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New York Supreme Court

APPELLATE DIVISION—FIRST DEPARTMENT

In the Matter of an Application for a Subpoena Ordering the Personal Appearance of Frances Robles as a Material Witness in:

PEOPLE OF THE STATE OF NEW YORK,

Respondent,

—against—

CONRADO JUAREZ,

Defendant,

FRANCES ROBLES,

Non-Party Appellant.

BRIEF OF *AMICI CURIAE* THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 57 MEDIA ORGANIZATIONS* IN SUPPORT OF NON-PARTY APPELLANT

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IDENTITY AND INTEREST OF AMICI CURIAE

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York, CWA Local 31003, Newspaper Association of America, Online News Association, PEN American Center, Radio Television Digital News Association, Reporters Without Borders, Society of Environmental Journalists, Society of Professional Journalists, Student Press Law Center, Tully Center for Free Speech, Vox Media, and The Washington Post, (collectively, "*amici*"). *Amici* are described in more detail in Appendix A.

As representatives and members of the news media, *amici* know that journalists frequently rely on the reporter's privilege to protect their ability to gather the news and report on matters of public concern. *Amici* have significant experience with the legal issues arising in the newsgathering context and a direct interest in protecting the freedom of the press.

The questions of law presented in this appeal are of great importance to *amici*. Compelling journalists to disclose nonconfidential but unpublished information obtained during the newsgathering process weakens the news media's ability to disseminate news to the public. Thus, *amici* are directly affected by the lower court's interpretation of the New York Shield Law, N.Y. Civ. Rights Law § 79-h (the "Shield Law") in this case. *Amici* urge this Court to reverse the Supreme Court's decision for the reasons set forth in non-party appellant's brief and submit this brief to highlight the broader interests behind the Shield Law's qualified privilege for nonconfidential information.

INTRODUCTION

In this appeal, non-party appellant Frances Robles ("Robles"), a reporter for *The New York Times*, asks this Court to reverse the Supreme Court's decision denying her motion to quash a subpoena seeking her unpublished notes and testimony regarding an interview she conducted with defendant Conrado Juarez. *Amici* write to support Robles' appeal, because the lower court incorrectly interpreted the Shield Law's strict standards for determining when the privilege against disclosure of nonconfidential information may be overcome and plainly erred by treating its disclosure not as a last resort, but rather as a routine occurrence.

The New York Shield Law recognizes a qualified privilege for reporters to protect their nonconfidential work product that can be overcome only on a clear and specific showing that the information held by a reporter is "highly material and relevant," "critical or necessary to the maintenance of a party's claim," and not available elsewhere. *See* N.Y. Civ. Rights Law § 79-h(c). As Robles demonstrates, and several courts have held, this standard requires that the case "virtually rises or falls" based on the reporter's information. Brief of Non-Party Appellant at 25 (citing *In re Application to Quash Subpoena to NBC*, 79 F.3d 346, 351 (2d Cir. 1996)). The Supreme Court in this case has chosen to avoid this high bar and has instead decided that prosecutors are entitled to "all possible evidence"

to defend against a potential claim that a videotaped confession was coerced. R10. This decision seems to embrace the view that that there is no particular interest in protecting nonconfidential information, a proposition with which *amici* strongly disagree. The lower court's interpretation of the Shield Law threatens to undermine substantially the free flow of information from the news media to the public.

Amici write to emphasize to the Court the importance of the Shield Law's qualified privilege against the compelled disclosure of nonconfidential information in preserving "the unique role of reporters as purveyors of information to the public and of newspapers as forums for criticism, discussion and debate." *O'Neill v. Oakgrove Constr., Inc.*, 71 N.Y.2d 521, 532 (1988) (Bellacosa, J., concurring). It is not exclusively the compelled testimony in one case that harms the news media, but also the broader perception it creates that the news media must routinely testify against their own sources, thus chilling future cooperation. Within the ambit of this privilege, the jailhouse interview has particular significance.

