

No. 17-1669

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.; CENTER FOR FOOD SAFETY; ANIMAL LEGAL DEFENSE FUND; FARM SANCTUARY; FOOD & WATER WATCH; GOVERNMENT ACCOUNTABILITY PROJECT; FARM FORWARD; and AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Plaintiffs-Appellants,

v.

JOSH STEIN, in his official capacity as Attorney General of North Carolina, and CAROL FOLT, in her official capacity as Chancellor of the University of North Carolina-Chapel Hill,

Defendants-Appellees.

On Appeal from the United States District Court
for the Middle District of North Carolina
Case No. 1:16-cv-00025-TDS-JEP

**BRIEF OF AMICI CURIAE THE REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS AND 25 MEDIA ORGANIZATIONS
IN SUPPORT OF PLAINTIFFS-APPELLANTS URGING REVERSAL**

Bruce D. Brown, Esq.
Counsel of Record
Caitlin Vogus, Esq.
THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS
1156 15th St. NW, Suite 1250
Washington, D.C. 20005
Tel: (202) 795-9300
Facsimile : (202) 795-9310

Additional amici counsel listed in Appendix B

CORPORATE DISCLOSURE STATEMENT

The parties to this amicus brief are: The Reporters Committee for Freedom of the Press, American Society of News Editors, Associated Press Media Editors, Association of Alternative Newsmedia, Association of American Publishers, Inc., Brechner Center for Freedom of Information, The Charlotte Observer, First Amendment Coalition, Freedom of the Press Foundation, GateHouse Media, LLC, Inter American Press Association, International Documentary Assn., Investigative Reporting Program at UC Berkeley, Investigative Reporting Workshop at American University, Meredith Corp. d/b/a WHNS-TV (Greenville, SC), MPA – The Association of Magazine Media, National Press Photographers Association, The News & Observer , PEN America, Radio Television Digital News Association, Reporters Without Borders, Sinclair Broadcast Group, Inc., Society of Professional Journalists, Student Press Law Center, Tully Center for Free Speech, WTVD Television, LLC.

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American Society of News Editors is a private, non-stock corporation that has no parent.

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

The Association of American Publishers, Inc. is a nonprofit organization that has no parent and issues no stock.

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The Charlotte Observer is owned by The McClatchy Company. The McClatchy Company is publicly traded on the New York Stock Exchange under the ticker symbol MNI. Contrarius Investment Management Limited and Royce & Associates, LLC both own 10% or more of the common stock of The McClatchy Company.

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

WTVD Television, LLC is an indirect wholly-owned subsidiary of The Walt Disney Company.

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STATEMENT OF IDENTITY AND INTEREST OF *AMICI CURIAE*

Amici curiae are the Reporters Committee for Freedom of the Press and 25 media organizations. A supplemental statement of identity and interest of *amici curiae* is included below as Appendix A.

Amici file this brief in support of Plaintiffs-Appellants People for the Ethical Treatment of Animals, Inc.; Center for Food Safety; Animal Legal Defense Fund; Farm Sanctuary; Food & Water Watch; Government Accountability Project; Farm Forward; and American Society for the Prevention of Cruelty to Animals. As members of the news media or organizations who advocate on behalf of the news media or book publishers, *amici* have a strong interest in ensuring that reliable sources are available to journalists so that they may gather the news and information in a way that benefits the public. The ability of sources and whistleblowers to inform journalists of dangerous, illegal, or unethical activities—and to provide documentation of any wrongdoing—without fear of civil liability is critical to journalists' ability to report on matters of public concern. *Amici* write to emphasize the public interests at stake in this case and to highlight the chilling effect on journalists and their sources, as well as upon Appellants, created by N.C. Gen. Stat. § 99A-2.

SOURCE OF AUTHORITY TO FILE

Counsel for Plaintiffs-Appellants and Defendants-Appellees have consented to the filing of this brief.

FED. R. APP. P. 29(a)(4)(E) STATEMENT

Amici state that:

1. no party's counsel authored the brief in whole or in part;
2. no party or party's counsel contributed money intended to fund preparing or submitting the brief; and
3. no person, other than *amici*, their members or their counsel, contributed money intended to fund preparing or submitting the brief.

