

authority and discretion to appoint amici.”) (internal citations omitted). Proposed amici have provided notice to counsel for the United States, the Defendants, and Non-Party Joshua Miller of proposed amici’s intent to file an amici curiae brief. Mr. Miller consents to the filing of the amici curiae brief. The United States, Defendant Brand, and Defendant Zhao take no position on the filing of the brief.

Amici curiae typically assist a district court “in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 308 F.R.D. 39, 52 (D. Mass. 2015) (cleaned up); *see also NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (“District courts frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved . . .”). Proposed amici are well-positioned to provide the Court with such assistance in this case.

As members and representatives of the news media and organizations that advocate on behalf of the First Amendment and newsgathering rights of journalists, proposed amici have a strong interest in ensuring that non-party reporters like Mr. Miller are properly protected from being compelled to testify about their communications with sources, particularly where, as here, the evidence sought by the United States could be obtained by less intrusive means. Proposed amici’s brief will provide the Court with their informed perspective concerning the chilling effect that such compelled testimony has on the news media’s ability to fulfill its constitutionally protected role of informing the public.

Lead amicus, the Reporters Committee, and other news media organizations have appeared as amici curiae in courts around the country in cases that implicate the compelled testimony of journalists or production of journalistic work product. *See, e.g.*, Br. of Amicus Curiae the Reporters Committee in Support of Petitioner, *Shriner v. the Superior Court of the State of California, et al.*, Case No. E076320 (Cal. Ct. Appeal) (filed Dec. 23, 2020); Br. of Amicus Curiae the Reporters Committee, *Subpoena Duces Tecum to KIRO TV, Inc., et al.*, Case No. 20-0-616926 (Wash. Superior Ct.) (filed June 29, 2020); Br. of Amici Curiae the Reporters Committee and 19 Media Organizations in Support of Reporter Jamie Kalven’s Mot. to Quash Subpoena, *People v. March*, Case No. 2017-CR-9700 (Ill. Cir. Ct.) (filed Nov. 26, 2018); Br. for Amici Curiae the Reporters Committee and 48 Media Organizations in Support of Non-Party Respondent, *People v. Juarez*, APL-2017-00057 (N.Y.) (filed Oct. 6, 2017); Br. of Amicus Curiae the Reporters Committee in Support of Non-Party Witness John Sepulvado, *United States v. Patrick*, Civil No. 3:16-cr-00051-BR (D. Or.) (filed Feb. 22, 2017).

The perspective and experience of the proposed amici will assist the Court in resolving Mr. Miller’s pending Motion to Quash Trial Subpoena or for a Protective Order, which presents issues of great importance to the news media and the public at large. No prejudice to the Court or the parties will result from allowing proposed amici to file the attached amici curiae brief in this case, and the filing of the brief will not delay or otherwise interfere with the judicial process.

CONCLUSION

For these reasons, proposed amici respectfully request that the Court grant their motion for leave to file the attached amici curiae brief.

Respectfully submitted,

Date: November 15, 2022

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**Of Counsel*

CERTIFICATE OF SERVICE

I, Robert A. Bertsche, hereby certify that I have filed the foregoing Motion for Leave to File Amici Curiae Brief electronically with the Clerk of the United States District Court for the District of Massachusetts using the CM/ECF system. I certify that all participants in this case are registered as CM/ECF Filers and that they will be served by the CM/ECF system.

Date: November 15, 2022

/s/ Robert A. Bertsche

Robert A. Bertsche

Counsel of Record for Amici Curiae

Exhibit A

to quash the Subpoena requiring his testimony or, in the alternative, for *in camera* review of the recording he made of an in-person interview with Mr. Zhao to enable the Court to determine whether and to what extent Mr. Zhao's statements to him are relevant and admissible. ECF No. 185 (Motion to Quash).

Amici are the Reporters Committee for Freedom of the Press, The Associated Press, Association of Alternative Newsmedia, The Atlantic Monthly Group LLC, Axios Media Inc., Californians Aware, The Center for Investigative Reporting (d/b/a Reveal), Committee to Protect Journalists, Courthouse News Service, Dow Jones & Company, Inc., The E.W. Scripps Company, First Amendment Coalition, Forbes Media LLC, Freedom of the Press Foundation, Gannett Co., Inc., Inter American Press Association, Los Angeles Times Communications LLC, Massachusetts Newspapers Publishers Association, The McClatchy Company, LLC, The Media Institute, MediaNews Group Inc., Metro Corp, Inc. d/b/a *Boston* magazine, National Newspaper Association, National Press Photographers Association, NBCUniversal News Group, New England First Amendment Coalition, New England Newspaper and Press Association, Inc., The New York Times Company, News/Media Alliance, The NewsGuild - CWA, Online News Association, The Philadelphia Inquirer, Pro Publica, Inc., Slate, Society of Environmental Journalists, Society of Professional Journalists, Student Press Law Center, TIME USA, LLC, Tribune Publishing Company, Tully Center for Free Speech, and Vox Media, LLC. 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.