SUMMARY OF ARGUMENT

Protecting nonconfidential information from compelled disclosure, whether in the form of testimony about an interview or notes describing such an encounter, is vitally important to the free flow of information to the public. Routine compelled disclosure of nonconfidential but unpublished information would stymie reporting by threatening the independence of the news media and deterring sources from speaking to journalists, as well as burdening the news media's time and resources and discouraging journalists from reporting on controversial matters and maintaining records of past reporting. The resulting loss of news coverage would be to the detriment of the public. Accordingly, courts must robustly interpret the Shield Law's qualified privilege against compelled disclosure of nonconfidential information.

Jailhouse interviews are an essential source of information not just about the particulars of one case, but about how the criminal justice system operates. Because such interviews typically arise from criminal prosecutions, they are also likely to tempt prosecutors into eying subpoenas to the news media as a way to gather evidence for trial. Consequently, the news media's ability to report on matters concerning crime, criminal justice, and prison conditions, as informed by jailhouse interviews, hinges upon a strong interpretation of the Shield Law's qualified privilege against compelled disclosure of nonconfidential information.

ARGUMENT

I. A ROBUST INTERPRETATION OF THE SHIELD LAW'S QUALIFIED PRIVILEGE AGAINST COMPELLED DISCLOSURE OF NONCONFIDENTIAL INFORMATION IS CRITICAL TO THE NEWS MEDIA'S ABILITY TO INFORM THE PUBLIC.

In 1990, the New York State Legislature specifically amended the Shield Law to protect all unpublished materials that journalists gather in the course of reporting the news, even if no promise of confidentiality is involved. *See* N.Y. Civ. Rights Law § 79-h(c). Although the reasons reporters seek to protect their *confidential* sources is obvious, compelled disclosure of *nonconfidential* information also threatens journalists' ability to report the news. Indeed, because many subpoenas seek nonconfidential information, the impact on reporters when they are asked to reveal nonconfidential but unpublished information is severe. *See* RonNell Andersen Jones, *Media Subpoenas: Impact, Perception, and Legal Protection in the Changing World of American Journalism*, 84 Wash. L. Rev. 317, 354–74 (Aug. 2009); Reporters Comm. for Freedom of the Press, Agents of Discovery: A Report on the Incidence of Subpoenas Served on the News Media in 2001, at 8–9 (2003), *available at* http://rcfp.org/x?LgqE.

New York courts have recognized that the Shield Law's qualified privilege against the compelled disclosure of nonconfidential information protects the freedom of the press from specific harms, including the threat to its independence and its ability to continue gaining the trust and confidence of sources. Because

prevention of these harms is necessary to ensure that the public has full access to reporting on newsworthy matters, courts must interpret the Shield Law's qualified privilege to prohibit compelled disclosure of nonconfidential information in all but the narrow circumstances described in the statute.

The qualified privilege protects the autonomy of the press and its ability to cultivate sources. The routine compelled disclosure of even nonconfidential information in response to subpoenas from litigants "risk[s] the symbolic harm of making journalists appear to be an investigative arm of the judicial system, the government, or private parties." *Gonzales v. NBC*, 194 F.3d 29, 35 (2d Cir. 1998); *see also* 1990 McKinney's Session Laws, Memo. of State Executive Dep't at 2332 (recognizing the risk of journalists "being used as investigative agents of the government or the defense").

Sources who believe that reporters are investigative agents of the government or are likely to be forced to testify against them in court, even on nonconfidential matters, may refuse to speak to reporters 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"). Other sources may still agree to speak to reporters, but only warily and with much less candor. In sum, journalists' ability to report the news relies, in large part, on their ability to cultivate sources' trust.

When reporters' notes and testimony are easily compelled, that trust is destroyed. Thus, a qualified privilege is necessary to preserve journalists' independence and thereby enable them to develop sources and report the news.

The qualified privilege also helps shield the news media from the otherwise overwhelming numbers of subpoenas seeking nonconfidential information that would diminish their time, resources, and attention. The Court of Appeals has recognized that "[t]he ability of the press freely to collect and edit news, unhampered by repeated demands for its resource materials," requires significant protection. *O'Neill*, 71 N.Y.2d at 526. Because the news media typically gathers information about controversial events that can or do result in prosecutions or civil litigation, such as accidents, crimes, and government misconduct, *see id.*, it is "a more likely target for subpoenas, which, in turn, will generate cost and diversion in time and attention from journalistic pursuits," *id.* at 533 (Bellacosa, J., concurring). Thus, if litigants were unrestricted in their attempts to obtain nonconfidential information from the news media, "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." *Gonzales*, 194 F.3d at 35. The burdens on the time and resources of the news media could be immense, as reporters and editors responding to subpoenas must take actions such as searching for responsive materials, making copies,

preparing testimony, appearing in court, and consulting with legal counsel. Even more importantly, reporters' attention and effort would be diverted from the newsroom to the courtroom, as they spent more and more time responding to subpoenas. *See O'Neill*, 71 N.Y.2d at 527.