SUMMARY OF ARGUMENT

By imposing potential civil liability on whistleblowers and others who gather information from public or private facilities, N.C. Gen. Stat. § 99A-2 (“the Act”) weakens the ability of the news media to investigate dangerous, illegal, or unethical activities in North Carolina. Although Plaintiffs-Appellants in this case are focused on investigating animal welfare, the Act applies broadly to all forms of business. Under the Act, those who simply seek to inform the public about abuse face civil liability for their efforts.

The investigative work of the press has led to numerous reforms and increased public accountability in a variety of industries. Journalists frequently rely on sources within an organization, company, or government agency to provide them with the information that forms the basis of their reports—including documents, photos, and videos providing evidence of sources’ claims. Whistleblowers who provide corroborating information to the media play an essential role in aiding journalists as they keep the public informed. Without this information, civil society cannot hold government actors and private companies accountable for the activities they engage in that affect the public.

The Act creates a significant chilling effect on both sources and investigative journalists and poses a substantial risk of penalizing lawful—and constitutionally protected—newsgathering activity. Sources who know that they may face

draconian civil penalties for revealing information to journalists will be less likely to provide this information, and journalists who fear liability under the Act for “directing” or “inducing” an individual to violate it will be reluctant to speak to sources. Appellants, too, have established that the Act chills both their efforts to conduct undercover investigations and their ability to obtain information from individuals who wish to provide it to them. Accordingly, under the U.S. Supreme Court’s holding applying broad standing principles in First Amendment cases, *see Broadrick v. Oklahoma*, 413 U.S. 601, 612 (1973), Appellants have demonstrated that they have standing to bring this case. *Amici* urge this Court to reverse the District Court’s erroneous decision.

ARGUMENT

I. Information and documentation provided by sources to the press is essential to investigative journalism, which plays a crucial role in informing the public about state industries.

A. Investigations by journalists into state and private facilities have long played a vital role in ensuring public safety.

The media—including reporters, book authors, and others—keeps the citizenry informed on matters of public concern. As the U.S. Supreme Court has found, “[t]he Constitution specifically selected the press . . . to play an important role in the discussion of public affairs.” *Mills v. Alabama*, 384 U.S. 214, 219 (1966). An “untrammelled press [is] a vital source of public information,’ . . . and an informed public is the essence of working democracy.” *Minneapolis Star &*

Tribune Co. v. Minnesota Comm'r of Revenue, 460 U.S. 575, 585 (1983) (quoting *Grosjean v. American Press Co.*, 297 U.S. 233, 250 (1936)). The media provides the public with the information necessary to “assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” *Roth v. United States*, 354 U.S. 476, 484 (1957).

Investigative journalists have long served as watchdogs, safeguarding the public interest and prompting reform and improvements that benefit the public at large. In many respects, investigative journalism was born out of Upton Sinclair’s infamous 1906 book on Chicago’s slaughterhouses, *The Jungle*, and the work of his contemporaries. See James O’Shea, *Raking the Muck*, Chi. Trib., May 21, 2006, available at <http://bit.ly/18TwTjR>. While *The Jungle* is a work of fiction, Sinclair’s story was rooted in extensive research. Sinclair interviewed health inspectors and industry workers, and he went undercover into meatpacking facilities to document unsanitary conditions. James Diedrick, *The Jungle*, Encyclopedia of Chicago (Janice L. Reiff, Ann Durkin Keating, & James R. Grossman, eds. 2005), available at <https://perma.cc/TXD3-3ECV>. Sinclair’s work is credited with aiding the passage of the Pure Food and Drug Act and Meat Inspection Act, both enacted in 1906, which protected the public by instituting vigorous reforms in the meatpacking industry. *Id.*; see also Wallace F. Janssen, *The Story of the Laws Behind the Labels*, Food and Drug Admin., available at

<https://perma.cc/QMF2-XAYV> (last updated Mar. 11, 2014) (originally published in FDA Consumer, June 1981) (“A single chapter in Upton Sinclair’s novel, *The Jungle*, precipitated legislation expanding federal meat regulation to provide continuous inspection of all red meats for interstate distribution, a far more rigorous type of control than that provided by the pure food bill.”).

The spirit of public welfare created by *The Jungle* has been prevalent ever since. For example, in the late 1960s, a *Minneapolis Star* reporter, Nick Kotz, published a series of articles that revealed widespread unsanitary conditions in the country’s meatpacking plants. 113 Cong. Rec. 21283-86 (1967). Kotz’s reporting contributed to the passage of the Meat Inspection Act of 1967, which broadened federal regulation of slaughterhouses in the United States. *Id.* at 21283.

