

1 KATIE TOWNSEND (SBN 254321)
2 ktownsend@rcfp.org
3 Counsel of Record for Amici Curiae
4 BRUCE D. BROWN*
5 bbrown@rcfp.org
6 CAITLIN VOGUS*
7 cvogus@rcfp.org
8 JOSH MOORE*
9 jmoore@rcfp.org
10 *Of Counsel

11 THE REPORTERS COMMITTEE FOR
12 FREEDOM OF THE PRESS
13 1156 15th Street NW, Suite 1250
14 Washington, D.C. 20005
15 Telephone: (202) 795-9300
16 Facsimile: (202) 795-9310

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 SOUTHERN DIVISION

20 **COURTHOUSE NEWS
21 SERVICE,**

22 Plaintiff,

23 v.

24 **DAVID YAMASAKI, IN HIS
25 OFFICIAL CAPACITY AS COURT
26 EXECUTIVE OFFICER/CLERK
27 OF THE ORANGE COUNTY
28 SUPERIOR COURT,**

Defendant.

Case No.: 8:17-CV-126 AG (KESx)

**APPLICATION OF THE
REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS AND 15
OTHER MEDIA ORGANIZATIONS
FOR LEAVE TO FILE BRIEF AS
AMICI CURIAE IN SUPPORT OF
PLAINTIFF**

[[Proposed] *Amici* Brief Filed
Concurrently Herewith]

Courtroom: 10D
Judge: Hon. Andrew J. Guilford

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** proposed *amici curiae*, the Reporters
3 Committee for Freedom of the Press (the “Reporters Committee”) and 15 other
4 news media organizations¹ request permission to file the concurrently submitted
5 proposed *amici curiae* brief in support of Plaintiff Courthouse News Service
6 (hereinafter, “CNS”). The proposed *amici curiae* brief was previously filed by the
7 Reporters Committee and 13 other media organizations in support of Plaintiff’s
8 Motion for a Preliminary Injunction and accepted by this Court. *See* Application to
9 File Amicus Brief of Reporters Committee for Freedom of the Press and 13 Other
10 Media Organizations, ECF No. 41 (Apr. 14, 2017); Proposed *Amici* Brief, ECF No.
11 41-1 (Apr. 14, 2017) (“*Amici* Brief”); Order Granting Application of the Reporters
12 Committee for Leave to File Brief as *Amici Curiae* in Support of Plaintiff, ECF No.
13 45 (Apr. 17, 2017).

14 *Amici* now seek to refile their previously accepted *Amici* Brief so the Court
15 may consider the arguments raised by *amici* in that brief when determining
16 Defendant David Yamasaki’s Motion for Summary Judgment. *Amici* ask to refile
17 their previously accepted *Amici* Brief in the interest of efficiency and so as not to
18 burden the Court with a new brief that would highlight the same important interests
19 at stake here for the public and the news media that were discussed in the *Amici*
20

21 ¹ The other news organizations are: American Society of News Editors, The
22 Associated Press, Association of Alternative Newsmedia, Bay Area News Group,
23 California News Publishers Association, Californians Aware, First Amendment
24 Coalition, Gannett Co., Inc., Los Angeles Times Communications LLC, The
25 McClatchy Company, MediaNews Group Inc., dba Digital First Media, LLC, News
26 Media Alliance, Online News Association, Radio Television Digital News
27 Association, and Society of Professional Journalists. Disclosure Statements and a
28 description of all *amici*, with the exception of the Bay Area News Group and
California News Publishers Association, are included in the proposed *amici curiae*
brief. Disclosure Statements and descriptions of the Bay Area News Group and
California News Publishers Association are included as appendices to this
application.

1 Brief.

2 The arguments raised in the *Amici* Brief remain relevant to the Defendant’s
3 Motion for Summary Judgment. For example, Defendant argues that his motion
4 should be granted because, *inter alia*, the Orange County Superior Court (“OCSC”)
5 provides timely access to most civil complaints and that “there is no constitutional
6 right to access the contents of civil complaints on a more expeditious basis than
7 what OCSC already provides.” Defendant’s Motion for Summary Judgment at 13,
8 ECF No. 75 (Nov. 17, 2017) (“Mot. for Summ. J.”). The *Amici* Brief emphasizes,
9 however, that the public interest demands contemporaneous access to newly filed
10 civil complaints and that delays like those here violate that right of
11 contemporaneous access by impeding the important values involved for both the
12 public and the news media. *Amici* Brief at 6–10. In addition, Defendant argues that
13 his motion should be granted because CNS has not demonstrated that timely access
14 to newly civil complaints “plays a significant positive role in the functioning of the
15 particular process in question.” Mot. for Summ. J. at 15 (quoting *Press-Enter. Co.*
16 *v. Superior Court*, 478 U.S. 1, 8 (1986)). The *Amici* Brief highlights how prompt
17 access to civil complaints facilitates independent public scrutiny, and therefore the
18 proper functioning, of the judicial system. *Amici* Br. at 10–13. Finally,
19 Defendant’s Motion for Summary Judgment at least twice notes CNS’s for-profit
20 status, Mot. for Summ. J. at 1, 6, which, as the *Amici* Brief explains, is legally
21 insignificant in determining whether the public’s First Amendment right of access
22 to judicial records applies. *Amici* Br. at 13–16.