In addition, a robust qualified privilege ensures that journalists will confidently investigate and report on matters of public controversy and maintain records and files regarding prior reporting without fear that their work will favor or disfavor their sources in litigation. Faced with the prospect that litigants could readily obtain court orders compelling disclosure of nonconfidential information, reporters or editors, especially those without large news operations backing them up, may be more reluctant to investigate court proceedings or less likely 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); *see also United States ex rel. Vuitton Et Fils S.A. v. Karen Bags, Inc.*, 600 F. Supp. 667, 670 (S.D.N.Y. 1985). Similarly, the threat that nonconfidential but unpublished materials may be subject to disclosure in a lawsuit "may induce reporters to discard, in the ordinary course, potentially discoverable materials to avoid exposure to judicial process by subpoena duces tecum." *O'Neill*, 71 N.Y.2d at 533 (Bellacosa, J., concurring); *see also Gonzales*, 194 F.3d at 35 (noting that "[i]ncentives would also arise for press entities to clean

out files containing potentially valuable information lest they incur substantial costs in the event of future subpoenas"). As a result, information gleaned from past newsgathering that could enrich reporting on new stories will be lost.

It is the public that ultimately suffers, losing its source of information on matters of public concern such as crime, corporate malfeasance and government corruption. Because reporters' ability to protect nonconfidential information from disclosure is essential to the free flow of information from the news media to the public, this Court must strictly interpret the Shield Law's qualified privilege and its requirement of a specific showing that the evidence is highly relevant to the case.

II. COURTS SHOULD BE ESPECIALLY SENSITIVE TO THE NEED TO PROTECT NONCONFIDENTIAL INFORMATION IN THE CONTEXT OF JAILHOUSE INTERVIEWS.

Reporting on the criminal justice system is an essential part of journalism. The credibility of the entire justice system depends on a perception of fairness, which itself depends on openness and access. *See, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575 (1980) ("Plainly it would be difficult to single out any aspect of government of higher concern and importance to the people than the manner in which criminal trials are conducted; as we have shown, recognition of this pervades the centuries-old history of open trials and the opinions of this Court."); *Maryland v. Balt. Radio Show, Inc.*, 338 U.S. 912, 920 (1950) ("One of the demands of a democratic society is that the public should know what goes on in

courts by being told by the press what happens there, to the end that the public may judge whether our system of criminal justice is fair and right.").

While prosecutors and defense attorneys offer competing facts and theories as they build their narratives, the independent examination by the news media of particular cases can shed light on the fundamental issue beneath an individual trial – whether justice itself is being served. Because criminal justice reporting often relies on jailhouse interviews to provide the perspective of suspected and convicted criminals, vigorous protection is especially important when parties come seeking notes and testimony regarding such interviews.

Jailhouse interviews are part of a celebrated and rich tradition of crime reporting. Because criminal defendants often accept plea deals or decline to testify in their own defense, jailhouse interviews are often the public's only opportunity to hear directly from suspects or convicted criminals. Such interviews are newsworthy regardless of whether the individual denies culpability or confesses guilt. For example, in 2012, *The Washington Post* published a jailhouse interview with convicted "Beltway sniper" Lee Boyd Malvo, in which Malvo described the killing of several of his and John Allen Muhammad's victims. Josh White, *Lee Boyd Malvo, 10 years after D.C. area sniper shootings: 'I was a monster'*, Wash. Post (Sept. 29, 2012), https://perma.cc/6T32-5YJU. Similarly, in 1994, *The New York Times* published an interview with CIA spy Aldrich Ames conducted from his

jail cell in Alexandria, Virginia, in which Ames detailed his motives for become a double-agent, his tradecraft, and why it took so long for him to be caught. Tim Weiner, *Why I Spied*, N.Y. Times (July 31, 1994), http://nyti.ms/2b3uAoJ.