The role of investigative reporting in supporting public safety is not limited to the food industry. In 2008, the Pulitzer Prize-winning reporting of the *Chicago Tribune* on the flawed regulation of toys, car seats, and cribs led to a recall of dangerous products and federal action to improve oversight. *See The 2008 Pulitzer Prize Winners: Investigative Reporting*, Pulitzer Prizes, <http://www.pulitzer.org/winners/staff-67>. Similarly, in Florida, the *Tampa Bay Times* and the *Sarasota Herald-Tribune*’s 2011 award-winning exposé on state-funded mental hospitals led to state senate hearings and calls for reform. Anthony Cormier, *State senators scrutinize violence in Florida’s mental hospitals*, Tampa

Bay Times, Jan. 14, 2016, *available at* <https://perma.cc/5WSB-T2HY>; *see also* Leonora LaPeter Anton, et al., *Insane. Invisible. In Danger.*, Tampa Bay Times, Oct. 29, 2015, *available at* <http://bit.ly/1O9WwWP>.

Investigative journalism's independent and objective scrutiny of industry is all the more important because government inspections can be flawed or corrupt. For example, in 1992 multiple New York City building inspectors were indicted on bribery-related charges. Arnold H. Lubasch, *Bribes for Building Inspectors Portrayed as Business as Usual*, N.Y. Times, Oct. 2, 1992, *available at* <http://nyti.ms/2eRkc8B>. According to prosecutors, city inspectors extorted more than \$280,000 in cash payoffs involving 130 building sites over a period of six years. *Id.*

Even worse, in 2010, a whistleblower and former employee of the federal Mineral Management Service ("MMS") blamed "[a] history of slipshod inspections" for the explosion of British Petroleum Oil Rig Deepwater Horizon in the Gulf of Mexico that killed 11 workers. Abby Boudreau & David Fitzpatrick, *Whistleblower says poor inspections partly to blame for spill*, CNN, June 9, 2010, *available at* <https://perma.cc/QRG6-BXR3>. The whistleblower told reporters that MMS inspectors he observed during his 22 years of employment at MMS "were doing little real work" and would simply run through a checklist during inspections. *Id.* Other reports revealed that Deep Water Horizon had missed 16

MMS inspections in the five years prior to the explosion and that the inspector who was the last to visit the well was a novice who had very little training with deepwater rigs. Laura Strickler, *BP Rig Missed 16 Inspections Before Explosion*, CBS News, June 11, 2010, available at <https://perma.cc/GF5Z-QWAD>.

B. Journalists rely on documentary evidence from sources within companies or organizations to report on matters of public concern.

Sources are the lifeblood of journalism, and many investigative reports rely on documents, photographs, or videos obtained from sources within a government entity, a company, or other organization. Access to documentary materials enhances accuracy and credibility in reporting, increases transparency and reader trust, and enriches news stories, allowing reporters to convey more than can be said with the written word alone.

Documents, in particular, that are obtained from sources inside a company or organization are often vital to investigative reporting. For example, in March 1994, CBS's *60 Minutes* broadcast an account of the Philip Morris Company's attempts to develop a fire-safe cigarette, dubbed the "Hamlet project." Marie Brenner, *The Man Who Knew Too Much*, Vanity Fair, May 1996, available at <https://perma.cc/PV93-NVNB>. The story was based, in part on information contained in a "crate of papers" from a "nonpublic file" of Philip Morris left on the front steps of a *60 Minutes* producer. *Id.* That same year, *The New York Times* published a series of articles about Brown & Williamson's secret research into the

dangers of cigarettes dating back to the 1960s, based on a trove of documents allegedly obtained from a paralegal at one of the company's law firms. *See* Philip J. Hilts, *Tobacco Company Was Silent on Hazards*, N.Y. Times, May 7, 1994, available at <http://nyti.ms/2uf7xBB>; Philip J. Hilts, *Cigarette Makers Debated the Risks They Denied*, N.Y. Times, June 16, 1994, available at <http://nyti.ms/2tKDe1R>.