Amici agree with Mr. Miller that the Subpoena is unenforceable for the reasons set forth in his Memorandum in Support of the Motion to Quash. *See* ECF No. 187. Amici write to underscore the chilling effect that such non-party subpoenas have on journalists' ability to engage in First Amendment-protected newsgathering activity that is of critical value to the public. As members and representatives of the news media and organizations that advocate on behalf of the First Amendment and newsgathering rights of journalists, amici have a strong interest in ensuring that reporters are properly protected from government-issued subpoenas and other forms of compulsory process that would force them to testify about their communications with sources, or would otherwise disclose their journalistic work product, in connection with criminal investigations and prosecutions, particularly where, as here, the United States seeks evidence that would be largely peripheral, redundant, or could be obtained by less intrusive means. *See id.* at 2

Compelling reporters to testify about their communications with sources—even on-the-record, nonconfidential conversations—harms the newsgathering and reporting process, to the ultimate detriment of the public. It embroils reporters in time-consuming litigation and diverts news organizations' already scarce resources away from newsgathering and reporting—burdens that weigh especially heavily on journalists who regularly investigate and report on matters that could involve potential criminal activity, and thus whose interviews and other work product could regularly be the target of federal prosecutors. Moreover, enforcement of subpoenas like the one at issue here threatens to erode public trust in the independence of the news media by creating the misimpression that journalists are an

investigative arm of prosecutors and courts. That risk is particularly acute in situations where, as here, a journalist’s testimony is sought in connection with a criminal investigation launched *after* publication of the relevant reporting. Simply put, enforcement of government subpoenas that seek to compel journalists like Mr. Miller to testify in criminal trials risks making reporters’ existing and potential sources—both confidential and non-confidential—more reluctant to speak candidly, or simply unwilling to speak at all.

For these reasons, federal courts of appeals, including the First Circuit, have long recognized the importance of protecting non-party journalists from compulsory process aimed at their work product and sources. *See, e.g., Cusumano v. Microsoft Corp.*, 162 F.3d 708, 714 (1st Cir. 1998) (“Courts afford journalists a measure of protection from discovery initiatives in order not to undermine their ability to gather and disseminate information.”) (internal quotation marks and citations omitted); *Shoen v. Shoen*, 5 F.3d 1289, 1295 (9th Cir. 1993) (noting “a ‘lurking and subtle threat’ to the vitality of a free press if disclosure of non-confidential information ‘becomes routine and casually, if not cavalierly, compelled’”) (quoting *United States v. La Rouche Campaign*, 841 F.2d 1176, 1182 (1st Cir. 1988)).

Moreover, just last month, the Department of Justice itself further underscored the importance of protecting journalists from compelled process by issuing a revised Policy Regarding Obtaining Information From or Records of Members of the News Media; and Regarding Questioning, Arresting, or Charging Members of the News Media. *See* 28 C.F.R. § 50.10; *see also* Press Release, Department of Justice, Attorney General Garland Announces Revised Justice Department News Media Policy, U.S. DEP’T OF JUSTICE (Oct. 26, 2022), <https://www.justice.gov/opa/pr/attorney-general-garland-announces-revised-justice-department-news-media-policy> (“Because freedom of the press requires that members of the

news media have the freedom to investigate and report the news, the new regulations are intended to provide enhanced protection to members of the news media from certain law enforcement tools and actions that might unreasonably impair newsgathering.”). Though it appears the Subpoena was issued pursuant to Section 50.10(c)(1), an exception to the prohibition on compulsory legal process to journalists that permits the Department to use such process for purposes of “authentica[ing] for evidentiary purposes information or records that have already been published,” the testimony sought by the open-ended Subpoena at issue here would, as a practical matter, go beyond that narrow purpose. Indeed, any time reporters are required to testify about their newsgathering or reporting, without limitation, the scope of questioning is likely to reach beyond mere authentication to, for example, confidential sources and methods of newsgathering relied upon in the course of reporting.

Especially here, where the testimony sought to be compelled from Mr. Miller, a non-party journalist, could be obtained through less-intrusive means, ECF No. 187 at 2, enforcement of the Subpoena not only would impose an undue burden on Mr. Miller, but also would unnecessarily chill future newsgathering and reporting about matters of significant public concern throughout Massachusetts. For these reasons, amici respectfully urge the Court to grant the Motion to Quash.

