenile proceeding pending before it. *Oklahoma Publishing*, 430 U.S. at 308. Reporters had been present in the courtroom during the juvenile’s detention hearing, at which time they learned the boy’s name, and one photographer took the boy’s picture. *Id.* at 309. The juvenile was later arraigned at a closed hearing, during which the judge entered the order barring publication. *Id.* The judge justified the order because a state statute provided for closed juvenile hearings. *Id.* at 311. The U.S. Supreme Court reversed, holding that the order was an impermissible prior restraint that abridged the first and fourteenth amendments. *Id.* at 311–12. Citing *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975), which held that a state could not impose sanctions for the accurate publication of the identity of a rape victim that had been publicly revealed in connection with the prosecution of the crime, and *Nebraska Press Association*, the Supreme Court in *Oklahoma Publishing* reasoned that, notwithstanding the special protections sometimes afforded in juvenile proceedings, the lower court could not prevent a newspaper from publishing information that had been publicly revealed in connection with the juvenile’s case. *Id.*

This case presents the same question. Here, a reporter lawfully obtained truthful information about a juvenile court proceeding from the Superior Court itself. Only later, at a closed hearing, did the Superior Court order the appellant not to publish a story containing that information. As in *Oklahoma Publishing*, a prior restraint cannot be justified simply to protect the interests of juveniles. See *Oklahoma Publishing*, 430 U.S. at 311. Once information about a court proceeding has become public, it is well settled that such information “could not be subject to prior restraint.” *Nebraska Press Association*, 427 U.S. at 568.

“Both the history and language of the First Amendment support the view that the press must be left free to publish news, whatever the source, without censorship, injunctions, or prior restraints.” *New York Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J., concurring). Accordingly, and for the foregoing reasons, the undersigned respectfully request permission to file a brief as amici curiae in support of appellant.

Respectfully submitted,

December 2, 2014

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**CERTIFICATION OF SERVICE**

A copy of this motion has been served via first class U.S. mail on December 2, 2014, on each other counsel of record in accordance with the provisions of Practice Book § 62-7:

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**CERTIFICATION OF COMPLIANCE**

The undersigned hereby certifies that this motion is in compliance with the Connecticut Rules of Appellate Procedure §§ 62-7, 66-3, and 67-7.

December 2, 2014

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Alan Neigher  
*Counsel for amici curiae*

## **EXHIBIT A**

The full list of amici curiae is as follows: The Reporters Committee for Freedom of the Press, A&E Television Networks, American Society of News Editors, The Associated Press, Association of Alternative Newsmedia, The Association of American Publishers, Inc., Atlantic Media, Inc., Bloomberg L.P., The Boston Globe, LLC, BuzzFeed, Cable News Network, Inc., CBS Broadcasting Inc., Courthouse News Service, Daily News, LP, Dow Jones & Company, Inc., The E.W. Scripps Company, First Amendment Coalition, First Look Media, Gannett Co., Inc., The Hartford Courant Company, LLC, Hearst Corporation, Investigative Reporters and Editors, Investigative Reporting Workshop at American University, The Keene Sentinel, LIN Television Corporation dba WTNH/WCTX in New Haven, CT, Massachusetts Newspaper Publishers Association, MediaNews Group, Inc., MPA – The Association of Magazine Media, National Geographic, National Newspaper Association, National Press Photographers Association, National Public Radio, Inc., NBCUniversal Media, LLC, d/b/a WVIT NBC Connecticut, New England First Amendment Coalition, New England Newspaper and Press Association, Inc., New England Society of Newspaper Editors, The New York Times Company, The New Yorker, News Corp, Newspaper Association of America, North Jersey Media Group Inc., North of Boston Media Group, Online News Association, Radio Television Digital News Association, Society of Professional Journalists, Time Inc., Tully Center for Free Speech, Union Leader Corporation, and The Washington Post.