Access to documents from sources makes reporting more accurate and transparent. In the digital age, when media outlets are no longer constrained by space in the same way they once were in print, many choose to publish the documents behind a report by posting them alongside a story or linking to them. *See* Craig Silverman, *Show the reporting and sources that support your work*, American Press Institute, Sept. 24, 2014, available at <https://perma.cc/M8UU-H6E5>. Publishing source materials allows readers to hold reporters accountable for the facts underlying a story. *See* Steve Myers, *ProPublica makes it easier to see sources behind a story*, Poynter, Dec. 15, 2011, available at <https://perma.cc/5L2C-5DXK>. By providing proof of a story's assertions, documents increase accuracy and transparency in newsgathering and, correspondingly, enhance readers' trust.

Pictures and video, too, are critical to investigative reporting. As the saying goes, a picture is worth a thousand words. Journalists use photographs and videos

to convey emotion, meaning, and perspective to readers. Keith Irby, *Why Photojournalism Matters*, Poynter, Nov. 14, 2002 available at <https://perma.cc/WF2Q-A9CF>. Photos and videos aid in the “digestion” of a journalistic work and supplement the act of informing the public. *Id.*

Photos and videos also enhance a story’s credibility and impact. Often, readers must literally “see” the state of conditions to understand and appreciate the circumstances a journalist describes. Lyriisa C. Barnett, Note, *Intrusion and the Investigative Reporter*, 71 Tex. L. Rev. 433, 434 (1992). For example, in 1991, ABC’s investigative reporting program, *20/20*, aired a report on the conditions of state and private nursing homes in Texas. *20/20: Victims of Greed* (ABC television broadcast, Oct. 25, 1991). Based on a three-month investigation using hidden cameras, the *20/20* story revealed the abysmal treatment of elderly residents. *Id.* The images broadcast by ABC showed people tied to beds, abused, and starved. *Id.* Due to the outrage over *20/20*’s harrowing footage, the Texas governor called for investigations, and the member of the Texas Board of Health in charge of the subcommittee on nursing home policies resigned. Barnett, *supra*, at 434. The images *20/20* made public “enhanced the immediacy and credibility” of the issue at hand. *Id.* As the *Houston Chronicle*, which had previously covered nursing home conditions in print, noted, “[D]escribing the conditions wouldn’t

have cut it. They had to be seen.” Ann Hodges, *Texas Nursing Home Woes Focus of 20/20*, Houston Chronicle, Oct. 24, 1991, at 3.

II. Appellants have standing to challenge the constitutionality of the Act on First Amendment grounds.

A. The Act chills the ability of journalists and Appellants to conduct investigations and convey information to the public.

Because the Act creates a broad civil cause of action against employees who capture or remove information from their employer or who record images or sounds on their employer’s premises in certain circumstances, *see* N.C. Gen. Stat. § 99A-2(b), it chills sources from speaking with journalists. In addition, by threatening journalists with “joint liability” if they are found to have intentionally directed, assisted, or induced an individual to violate the Act, *see* N.C. Gen. Stat. § 99A-2(c), it hampers the newsgathering process.

The Act is not limited to the agricultural or food industries. Accordingly, the threat of civil liability deters employees in every North Carolina industry who witness misconduct at their place of employment from going to journalists with proof of wrongdoing, such as documents, photographs, or videos. Even employees who happen upon such information accidentally may be deterred from providing it to the media. For example, it is no stretch of the imagination to envision a scenario in which an employee enters a nonpublic area of her employer’s premises, discovers activities that warrant press attention, and her employer later accuses her

of having gained access to the nonpublic area for a reason other than a bona fide intent of seeking or holding employment or doing business—a prohibited act under the statute. *See* N.C. Gen. Stat. § 99A-2. Because investigative journalists rely on such employees to sound the alarm on risks to public safety and welfare, *see supra* Section I.B, the Act therefore impinges on the ability of *amici* to disseminate vital information. In short, because of the Act, many important stories may never be told, and many potential hazards of public concern will thus go unremedied.

The Act also creates “joint[]” liability for “[a]ny person who intentionally directs, assists, compensates, or induces another person to violate” it. N.C. Gen. Stat. § 99A-2(c). Journalists frequently seek out sources for information about newsworthy matters. *See* Beth Winegarner, *5 tips for journalists who want to do a better job of cultivating sources*, Poynter, June 8, 2012, *available at* <https://perma.cc/8WZ9-6EN4> (advising reporters to “check in with [sources] regularly” and “ask if there have been any developments on a topic you’ve discussed before”). However, fearing liability under this provision of the Act, the press and others who disseminate information in the public interest may be reluctant to rely on sources within a company or organization, even if individuals do come forward. In this manner, the Act chills the speech of journalists and deprives the public of knowledge about matters of public concern.