ARGUMENT

I. The use of compulsory process against a non-party journalist chills newsgathering by eroding trust between reporters and their sources and undermining the public’s perception of the news media’s independence.

Journalists depend on sources to gather and report the news. Developing and maintaining the trust of sources is, accordingly, vital to effective newsgathering. *See* Beth Winegarner, *Five Tips for Journalists Who Want to Do a Better Job of Cultivating Sources*, POYNTER (June 8,

2012), <https://perma.cc/2MFY-RFNM> (“Sources who trust and respect you will come to you first when they hear news on the down-low. But it takes time to earn that trust and respect.”). When journalists are forced to testify about their newsgathering efforts, including their communications with sources, their ability to build and maintain those important relationships is undermined. Indeed, sources who believe that reporters may be forced to testify against them in court may refuse to speak on the record—or at all—to reporters. See *Gonzales v. NBC, Inc.*, 194 F.3d 29, 35 (2d Cir. 1998) (noting the threat of compelled disclosure to the news media’s ability to perform its duties when potential sources may be “deterred from speaking to the press, or insist[] on remaining anonymous, because of the likelihood that they w[ill] be sucked into litigation”).

This remains true when, as here, the government seeks to compel a journalist to testify about an interview with a non-confidential source. *Id.* (noting that the public policy concerns underlying the protection of sources and journalistic work product “are relevant regardless of whether the information sought from the press is confidential”); *Delaney v. Superior Ct.*, 50 Cal.3d 785, 802 n.25 (1990) (“That the information sought is not confidential does not necessarily mean it is not sensitive and equally worthy of protection from disclosure.”).³

As an initial matter, even mostly on-the-record interviews with non-confidential sources can elicit information that is provided in confidence and not intended for publication. For example, during the course of an otherwise on-the-record interview, a reporter and source may have some discussion that they agree is off the record or on background. But even assuming an

³ That Mr. Miller recorded one of his interviews with Mr. Zhao should not affect the Court’s analysis; journalists often record conversations with sources—even confidential sources—for their own use, including to ensure accuracy in their reporting. The ability to review a recorded interview allows a journalist, among other things, to correct errors or misunderstandings before a news story is published. Recordings of interviews—like a reporter’s notes—are journalistic work product, and their existence does not lessen the need to protect journalists from being compelled to testify about their interviews and other communications with sources.

interview with a non-confidential source is entirely on the record, compelled testimony risks opening a reporter's entire newsgathering process to inquiry. And such questioning may, for example, touch on the means by which the reporter first learned of a potential story, how a source was identified, and how an interview was obtained. Under such questioning, reporters may be compelled to reveal information not only about their on-the-record conversations with non-confidential sources, but also information about confidential sources and methods of newsgathering. Put another way, even though Mr. Zhao's interview with Mr. Miller was on the record, should Mr. Miller be forced to testify at trial regarding that interview and his reporting for the Article, the scope of questioning could reach beyond the mere authentication of Mr. Zhao's on-the-record statements to, for example, seek information about other sources Mr. Miller may have relied on. *See Baker v. Goldman Sachs & Co.*, 669 F.3d 105, 110 (2d Cir. 2012) (recognizing that questions asked on direct examination about "the accuracy of a particular news article" "cannot be divorced from unpublished material relating to the article."). Moreover, even if the prosecution could tailor its questions to avoid privileged subject matter, the defense may cross-examine Mr. Miller on the subject of the Article, and such cross-examination may compel disclosure of protected information. *See id.* at 111 (noting that once the prosecution has "conducted its desired direct examination [of a journalist], the Confrontation Clause requires that the usual cross examination as to credibility and matters within the scope of the direct examination be allowed.") (*citing United States v. Treacy*, 639 F.3d 32, 44-45 (2d Cir. 2011)). The compelled disclosure of such information erodes the trust of sources, and damages journalists' ability to write deeply-researched stories based on the input of multiple well-placed and knowledgeable sources.

These risks to newsgathering are particularly salient in situations like this one, where the government launched a criminal investigation into the subject of a news article after the publication of that article. Compelling the reporter who wrote that article to then testify in the resulting criminal trial increases the likelihood that members of the public, including existing and potential sources, will incorrectly view journalists as an extension of law enforcement, thus undermining journalists' ability to cultivate and maintain the trust of sources. Sources who believe that reporters are investigative agents for prosecutors and courts may refuse to speak candidly to reporters, or simply refuse to speak to them at all. *Pugh v. Avis Rent A Car Sys., Inc.*, No. M8-85, 1997 WL 669876, at *3 (S.D.N.Y. Oct. 28, 1997) (noting that “[m]any doors will be closed to reporters who are viewed as investigative resources of litigants”).