The news media also uses jailhouse interviews to raise questions about the fairness of criminal trials. For example, both the first season of the podcast *Serial*, released in 2014, and the documentary *Making a Murder*, released in 2015, included interviews with jailed defendants as part of their reporting on the fairness of their convictions. *See Serial*, Chicago Public Radio (Oct. 3, 2014) (downloaded using iTunes); *Making a Murderer* (Netflix Dec. 18, 2015). Courts have subsequently granted the defendant interviewed in *Serial* and one defendant featured in *Making a Murderer* new trials, based in part on the very same issues highlighted by the podcast or documentary, respectively. *See* Memorandum Opinion II, *Syed v. Maryland*, Case Nos. 199103042-046 (Baltimore City Cir. Ct. June 30, 2016), *available at* https://perma.cc/U82N-UEK9; *Dassey v. Dittman*, Decision and Order, 1:14-cv-01310-WED (E.D. Wis. Aug. 12, 2016), ECF No. 23. Similarly, in 2002, ABC's *Primetime* conducted a jailhouse interview with convicted rapist and murderer Matias Reyes in which he confessed to committing the attack in the infamous "Central Park jogger" case, for which five teenage boys had been convicted. ABC News, *Man Says He was Central Park Rapist*, Primetime (Sept. 26, 2002), http://abcn.ws/2aZxgXZ. After Reyes confessed to

authorities and DNA evidence linked him to the crime, the wrongfully convicted boys were exonerated. *See* Benjamin Weiser, *5 Exonerated in Central Park Jogger Case Agree to Settle Suit for $40 Million*, N.Y. Times (June 19, 2014), http://nyti.ms/1qk04Hk. Appellant Robles, in her reporting for *The New York Times*, has also conducted jailhouse interviews in the past to report on irregularities in multiple murder convictions in cases investigated by one Brooklyn homicide detective, Louis Scarcella. *See* Frances Robles & N.R. Kleinfield, *Review of 50 Brooklyn Murder Cases Ordered*, N.Y. Times (May 11, 2013), http://nyti.ms/19vY23Z; Frances Robles, *Brooklyn Inquiry Finds Witness Who Says Police Coached Him to Lie*, N.Y. Times (Oct. 2, 2013), http://nyti.ms/23FN6oK (reporting on two telephone interviews with witnesses jailed for unrelated crimes who testified against defendants in cases Scarcella investigated and noting that "[m]any of the eyewitnesses Mr. Scarcella relied on are now themselves incarcerated").

Finally, jailhouse interviews allow the news media to report on prison conditions, which may prompt government officials to enact changes in prison life. For example, a 2014 interview with Bernie Madoff from a medium-security prison in Butner, North Carolina, reported that "[s]ecurity at the facility is relaxed – inmates sleep with their doors unlocked" and quoted Madoff describing the prison as "'actually very pretty'" and "'[m]ore like a college campus.'" MJ Lee, *Madoff:*

Politics, remorse, Wall Street, Politico (Mar. 20, 2014), *available at* https://perma.cc/96GR-7Z4C?type=image. More recently, *The New York Times* has used jailhouse interviews with inmates to report extensively on conditions at Rikers Island and other New York prisons. These stories have provided the public with direct insight into prisons, including the beatings and killings of inmates by guards, *see* Michael Winerip & Michael Schwirtz, *An Inmate Dies, and No One Is Punished*, N.Y. Times (Dec. 13, 2015), http://nyti.ms/1Z6n11T, the use of solitary confinement, *see* Michael Winerip & Michael Schwirtz, *'Time in the Box': Young Rikers Inmates, Still in Isolation*, N.Y. Times (July 7, 2016), http://nyti.ms/29qzkpg, and the mistreatment of mentally ill prisoners, *see* Michael Winerip & Michael Schwirtz, *Rikers: Where Mental Illness Meets Brutality in Jail*, N.Y. Times (July 14, 2014), http://nyti.ms/1kU0NdL; Michael Winerip & Michael Schwirtz, *For Mentally Ill Inmates at Rikers Island, a Cycle of Jail and Hospitals*, N.Y. Times (Apr. 10, 2015), http://nyti.ms/1CARwz5. In part because of the attention drawn to prison conditions by the media, public officials have begun to enact reforms to New York prisons, such as "funding for more officers, improved training and better programming for inmates, particularly the youngest." Michael Schwirtz, *Comptroller's Report to Criticize de Blasio Administration on Reform at Rikers*, N.Y. Times (Oct. 15, 2015), http://nyti.ms/1k91wOM; *see also* J. David Goodman, *Melissa Mark-Viverito, Council Speaker, Vows to Pursue New Criminal*