In this case, Appellants PETA and ALDF have alleged that they have conducted investigations of North Carolina facilities in the past in a manner that would violate the Act and that they would do so again in the future if not for the Act. *People for the Ethical Treatment of Animals, Inc., et al. v. Cooper et al.*, 1:16-cv-00025-TDS-JEP, First Am. Compl. for Decl. & Inj. Relief Concerning the Constitutionality of a State Statute, ECF No. 21, ¶¶ 16, 18–21, 22, 28, 30 (filed Feb. 25, 2016). In addition, they have alleged that they have relied on information provided by employee-whistleblowers, that the Act has prevented them from receiving this information, and that they wish to receive it in the future. *Id.* ¶¶ 24, 25–26, 31–32, 36, 38, 42, 44, 49, 51. Accordingly, similar to its effect on the news media, the Act impairs Appellants’ ability to engage in constitutionally protected speech by deterring sources from providing Appellants with information.

B. The chilling effect created by the Act is sufficient to establish Appellants’ standing.

The U.S. Supreme Court has recognized that there is great flexibility when it comes to a party’s standing to challenging a statute on First Amendment grounds. *See Broadrick v. Oklahoma*, 413 U.S. 601, 611–12 (1973). Similarly, the Fourth Circuit has acknowledged “that standing requirements are somewhat relaxed in First Amendment cases.” *Cooksey v. Futrell*, 721 F.3d 226, 235 (4th Cir. 2013). “This relaxed stance reflects the treasured position occupied by the [F]irst [A]mendment, and the consequent importance of having [F]irst [A]mendment

controversies adjudicated promptly.” *Vernon Beigay, Inc. v. Traxler*, 790 F.2d 1088, 1091 n.1 (4th Cir. 1986).

Because the First Amendment requires “breathing space,” the Supreme Court has held that “[l]itigants are permitted to challenge a statute not because their own rights of free expression are violated, but because of a judicial prediction or assumption that the statute’s very existence may cause others not before the court to refrain from constitutionally protected speech or expression.” *Broadrick*, 413 U.S. at 612. Thus, ““First Amendment cases raise unique standing considerations that tilt dramatically toward a finding of standing.”” *Cooksey*, 721 F.3d at 235 (quoting *Lopez v. Candaele*, 630 F.3d 775, 781 (9th Cir. 2010) (internal citations and quotation marks omitted)).

In *Secretary of State of Maryland v. Joseph H. Munson Co.*, the U.S. Supreme Court explained the principle of broad standing in First Amendment cases by noting that “[s]ociety as a whole [is] the loser” when individuals curtail their speech or expression for fear of violating a statute. 467 U.S. 947, 956 (1984). When First Amendment interests are at stake, a court’s traditional interest in judicial economy and avoidance of premature interpretation of a statute is outweighed by society’s interest in challenging a statute that has the potential to chill speech. *Id.* at 955–56.

Therefore, any party who can show injury-in-fact to satisfy the Constitution's Article III "case or controversy" requirement and who can properly frame the issues has standing to bring a facial First Amendment challenge. *Id.* at 956, 958. "In First Amendment cases, the injury-in-fact element is commonly satisfied by a sufficient showing of 'self-censorship, which occurs when a claimant is chilled from exercising h[is] right to free expression.'" *Cooksey*, 721 F.3d at 235 (quoting *Benham v. City of Charlotte*, 635 F.3d 129, 134 (4th Cir. 2011)). By definition, this injury "is inchoate: because speech is chilled, it has not yet occurred and might never occur." *Initiative & Referendum Inst. v. Walker*, 450 F.3d 1082, 1088 (10th Cir. 2006).

Here, Appellants have standing to challenge the Act on First Amendment grounds. The Act prevents Appellants from conducting or assisting with undercover investigations of facilities in North Carolina and conveying the information they obtain from those investigations to the public. *See supra* Section II.A. In addition, the Act interferes with Appellants' ability to obtain information from those who conduct such investigations. *See id.* This is precisely the type of inchoate chilling effect that confers standing upon a claimant to challenge a statute under the First Amendment. *See Initiative & Referendum Inst.*, 450 F.3d at 1088.