An independent press—that is, a press neither beholden to the state nor subject to political whims—is indispensable to an informed citizenry. *See, e.g.*, New Regulations Regarding Obtaining Information from or Records of Members of the News Media; and Regarding Questioning, Arresting, or Charging Members of the News Media, U.S. Dep’t of Justice (Oct. 26, 2022), <https://www.justice.gov/ag/page/file/1547041/download> (announcing revised regulations) (“A free and independent press is vital to the functioning of our democracy.”); *Pennkamp v. State of Fla.*, 328 U.S. 331, 355 (1946) (Frankfurter, J., concurring) (describing a “free press” as “indispensable to a free society”); *Chevron Corp. v. Berlinger*, 629 F.3d 297, 306 (2d Cir. 2011) (recognizing “the public’s interest in being informed by a vigorous, aggressive and independent press”) (quotation marks omitted). The fact of independence, however, is not enough. To play its crucial role, the press must not only be independent, but also be perceived as independent—just as courts must not only be fair, but also be perceived as fair. *E.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 571–72 (1980) (“To work

effectively, it is important that society’s criminal process satisfy the appearance of justice.”) (quotation marks omitted); *Gonzales*, 194 F.3d at 35 (acknowledging “the symbolic harm of making journalists appear to be an investigative arm of . . . the government” and emphasizing the “paramount public interest in the maintenance of a vigorous, aggressive and independent press capable of participating in robust, unfettered debate over controversial matters”); *Shoen*, 5 F.3d at 1295 (explaining that if journalists were not perceived as independent, they “might well be shunned by persons who might otherwise give them information without a promise of confidentiality, barred from meetings which they would otherwise be free to attend and to describe, or even physically harassed if, for example, observed taking notes or photographs at a public rally”) (quoting Duane D. Morse & John W. Zucker, *The Journalist’s Privilege in Testimonial Privileges* 474–75 (Scott N. Stone & Ronald S. Liebman eds., 1983)).

Compelled process not only undermines the perception of independence vital to an effective press, it also threatens to constrain the editorial discretion of the news media by impacting its “selection and choice of material” for publication. *CBS, Inc. v. Democratic Nat’l Comm.*, 412 U.S. 94, 124 (1973). Journalists may hesitate to investigate newsworthy matters of public controversy for fear their work will be co-opted by prosecutors and, potentially, used in criminal prosecutions, and news organizations may be reluctant to publish “any information they fear would excite the interest of current or prospective litigants.” *United States v. Marcos*, No. SSSS 87 CR. 598 (JFK), 1990 WL 74521, at *2 (S.D.N.Y. June 1, 1990).

An independent press plays an essential role in a democratic society. The more closely journalists and news organizations are associated with the compelled disclosure of their work product and communications with sources at the behest of prosecutors, however, the less access journalists will have to people, places, and events that urgently call for press coverage.

Protections for reporters' communications with both confidential and non-confidential sources is thus essential to safeguarding the free flow of information to the public. And courts should not readily enforce government subpoenas compelling the testimony of non-party journalists, or requiring the production of other journalistic work-product, especially where—as here—the information sought from the non-party reporter could be obtained through less-intrusive means that are less damaging to First Amendment interests.

II. The use of compulsory process against non-party journalists imposes financial and other burdens that impede newsgathering and reporting on matters of public concern.

Compelling non-party journalists to testify about their communications with sources forces reporters and editors to devote scarce time and financial resources to participating in legal proceedings, rather than to investigating and reporting the news. Reviewing notes, gathering materials, conferring with editors and counsel, preparing for direct and cross-examination, and testifying at trial demand a significant time investment on the part of a reporter. And diverting journalists' time and attention away from newsgathering and reporting is not simply inconvenient; it can deprive the public of meaningful access to newsworthy information. Indeed, many newsrooms over the past decade have been forced to lay off journalists, leading to a decline in their ability to pursue in-depth, investigative stories; further reducing the number of reporters available to work on stories only exacerbates the problem. *See, e.g.,* Clara Hendrickson, *Local Journalism in Crisis: Why America Must Revive Its Local Newsrooms*, BROOKINGS (Nov. 12, 2019), <https://perma.cc/W9X4-GHPQ>. Simply put, the time spent by journalists and their editors responding to non-party subpoenas, is time not spent on investigating and reporting news stories of importance to the public.