Justice Reforms, N.Y. Times (Feb. 11, 2016), http://nyti.ms/1o7foeF; Michael Schwirtz & Michael Winerip, *Close Rikers Island? It Will Take Years, Billions and Political Capital*, N.Y. Times (Mar. 2, 2016), http://nyti.ms/1RHBUnR. In short, by informing the public and politicians, jailhouse interviews have spurred meaningful change.

Thus, jailhouse interviews are critical to the news media's ability to inform the public on crime, trials, and prison conditions. They allow the news media to report the perspective of suspected or convicted criminals, rather than simply that of police, prosecutors, and other government officials. And because reporters often conduct jailhouse interviews with people awaiting trial or defendants seeking post-conviction relief, the risk of a subpoena seeking nonconfidential information from jailhouse interviews is high, with reporters being compelled to testify against their own sources. As a result, it is especially important that courts forcefully construe the Shield Law's protection against the compelled disclosure of nonconfidential information when a subpoena seeks a reporter's notes and testimony concerning a jailhouse interview.

CONCLUSION

For the foregoing reasons, *amici* respectfully urge this Court to reverse the lower court decision denying Robles' motion to quash.

DATE: New York, New York
August 19, 2016

Respectfully submitted,

/s/ Elizabeth M. Schutte

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APPENDIX A

Descriptions of *amici:*

The Reporters Committee for Freedom of the Press is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided assistance and research in First Amendment and Freedom of Information Act litigation since 1970.

ABC, Inc. is a broad-based communications company. Alone or through its subsidiaries, it owns ABC News, abcnews.com, and local broadcast television stations that regularly gather and report news to the public. ABC News produces the television programs *World News with David Muir*, *Good Morning America*, *Nightline*, *20/20*, and *This Week*, among others.

Advance Publications, Inc., directly and through its subsidiaries, publishes more than 20 print and digital magazines with nationwide circulation, local news in print and online in 10 states, and leading business journals in over 40 cities throughout the United States. Through its subsidiaries, Advance also owns numerous digital video channels and internet sites and has interests in cable systems serving over 2.3 million subscribers.

With some 500 members, **American Society of News Editors** ("ASNE") is an organization that includes directing editors of daily newspapers throughout the

Americas. ASNE changed its name in April 2009 to American Society of News Editors and approved broadening its membership to editors of online news providers and academic leaders. Founded in 1922 as American Society of Newspaper Editors, ASNE is active in a number of areas of interest to top editors with priorities on improving freedom of information, diversity, readership and the credibility of newspapers.

The Asian American Journalists Association (AAJA) is a nonprofit professional and educational organization with members across the United States and in Asia. Founded in 1981, AAJA has been at the forefront of change in the journalism industry. AAJA's mission is to encourage Asian Americans and Pacific Islanders (AAPIs) to enter the ranks of journalism, to increase the number of AAPI news managers and executives and to work for fair and accurate coverage of AAPIs. AAJA is an alliance partner in UNITY Journalists, along with the Native American Journalists Association and the National Association of LGBT Journalists.

The Associated Press ("AP") is a news cooperative organized under the Not-for-Profit Corporation Law of New York, and owned by its 1,500 U.S. newspaper members. The AP's members and subscribers include the nation's newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 300 locations in more than 100 countries. On any given day, AP's content can reach more than half of the world's population.

The Baltimore Sun is a daily newspaper and website published by the Baltimore Sun Media Group.