CONCLUSION

For the foregoing reasons, as well as those set forth in Appellants' opening brief, this Court should reverse the order of the District Court granting Appellees' motion to dismiss.

Dated: August 11, 2017

Respectfully submitted,

/s/ Bruce D. Brown

Bruce D. Brown

Counsel of Record

Caitlin Vogus

THE REPORTERS COMMITTEE FOR

FREEDOM OF THE PRESS

1156 15th Street NW, Suite 1250

Washington, DC 20005

bbrown@rcfp.org

(202) 795-9300

*Additional counsel for *amici* are listed in Appendix B.

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing brief of *amici curiae*:

- 1) Complies with the type-volume limitation Fed. R. App. P. 29(a)(5) because it contains 3,273 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f), as calculated by the word-processing system used to prepare the brief; and
- 2) Complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Office Word 2010 in 14-point Times New Roman.

/s/ Bruce D. Brown

Bruce D. Brown, Esq.

Counsel of Record

THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS

Dated: August 11, 2017
Washington, DC

CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing Brief of *Amici Curiae* electronically with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit using the appellate CM/ECF system on August 11, 2017.

I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Bruce D. Brown

Bruce D. Brown, Esq.

Counsel of Record

THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS

APPENDIX A

SUPPLEMENTAL STATEMENT OF IDENTITY OF AMICI CURIAE

The Reporters Committee for Freedom of the Press is an 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.

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 Associated Press Media Editors is a nonprofit, tax-exempt organization of newsroom leaders and journalism educators that works closely with The Associated Press to promote journalism excellence. APME advances the principles and practices of responsible journalism; supports and mentors a diverse network of current and emerging newsroom leaders; and champions the First Amendment and promotes freedom of information.

Association of Alternative Newsmedia (“AAN”) is a not-for-profit trade association for 130 alternative newspapers in North America, including weekly papers like The Village Voice and Washington City Paper. AAN newspapers and their websites provide an editorial alternative to the mainstream press. AAN members have a total weekly circulation of seven million and a reach of over 25 million readers.

The Association of American Publishers, Inc. (“AAP”) is the national trade association of the U.S. book publishing industry. AAP’s members include most of the major commercial book publishers in the United States, as well as smaller and nonprofit publishers, university presses and scholarly societies. AAP members publish hardcover and paperback books in every field, educational materials for the elementary, secondary, postsecondary and professional markets, scholarly journals, computer software and electronic products and services. The Association represents an industry whose very existence depends upon the free exercise of rights guaranteed by the First Amendment.

The Brechner Center for Freedom of Information at the University of Florida exists to advance understanding, appreciation and support for freedom of information, through education, research and advocacy. Founded in 1977 as the Florida Freedom of Information Clearinghouse, the Brechner Center is a nonprofit source of legal expertise about newsgathering issues that seeks to promote quality public-service journalism by improving access to information.

The Charlotte Observer, winner of five Pulitzer Prizes, is the largest circulation daily newspaper in North Carolina, and operates the website charlotteobserver.com, the Carolinas' most visited news and information website.

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.

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.

GateHouse Media is a preeminent provider of print and digital local content and advertising in small and midsize markets. Our portfolio of products, which includes 404 community publications and more than 350 related websites and six yellow page directories, serves over 128,000 business advertising accounts and reaches approximately 10 million people on a weekly basis.

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 Documentary Association (IDA) is dedicated to building and serving the needs of a thriving documentary culture. Through its programs, the IDA provides resources, creates community, and defends rights and freedoms for documentary artists, activists, and journalists.

The Investigative Reporting Program (IRP) at UC Berkeley's Graduate School of Journalism is dedicated to promoting and protecting the practice of investigative reporting. Evolving from a single seminar, the IRP now encompasses a nonprofit

newsroom, a seminar for undergraduate reporters and a post-graduate fellowship program, among other initiatives. Through its various projects, students have opportunities to gain mentorship and practical experience in breaking major stories for some of the nation's foremost print and broadcast outlets. The IRP also works closely with students to develop and publish their own investigative pieces. The IRP's work has appeared on PBS Frontline, Univision, Frontline/WORLD, NPR and PBS NewsHour and in publications such as Mother Jones, The New York Times, Los Angeles Times, Time magazine and the San Francisco Chronicle, among others.

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.

Meredith Corporation owns and operates **WHNS-TV** in the Greenville-Spartanburg, SC – Asheville, NC market area, which airs dozens of hours of local news each week.