These burdens of compelled process weigh especially heavy on investigative reporters who regularly cover matters involving potential criminal activity. The very job of investigative reporters is to “gather information about accidents, crimes, and other matters of special interest that often give rise to litigation.” *O’Neill v. Oakgrove Constr.*, 71 N.Y.2d 521, 526–27 (1988). It stands to reason then that “attempts to obtain evidence by subjecting the press to discovery as a nonparty would be widespread if not restricted on a routine basis,” *id.*, and would most frequently target investigative reporters. *See also La Rouche Campaign*, 841 F.2d at 1182 (“[S]tate and federal authorities are [not] free to annex the news media as an investigative arm of government.”) (quoting *Branzburg v. Hayes*, 408 U.S. 665, 709 (1972) (Powell, J., concurring)). If investigative journalists who report on potential and actual criminal activity are routinely compelled to testify in criminal proceedings that relate to the subject matter of their reporting, the “practical burdens on time and resources” and the “disruption of newsgathering activity[] would be particularly inimical to the vigor of a free press.” *O’Neill*, 71 N.Y.2d at 527. Indeed, as the First Circuit has recognized, not only would the “frequency of subpoenas . . . preempt the otherwise productive time of journalists and other employees,” it would “measurably increase expenditures for legal fees.” *La Rouche Campaign*, 841 F.2d at 1182; *see also Gonzales*, 194 F.3d at 35 (explaining that “[i]f the parties to any lawsuit were free to subpoena the press at will, it would likely become standard operating procedure for those litigating against an entity that had been the subject of press attention to sift through press files in search of information supporting their claims,” resulting in the “wholesale exposure of press files to litigant scrutiny,” and burdening “the press with heavy costs of subpoena compliance”). Through investigative reporting, journalists like Mr. Miller provide a vital service to the public. Their ability to provide this service is threatened, however, when their reporting leads to time-consuming, compelled

disclosure of their communications with sources and other journalistic work product in criminal matters.

CONCLUSION

For the reasons stated above, amici respectfully urge the Court to grant Mr. Miller's Motion to Quash.

Respectfully submitted,

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APPENDIX A
STATEMENT OF IDENTITY OF AMICI CURIAE

The Reporters Committee for Freedom of the Press (the “Reporters Committee”) is an unincorporated nonprofit 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.

The Associated Press (“AP”) is a news cooperative organized under the Not-for-Profit Corporation Law of New York. The AP’s members and subscribers include the nation’s newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 280 locations in more than 100 countries. On any given day, AP’s content can reach more than half of the world’s population.

Association of Alternative Newsmedia (“AAN”) is a not-for-profit trade association which represents nearly 100 alternative newspapers across North America. There are a wide range of publications in AAN, but all share an intense focus on local news, culture and the arts; an emphasis on point-of-view reporting and narrative journalism; a tolerance for individual freedoms and social differences; and an eagerness to report on issues and communities that many mainstream media outlets ignore. AAN members speak truth to power.

The Atlantic Monthly Group LLC is the publisher of *The Atlantic* and TheAtlantic.com. Founded in 1857 by Oliver Wendell Holmes, Ralph Waldo Emerson, Henry Wadsworth Longfellow and others, *The Atlantic* continues its 160-year tradition of publishing

award-winning journalism that challenges assumptions and pursues truth, covering national and international affairs, politics and public policy, business, culture, technology and related areas.

Axios Media Inc. is a digital media company with a mission to deliver news in an efficient format that helps professionals get smarter faster across an array of topics, including politics, science, business, health, tech, media, and local news.

Californians Aware is a nonpartisan nonprofit corporation organized under the laws of California and eligible for tax exempt contributions as a 501(c)(3) charity pursuant to the Internal Revenue Code. Its mission is to foster the improvement of, compliance with and public understanding and use of, the California Public Records Act and other guarantees of the public's rights to find out what citizens need to know to be truly self-governing, and to share what they know and believe without fear or loss.

The Center for Investigative Reporting (d/b/a Reveal), founded in 1977, is the nation's oldest nonprofit investigative newsroom. Reveal produces investigative journalism for its website <https://www.revealnews.org/>, the Reveal national public radio show and podcast, and various documentary projects. Reveal often works in collaboration with other newsrooms across the country.

The Committee to Protect Journalists is an independent, nonprofit organization that promotes press freedom worldwide. We defend the right of journalists to report the news without fear of reprisal. CPJ is made up of about 40 experts around the world, with headquarters in New York City. A board of prominent journalists from around the world helps guide CPJ's activities.

Courthouse News Service is a California-based legal news service that publishes a daily news website with a focus on politics and law. The news service also publishes daily reports on new civil actions and appellate rulings in both state and federal courts throughout the nation. Subscribers to the daily reports include law firms, universities, corporations, governmental institutions, and a wide range of media including newspapers, television stations and cable news services.