Bloomberg L.P. operates Bloomberg News, a 24-hour global news service based in New York with more than 2,400 journalists in more than 150 bureaus around the world. Bloomberg supplies real-time business, financial, and legal news to the more than 319,000 subscribers to the Bloomberg Professional service world-wide and is syndicated to more than 1000 media outlets across more than 60 countries. Bloomberg television is available in more than 340 million homes worldwide and Bloomberg radio is syndicated to 200 radio affiliates nationally. In addition, Bloomberg publishes Bloomberg Businessweek, Bloomberg Markets and Bloomberg Pursuits magazines with a combined circulation of 1.4 million readers and Bloomberg.com and Businessweek.com receive more than 24 million visitors each month. In total, Bloomberg distributes news, information, and commentary to millions of readers and listeners each day, and has published more than one hundred million stories.

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

Cable News Network, Inc. ("CNN"), a division of Turner Broadcasting System, Inc., a Time Warner Company, is the most trusted source for news and

information. Its reach extends to the following: nine cable and satellite television networks; one private place-based network; two radio networks; wireless devices around the world; CNN Digital Network, the No. 1 network of news websites in the United States; CNN Newsource, the world's most extensively syndicated news service; and strategic international partnerships within both television and the digital media.

CBS Broadcasting Inc. produces and broadcasts news, public affairs and entertainment programming. Its CBS News Division produces morning, evening and weekend news programming, as well as news and public affairs newsmagazine shows, such as "60 Minutes" and "48 Hours." CBS Broadcasting Inc. also directly owns and operates television stations across the country, including WCBS-TV in New York City.

The Center for Public Integrity was founded in 1989 by Charles Lewis. We are one of the country's oldest and largest nonpartisan, nonprofit investigative news organizations and winner of the 2014 Pulitzer Prize for investigative journalism.

Chicago Tribune Company, LLC, publishes the Chicago Tribune, one of the largest daily newspapers in the United States. Its popular news and information website, www.chicagotribune.com, attracts a national audience.

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.

Community Newspapers Inc. publishes 24 newspapers in Georgia, Florida and North Carolina.

Criminal Justice Journalists, a non-profit, member supported organization, was founded in 1997. Our goal is to improve the quality and accuracy of news reporting on crime, law enforcement, and the judicial system.

Daily News, LP publishes the New York Daily News, a daily newspaper that serves primarily the New York City metropolitan area and is the ninth-largest paper in the country by circulation. The Daily News' website, NYDailyNews.com, receives approximately 26 million unique visitors each month.

The E.W. Scripps Company serves audiences and businesses through television, radio and digital media brands, with 33 television stations in 24 markets. Scripps also owns 34 radio stations in eight markets, as well as local and national digital journalism and information businesses, including mobile video news service Newsy and weather app developer WeatherSphere. Scripps owns and operates an award-winning investigative reporting newsroom in Washington, D.C. and serves as the long-time steward of the nation's largest, most successful and longest-running educational program, the Scripps National Spelling Bee.

First Amendment Coalition 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. To that end, we resist excessive government secrecy (while recognizing the need to protect legitimate state secrets) and censorship of all kinds.

The First Amendment Foundation is a nonprofit foundation dedicated to safeguarding the free flow of information to all people in Florida. It was formed for the purpose of helping preserve and advance freedom of speech and access to government information as provided in the United States Constitution and the Florida Constitution.

First Look Media Works, Inc. is a new non-profit digital media venture that produces The Intercept, a digital magazine focused on national security reporting.

The Florida Press Association was founded in 1879 as a nonprofit corporation to protect the freedoms and advance the professional standards of the press of Florida. The Florida Press Association includes all of the daily and most of the weekly newspapers in the state in its membership.

Free Press is a national, nonpartisan, non-profit organization with approximately one million members in the United States and around the world. It works to defend

Internet freedom and press freedom, including the right of journalists and others to gather and report on information as well as the public's right to see, hear and read that information — both of which are crucial to a functioning democracy. Free Press has participated in numerous court and agency proceedings on media, telecommunications, and technology law topics, including those involving First Amendment issues, since the organization's founding in 2003.

Freedom of the Press Foundation is a non-profit organization that supports and defends public-interest journalism focused on transparency and accountability. The organization works to preserve and strengthen First and Fourth Amendment rights guaranteed to the press through a variety of avenues, including public advocacy, legal advocacy, the promotion of digital security tools, and crowd-funding.