MPA – The Association of Magazine Media, (“MPA”) is the largest industry association for magazine publishers. The MPA, established in 1919, represents over 175 domestic magazine media companies with more than 900 magazine titles. The MPA represents the interests of weekly, monthly and quarterly publications that produce titles on topics that cover politics, religion, sports, industry, and virtually every other interest, avocation or pastime enjoyed by Americans. The MPA has a long history of advocating on First Amendment issues.

The National Press Photographers Association (“NPPA”) is a 501(c)(6) nonprofit 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.

The News & Observer in Raleigh, one of the nation's best regional newspapers and publisher of newsobserver.com, has won three Pulitzer Prizes.

PEN American Center (“PEN America”) is a non-profit association of writers that includes novelists, journalists, editors, poets, essayists, playwrights, publishers, translators, agents, and other professionals. PEN America stands at the intersection of literature and human rights to protect open expression in the United States and worldwide. We champion the freedom to write, recognizing the power of the word to transform the world. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible, working to ensure that people everywhere have the freedom to create literature, to convey information and ideas, to express their views, and to make it possible for everyone to access the views, ideas, and literatures of others. PEN America has approximately 5,000 members and is affiliated with PEN International, the global writers’ organization with over 100 Centers in Europe, Asia, Africa, Australia, and the Americas.

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.

Sinclair is one of the largest and most diversified television broadcasting companies in the country. Pro forma for all pending and previously announced transactions (before any related divestitures), the Company will own, operate and/or provide services to 233 television stations in 108 markets. The Company has multiple emerging networks as well as being affiliated with all the major networks. Sinclair is a leading local news provider in the country and a producer of live sports content. Sinclair’s content is delivered via multiple-platforms, including over-the-air, multi-channel video program distributors, and digital platforms.

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.

WTVD Television, founded in 1954, is an ABC owned-and-operated television station, licensed to Durham, North Carolina. The station serves the areas of Durham, Raleigh, Chapel Hill, and Fayetteville.

APPENDIX B**ADDITIONAL COUNSEL FOR AMICI CURIAE**

Kevin M. Goldberg
Fletcher, Heald & Hildreth, PLC
1300 N. 17th St., 11th Floor
Arlington, VA 22209
Counsel for American Society of News Editors
Counsel for Association of Alternative Newsmedia

Jonathan Bloom
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Counsel for The Association of American Publishers, Inc.

Frank D. LoMonte, Esq.
Director, The Brechner Center for Freedom of Information
University of Florida College of Journalism and Communications
3208 Weimer Hall
P.O. Box 118400
Gainesville, FL 32611-8400

David Snyder
First Amendment Coalition
534 Fourth St., Suite B
San Rafael, CA 94901

Marcia Hofmann
Counsel for Freedom of the Press Foundation
25 Taylor Street
San Francisco, CA 94012

Polly Grunfeld Sack
SVP, General Counsel and Secretary
GateHouse Media, LLC
175 Sully's Trail, 3rd Floor
Pittsford, New York 14534

Joshua N. Pila
Meredith Corporation

425 14th Street NW
Atlanta, GA 30318

James Cregan
Executive Vice President
MPA – The Association of Magazine Media
1211 Connecticut Ave. NW Suite 610
Washington, DC 20036

Mickey H. Osterreicher
1100 M&T Center, 3 Fountain Plaza,
Buffalo, NY 14203
Counsel for National Press Photographers Association

Juan Cornejo
The McClatchy Company
2100 Q Street
Sacramento, CA 95816
Counsel for The Charlotte Observer
Counsel for The News & Observer

Katherine Glenn Bass
PEN America
588 Broadway, Suite 303
New York, NY 10012

Kathleen A. Kirby
Wiley Rein LLP
1776 K St., NW
Washington, DC 20006
Counsel for Radio Television Digital News Association

Barry Faber
Exec. V.P./General Counsel
Sinclair Broadcast Group, Inc.
10706 Beaver Dam Rd,
Hunt Valley, MD 21030

Bruce W. Sanford
Mark I. Bailen
Baker & Hostetler LLP
1050 Connecticut Ave., NW
Suite 1100

Washington, DC 20036

Counsel for Society of Professional Journalists

Frank D. LoMonte

Student Press Law Center

1608 Rhode Island Ave. NW, Suite 211

Washington, D.C. 20036