Dow Jones & Company is the world's leading provider of news and business information. Through *The Wall Street Journal*, *Barron's*, MarketWatch, Dow Jones Newswires, and its other publications, Dow Jones has produced journalism of unrivaled quality for more than 130 years and today has one of the world's largest newsgathering operations. Dow Jones's professional information services, including the Factiva news database and Dow Jones Risk & Compliance, ensure that businesses worldwide have the data and facts they need to make intelligent decisions. Dow Jones is a News Corp company.

The E.W. Scripps Company is the nation's fourth-largest local TV broadcaster, operating a portfolio of 61 stations in 41 markets. Scripps also owns Scripps Networks, which reaches nearly every American through the national news outlets Court TV and Newsy and popular entertainment brands ION, Bounce, Grit, Laff and Court TV Mystery. The company also runs an award-winning investigative reporting newsroom in Washington, D.C., and is the longtime steward of the Scripps National Spelling Bee.

First Amendment Coalition ("FAC") is a nonprofit public interest organization dedicated to defending free speech, free press and open government rights in order to make government, at all levels, more accountable to the people. The Coalition's mission assumes that government transparency and an informed electorate are essential to a self-governing

democracy. FAC advances this purpose by working to improve governmental compliance with state and federal open government laws. FAC’s activities include free legal consultations on access to public records and First Amendment issues, educational programs, legislative oversight of California bills affecting access to government records and free speech, and public advocacy, including extensive litigation and appellate work. FAC’s members are news organizations, law firms, libraries, civic organizations, academics, freelance journalists, bloggers, activists, and ordinary citizens.

Forbes Media LLC is the publisher of Forbes Magazine as well as an array of investment newsletters and the leading business news website, Forbes.com. Forbes has been covering American and global business since 1917.

Freedom of the Press Foundation (“FPF”) is a non-profit organization that supports and defends public-interest journalism in the 21st century. FPF works to preserve and strengthen First and Fourth Amendment rights guaranteed to the press through a variety of avenues, including building privacy-preserving technology, promoting the use of digital security tools, and engaging in public and legal advocacy.

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 Inter American Press Association (“IAPA”) is a not-for-profit organization dedicated to the defense and promotion of freedom of the press and of expression in the Americas. It is made up of more than 1,300 publications from throughout the Western Hemisphere and is based in Miami, Florida.

Los Angeles Times Communications LLC is one of the largest daily newspapers in the United States. Its popular news and information website, www.latimes.com, attracts audiences throughout California and across the nation.

The Massachusetts Newspaper Publishers Association (“MNPA”) is a voluntary association of daily and weekly newspapers published through the Commonwealth of Massachusetts. It represents those newspapers in legal and legislative matters of common concern.

The McClatchy Company, LLC is a publisher of iconic brands such as the *Miami Herald*, *The Kansas City Star*, *The Sacramento Bee*, *The Charlotte Observer*, *The (Raleigh) News & Observer*, and the *Fort Worth Star-Telegram*. McClatchy operates media companies in 30 U.S. markets in 16 states, providing each of its communities with high-quality news and advertising services in a wide array of digital and print formats. McClatchy is headquartered in Sacramento, California.

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.

MediaNews Group is a leader in local, multi-platform news and information, distinguished by its award-winning original content and high quality local media. It is one of the largest news organizations in the United States, with print and online publications across the country.

Metro Corp., the publisher of *Boston* magazine, is the nation's second largest publisher of city magazines. *Boston* magazine is published monthly and has been reporting on Boston's cultural and political trends since 1963.

National Newspaper Association is a 2,000 member organization of community newspapers founded in 1885. Its members include weekly and small daily newspapers across the United States. It is based in Pensacola, FL.

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.

The NBCUniversal News Group is a division of NBCUniversal Media, LLC. It includes NBC News, Telemundo News, MSNBC, CNBC, and an owned television-stations group that produces substantial amounts of local news and public affairs programming. NBC News produces, the "Today" show, "NBC Nightly News with Lester Holt," "Dateline NBC" and "Meet the Press" as well as digital and streaming news reporting, such as NBCNews.com and NBCNewsNow.

New England First Amendment Coalition is a non-profit organization working in the six New England states to defend, promote and expand public access to government and the work it does. The coalition is a broad-based organization of people who believe in the power of transparency in a democratic society. Its members include lawyers, journalists, historians

and academicians, as well as private citizens and organizations whose core beliefs include the principles of the First Amendment. The coalition aspires to advance and protect the five freedoms of the First Amendment, and the principle of the public's right to know in our region. In collaboration with other like-minded advocacy organizations, NEFAC also seeks to advance understanding of the First Amendment across the nation and freedom of speech and press issues around the world.