23 This Court has broad discretion to permit third parties to participate in an
24 action as *amicus curiae*. See *Ctr. for Biological Diversity v. U.S. Bureau of Land*
25 *Mgmt.*, No. 3:09-CV-08011-PGR, 2010 WL 1452863, at *2 (C.D. Ariz. Apr. 12,
26 2010) (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982)). As members
27 of the news media, *amici* are uniquely qualified to provide the Court with
28 information about the potential ramifications of this case for news organizations

1 and the public. *See Sonoma Falls Developers, LLC v. Nevada Gold & Casinos,*
2 *Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003) (stating that courts “frequently
3 welcome” *amici* when a case concerns “legal issues that have potential
4 ramifications” for non-parties); *Bostick v. Herbalife Int’l of Am., Inc.*, No. 2:13-cv-
5 02488-BRO (SHX), 2015 WL 12731932, at *11 (C.D. Cal. May 14, 2015)
6 (emphasis removed) (quoting *Ryan v. Commodity Futures Trading Comm’n*, 125
7 F.3d 1062, 1063 (7th Cir. 1997)), *reconsideration denied*, 2015 WL 12745798
8 (C.D. Cal. Aug. 18, 2015) (stating that an *amicus* brief should normally be allowed
9 when *amici* have “unique information or perspective that can help the court beyond
10 the help that the lawyers for the parties are able to provide”). According, *amici* ask
11 that they be allowed to resubmit the *Amici* Brief so that the Court may consider the
12 perspective and arguments of the news media, and the public, in this case.

13 CNS and Defendant have consented to the filing of this Application.

14 For the foregoing reasons, *amici* respectfully request that the Court permit
15 the filing of the concurrently submitted proposed *amici curiae* brief, which is
16 identical to the previously-filed *Amici* Brief accepted by the Court on April 17,
17 2017.

19 Dated: January 8, 2018

/s/ *Katie Townsend*

20 Katie Townsend (SBN 254321)
21 THE REPORTERS COMMITTEE
22 FOR FREEDOM OF THE PRESS
23 1156 15th St. NW, Ste. 1250
24 Washington, D.C. 20005
25 Telephone: (202) 795-9303
26 Email: ktownsend@rcfp.org
27 *Counsel of Record for Amici Curiae*
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPENDIX A

**DISCLOSURE STATEMENTS OF
BAY AREA NEWS GROUP AND
CALIFORNIA NEWS PUBLISHERS ASSOCIATION**

Bay Area News Group is owned and operated by California Newspapers Partnership, a subsidiary of the privately-held Media NewsGroup.

The California News Publishers Association is a mutual benefit corporation organized under state law for the purpose of promoting and preserving the newspaper industry in California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPENDIX B
DESCRIPTIONS OF
BAY AREA NEWS GROUP AND
CALIFORNIA NEWS PUBLISHERS ASSOCIATION

Bay Area News Group is operated by MediaNews Group, one of the largest newspaper companies in the United States with newspapers throughout California and the nation. The Bay Area News Group includes *The Oakland Tribune, The Daily Review, The Argus, San Jose Mercury News, Contra Costa Times, Marin Independent Journal, West County Times, Valley Times, East County Times, Tri-Valley Herald, Santa Cruz Sentinel, San Mateo County Times, Vallejo Times-Herald* and *Vacaville Reporter*, all in California.

The California News Publishers Association is a nonprofit trade association representing the interests of over 1300 daily, weekly and student newspapers and news websites throughout California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2018, the foregoing document was filed electronically with the Clerk of Court through the Court’s CM/ECF system, which will automatically serve all counsel of record.

Dated: January 8, 2018

/s/ Katie Townsend

Katie Townsend
THE REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS
1156 15th St. NW, Ste. 1250
Washington, D.C. 20005
Telephone: (202) 795-9303
Email: ktownsend@rcfp.org
Counsel of Record for Amici Curiae