Fusion Media Network, LLC is a cable television network and digital media publisher that produces news and information targeted at the diverse population of U.S. millennials.

Gannett Co., Inc. is an international news and information company that publishes 108 daily newspapers in the United States and Guam, including USA TODAY. Each weekday, Gannett's newspapers are distributed to an audience of more than 8 million readers and the digital and mobile products associated with the company's publications serve online content to more than 100 million unique visitors each month.

Hearst Corporation is one of the nation's largest diversified media and information companies. Its major interests include ownership of 15 daily and more than 30 weekly newspapers, including the Houston Chronicle, San Antonio Express-News, San Francisco Chronicle and Albany Times Union; hundreds of magazines around the world, including Good Housekeeping, Cosmopolitan, ELLE and O, The Oprah Magazine; 31 television stations, which reach a combined 18 percent of U.S. viewers; ownership in leading cable networks, including Lifetime, A&E, HISTORY and ESPN; significant holdings in automotive, electronic and medical/pharmaceutical business information companies; a majority stake in global ratings agency Fitch Group; Internet and marketing services businesses; television production; newspaper features distribution; and real estate.

The Ida B. Wells Society For Investigative Reporting is a trade organization dedicated to increasing and retaining reporters and editors of color in the field of investigative reporting. The organization also seeks to educate news organizations and journalists on how the inclusion of diverse voices can raise the caliber, impact and visibility of investigative journalism as a means of promoting transparency and good government. The Society is housed at the City University of New York Graduate School of Journalism in New York City.

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.

The International Press Institute's North American Committee is a national committee of IPI, a global network of editors, media executives and leading journalists dedicated to the furtherance and safeguarding of press freedom, the protection of freedom of opinion and expression, the promotion of the free flow of news and information, and the improvement of the practices of journalism. Headquartered in Vienna, Austria, it was founded at Columbia University in New York in 1950.

Investigative Reporters and Editors, Inc. is a grassroots nonprofit organization dedicated to improving the quality of investigative reporting. IRE was formed in 1975 to create a forum in which journalists throughout the world could help each other by sharing story ideas, newsgathering techniques and news sources.

The Investigative Reporting Workshop, a project of the School of Communication (SOC) at American University, is a nonprofit, professional newsroom. The Workshop publishes in-depth stories at investigativereportingworkshop.org about government and corporate accountability, ranging widely from the environment and health to national security and the economy.

Journalism and Women Symposium is a nonprofit organization founded in 1985 which supports the professional empowerment and growth of women in journalism and works toward a more accurate portrayal of the whole society.

Los Angeles Times Communications LLC publishes the Los Angeles Times, the largest metropolitan daily newspaper in the country. The Los Angeles Times operates the website www.latimes.com, a leading source of national and international news.

The Marshall Project is a nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the United States criminal justice system. The Marshall Project publishes prize-winning original reporting about the criminal justice system on its website, www.themarshallproject.com, and in partnership with other news organizations.

The McClatchy Company is a 21st century news and information leader, publisher of iconic brands such as the Miami Herald, The Kansas City Star, The Sacramento Bee, The Charlotte Observer, The (Raleigh) News and Observer, and the (Fort Worth) Star-Telegram. McClatchy operates media companies in 28 U.S. markets in 14 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, Calif., and listed on the New York Stock Exchange under the symbol MNI.

The Miami Herald is a daily newspaper published by the McClatchy Company.

The National Association of Black Journalists (NABJ) is an organization of journalists, students and media-related professionals that provides quality programs and services to and advocates on behalf of black journalists worldwide. Founded by 44 men and women on December 12, 1975 in Washington, D.C., NABJ is the largest organization of journalists of color in the nation.

The National Association of Hispanic Journalists (NAHJ) is dedicated to the recognition and professional advancement of Hispanics in the news industry. Established in April 1984, NAHJ created a national voice and unified vision for all Hispanic journalists.

The National Hispanic Media Coalition (NHMC) is a media advocacy and civil rights organization for the advancement of Latinos, working towards a media that is fair and inclusive of Latinos, and towards universal, affordable, and open access to communications. NHMC was established in Los Angeles in 1986.