New England Newspaper and Press Association, Inc. ("NENPA") is the regional association for newspapers in the six New England States (including Massachusetts). NENPA's corporate office is in Dedham, Massachusetts. Its purpose is to promote the common interests of newspapers published in New England. Consistent with its purposes, NENPA is committed to preserving and ensuring the open and free publication of news and events in an open society.

The New York Times Company is the publisher of *The New York Times* and *The International Times*, and operates the news website [nytimes.com](https://www.nytimes.com).

The News/Media Alliance represents news and media publishers, including nearly 2,000 diverse news and magazine publishers in the United States—from the largest news publishers and international outlets to hyperlocal news sources, from digital-only and digital-first to print news. Alliance members account for nearly 90% of the daily newspaper's circulation in the United States. Since 2022, the Alliance is also the industry association for magazine media. It represents the interests of close to 100 magazine media companies with more than 500 individual magazine brands, on topics that include news, culture, sports, lifestyle and virtually every other interest, avocation or pastime enjoyed by Americans. The

Alliance diligently advocates for news organizations and magazine publishers on issues that affect them today.

The News Guild-CWA is a labor organization representing more than 25,000 employees of newspapers, newsmagazines, news services and other media enterprises. Guild representation comprises, in the main, the editorial and online departments of these media outlets. The News Guild is a sector of the Communications Workers of America. CWA is America's largest communications and media union, representing over 500,000 men and women in both private and public sectors.

The Online News Association is the world's largest association of digital journalists. ONA's mission is to inspire innovation and excellence among journalists to better serve the public. Membership includes journalists, technologists, executives, academics and students who produce news for and support digital delivery systems. ONA also hosts the annual Online News Association conference and administers the Online Journalism Awards.

The Philadelphia Inquirer, owned by the Lenfest Institute for Journalism, is the largest newspaper in the United States operated as a public-benefit corporation. It publishes The Inquirer as well as the Philadelphia Daily News in print, and online at www.inquirer.com. The Inquirer has won 20 Pulitzer Prizes. Under the non-profit ownership of the Institute, which is dedicated solely to the mission of preserving local journalism, the Inquirer is dedicated to public service journalism and news innovation.

Pro Publica, Inc. ("ProPublica") is an independent, nonprofit newsroom that produces investigative journalism in the public interest. It has won six Pulitzer Prizes, most recently a 2020 prize for national reporting, the 2019 prize for feature writing, and the 2017 gold medal for public service. ProPublica is supported almost entirely by philanthropy and offers its

articles for republication, both through its website, propublica.org, and directly to leading news organizations selected for maximum impact. ProPublica has extensive regional and local operations, including ProPublica Illinois, which began publishing in late 2017 and was honored (along with the Chicago Tribune) as a finalist for the 2018 Pulitzer Prize for Local Reporting, an initiative with the Texas Tribune, which launched in March 2020, and a series of Local Reporting Network partnerships.

The Slate Group publishes Slate, a daily online magazine. Slate features articles and podcasts analyzing news, politics and contemporary culture.

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.

Student Press Law Center (“SPLC”) is a nonprofit, nonpartisan organization which, since 1974, has been the nation’s only legal assistance agency devoted exclusively to educating high school and college journalists about the rights and responsibilities embodied in the First Amendment to the Constitution of the United States. SPLC provides free legal assistance, information and educational materials for student journalists on a variety of legal topics.

TIME is a global multimedia brand that reaches a combined audience of more than 100 million around the world. TIME's major franchises include the TIME 100 Most Influential People, Person of the Year, Firsts, Best Inventions, Genius Companies, World's Greatest Places and more. With 45 million digital visitors each month and 40 million social media followers, TIME is one of the most trusted and recognized sources of news and information in the world.

Tribune Publishing Company is one of the country's leading media companies. The company's daily newspapers include the Chicago Tribune, New York Daily News, The Baltimore Sun, Sun Sentinel (South Florida), Orlando Sentinel, Hartford Courant, The Morning Call, the Virginian Pilot and Daily Press. Popular news and information websites, including www.chicagotribune.com, complement Tribune Publishing's publishing properties and extend the company's nationwide audience.

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.

Vox Media, LLC owns New York Magazine and several web sites, including Vox, The Verge, The Cut, Vulture, SB Nation, and Eater, with 170 million unique monthly visitors.

APPENDIX B

CORPORATE DISCLOSURE STATEMENTS

The Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors with no parent corporation and no stock.

The Associated Press is a global news agency organized as a mutual news cooperative under the New York Not-For-Profit Corporation law. It is not publicly traded.

Association of Alternative Newsmedia has no parent corporation and does not issue any stock.

The Atlantic Monthly Group LLC is a privately-held media company, owned by Emerson Collective and Atlantic Media, Inc. No publicly held corporation owns 10% or more of its stock.