The National Press Club is the world's leading professional organization for journalists. Founded in 1908, the Club has 3,100 members representing most major news organizations. The Club defends a free press worldwide. Each year, the Club holds over 2,000 events, including news conferences, luncheons and panels, and more than 250,000 guests come through its doors.

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 approximately 7,000 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.

National Public Radio, Inc. (NPR) is an award-winning producer and distributor of noncommercial news, information, and cultural programming. A privately supported, not-for-profit membership organization, NPR serves an audience of more than 26 million listeners each week via more than 1000 noncommercial, independently operated radio stations, licensed to more than 260 NPR Members and numerous other NPR-affiliated entities. In addition, NPR is reaching an expanding audience via its digital properties, including NPR.org and NPR's applications, which see more than 30 million unique visitors each month. National Public Radio, Inc. has no parent company and issues no stock.

The Native American Journalists Association (NAJA) empowers journalists through the provision of resources to Native and non-Native media. NAJA

represents more than 500 members working in national and tribal media outlets, independent freelancers, associations, academic institutions and other organizations. Through programs that promote diversity and defend challenges to free press, speech and expression, NAJA promotes accurate media coverage of Indian Country. NAJA is committed to increasing the representation of Native journalists in mainstream media. NAJA encourages both mainstream and tribal media to attain the highest standards of professionalism, ethics and responsibility.

NBCUniversal Media, LLC is one of the world's leading media and entertainment companies in the development, production and marketing of news, entertainment and information to a global audience. Among other businesses, NBCUniversal Media, LLC owns and operates the NBC television network, the Spanish-language television network Telemundo, NBC News, several news and entertainment networks, including MSNBC and CNBC, and a television-stations group consisting of owned-and-operated television stations that produce substantial amounts of local news, sports and public affairs programming. NBC News produces the "Today" show, "NBC Nightly News with Brian Williams," "Dateline NBC" and "Meet the Press."

The News Guild – CWA is a labor organization representing more than 30,000 employees of newspapers, newsmagazines, news services and related media enterprises. Guild representation comprises, in the main, the advertising, business,

circulation, editorial, maintenance and related 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 700,000 men and women in both private and public sectors.

The NewsGuild of New York, CWA Local 31003, is a labor organization representing approximately 3000 employees of print and digital newspapers, magazines, news services and related media enterprises, including The New York Times, by which appellant Frances Robles is employed. The NewsGuild is affiliated with the national NewsGuild and the Communications Workers of America, America's largest communications and media union.

Newspaper Association of America ("NAA") is a nonprofit organization representing the interests of more than 2,000 newspapers in the United States and Canada. NAA members account for nearly 90% of the daily newspaper circulation in the United States and a wide range of non-daily newspapers. The Association focuses on the major issues that affect today's newspaper industry, including protecting the ability of the media to provide the public with news and information on matters of public concern.

Online News Association ("ONA") is the world's largest association of online journalists. ONA's mission is to inspire innovation and excellence among journalists to better serve the public. ONA's more than 2,000 members include

news writers, producers, designers, editors, bloggers, technologists, photographers, academics, students and others who produce news for the Internet or other digital delivery systems. ONA hosts the annual Online News Association conference and administers the Online Journalism Awards. ONA is dedicated to advancing the interests of digital journalists and the public generally by encouraging editorial integrity and independence, journalistic excellence and freedom of expression and access.

PEN American Center is a non-profit association of writers that includes poets, playwrights, essayists, novelists, editors, screenwriters, journalists, literary agents, and translators ("PEN"). PEN has approximately 4,300 members. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible.

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

Reporters Without Borders has been fighting censorship and supporting and protecting journalists since 1985. Activities are carried out on five continents

through its network of over 150 correspondents, its national sections, and its close collaboration with local and regional press freedom groups. Reporters Without Borders currently has 10 offices and sections worldwide.

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.

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 owns several web sites, including Vox, The Verge, SB Nation, Recode, with 170 million unique monthly visitors.

WP Company LLC (d/b/a The Washington Post) publishes one of the nation's most prominent daily newspapers, as well as a website, www.washingtonpost.com, that is read by an average of more than 20 million unique visitors per month.

APPENDIX B

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