Axios Media Inc. is a privately owned company, and no publicly held company owns 10% or more of its stock.

Californians Aware is a nonprofit organization with no parent corporation and no stock.

The Center for Investigative Reporting (d/b/a Reveal) is a California non-profit public benefit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no statutory members and no stock.

The Committee to Protect Journalists is a nonprofit organization no parent corporation and no stock.

Courthouse News Service is a privately held corporation with no parent corporation and no publicly held corporation holds more than 10 percent of its stock.

Dow Jones & Company, Inc. (“Dow Jones”) is an indirect subsidiary of News Corporation, a publicly held company. Ruby Newco, LLC, an indirect subsidiary of News Corporation and a non-publicly held company, is the direct parent of Dow Jones. News Preferred Holdings, Inc., a subsidiary of News Corporation, is the direct parent of Ruby Newco, LLC. No publicly traded corporation currently owns ten percent or more of the stock of Dow Jones.

The E.W. Scripps Company is a publicly traded company with no parent company. No individual stockholder owns more than 10% of its stock.

First Amendment Coalition is a nonprofit organization with no parent company. It issues no stock and does not own any of the party's or amicus' stock.

Forbes Media LLC is a privately owned company and no publicly held corporation owns 10% or more of its stock.

Freedom of the Press Foundation does not have a parent corporation, and no publicly held corporation owns 10% or more of the stock of the organization.

Gannett Co., Inc. is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. BlackRock, Inc. and the Vanguard Group, Inc. each own ten percent or more of the stock of Gannett Co., Inc.

The Inter American Press Association (“IAPA”) is a not-for-profit organization with no corporate owners.

Los Angeles Times Communications LLC is wholly owned by NantMedia Holdings, LLC.

The Massachusetts Newspaper Publishers Association is a non-profit corporation. It has no parent, and no publicly held corporation owns 10% or more of its stock.

The McClatchy Company, LLC is privately owned by certain funds affiliated with Chatham Asset Management, LLC and does not have publicly traded stocks.

The Media Institute is a 501(c)(3) non-stock corporation with no parent corporation.

MediaNews Group Inc. is a privately held company. No publicly-held company owns ten percent or more of its equity interests.

Metro Corp. is a privately held corporation owned primarily by D. Herbert Lipson and David H. Lipson and trusts that were established for the benefit of their heirs. No publicly held corporation owns 10% or more of Metro Corp.'s stock.

National Newspaper Association is a non-stock nonprofit Florida corporation. It has no parent corporation and no subsidiaries.

National Press Photographers Association is a 501(c)(6) nonprofit organization with no parent company. It issues no stock and does not own any of the party's or amicus' stock.

Comcast Corporation and its consolidated subsidiaries own 100% of the common equity interests of NBCUniversal Media, LLC., including **NBCUniversal News Group**.

New England First Amendment Coalition has no parent corporation and no stock.

New England Newspaper and Press Association, Inc. is a non-profit corporation. It has no parent, and no publicly held corporation owns 10% or more of its stock.

The New York Times Company is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. No publicly held company owns 10% or more of its stock.

News/Media Alliance is a nonprofit, non-stock corporation organized under the laws of the commonwealth of Virginia. It has no parent company.

The News Guild – CWA is an unincorporated association. It has no parent and issues no stock.

Online News Association is a not-for-profit organization. It has no parent corporation, and no publicly traded corporation owns 10% or more of its stock.

No publicly held corporations own any stock in the **Philadelphia Inquirer**, PBC, or its parent company, the non-profit Lenfest Institute for Journalism, LLC.

Pro Publica, Inc. (“ProPublica”) is a Delaware nonprofit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no statutory members and no stock.

Slate is part of The Slate Group, a wholly owned subsidiary of Graham Holding Company.

The Society of Environmental Journalists is a 501(c)(3) non-profit educational organization. It has no parent corporation and issues no stock.

Society of Professional Journalists is a non-stock corporation with no parent company.

Student Press Law Center is a 501(c)(3) not-for-profit corporation that has no parent and issues no stock.

Time USA, LLC is a privately held limited liability company. No publicly held corporation owns 10% or more of its stock.

Tribune Publishing Company is a publicly held corporation. Alden Global Capital and affiliates own over 10% of Tribune Publishing Company’s common stock. Nant Capital LLC, Dr. Patrick Soon-Shiong and California Capital Equity, LLC together own over 10% of Tribune Publishing Company's stock.

The Tully Center for Free Speech is a subsidiary of Syracuse University.

Vox Media, LLC has no parent corporation. NBCUniversal Media, LLC, a publicly held corporation, owns at least 10% of Vox's stock.