

IN THE  
COURT OF APPEALS OF INDIANA

Case No. 22A-PL-541

Timothy Stabosz,	)	Appeal from the
<i>Appellant-Defendant,</i>	)	LaPorte Circuit Court
	)	
v.	)	Case No. 46C01-2106-PL-001110
	)	
Shaw Friedman,	)	Hon. Stephen R. Bowers, Special Judge
<i>Appellee-Plaintiff.</i>	)	

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**MOTION OF REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 14  
MEDIA ORGANIZATIONS TO FILE AMICI CURIAE BRIEF IN SUPPORT OF  
APPELLANT-DEFENDANT**

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The Reporters Committee for Freedom of the Press and 14 media organizations move, pursuant to Appellate Rule 41, for leave to file an amici curiae brief in support of Appellant-Defendant. Proposed amici tender their brief with this motion, which is being filed “within the time allowed the party with whom the proposed amicus curiae is substantively aligned.” Ind. R. App. P. 41(B).

Proposed amici are members and representatives of the press dedicated to defending the First Amendment freedoms and newsgathering rights of journalists and news organizations. Because journalists and news organizations are frequent targets of strategic lawsuits against public participation (“SLAPPs”), proposed amici have a strong interest in ensuring that statutory anti-SLAPP provisions are interpreted, as intended, to provide robust protection from baseless litigation that chills speech. Anti-SLAPP protections enable journalists to report on matters of public concern without fear of being subjected to the expense and disruption of meritless litigation. Specifically, proposed amici are as follows:

- The Reporters Committee for Freedom of the Press is an unincorporated nonprofit association. The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nation's news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.
- The Associated Press ("AP") is a news cooperative organized under the Not-for-Profit Corporation Law of New York. The AP's members and subscribers include the nation's newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 280 locations in more than 100 countries. On any given day, AP's content can reach more than half of the world's population.
- 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.
- The E.W. Scripps Company is the nation's fourth-largest local TV broadcaster, operating a portfolio of 61 stations in 41 markets, including WRTV-TV in Indianapolis. Scripps also owns Scripps Networks, which reaches nearly every American through the national news outlets Court TV and Newsy and popular entertainment brands ION, Bounce, Grit, Laff and Court TV Mystery. The company also runs an award-winning investigative reporting newsroom in Washington, D.C., and is the longtime steward of the Scripps National Spelling Bee.
- Gannett Co., Inc. is a news media company whose portfolio includes USA TODAY together with local media organizations in 46 states, including the following publications in Indiana: The Courier & Press, The Indianapolis Star, The Journal & Courier, The Star Press, The Palladium-Item, The Times-Mail, The Herald-Times, The Reporter-Times, The South Bend Tribune and The Spencer Evening World.
- Hoosier State Press Association Foundation ("HSPAF") represents the interests of 149 daily and weekly paid-circulation newspapers in Indiana. The HSPAF exists to foster public understanding of the role of a free press in society, to increase public literacy, to enhance the ability of Indiana newspapers to fully educate and inform the public, and to defend the principles of the First Amendment of the United States Constitution.
- Indiana Broadcasters Association ("IBA") is an alliance of more than 300 member radio and television broadcasters in Indiana. The IBA has a substantial interest in the newsgathering process and the public's access to public records and matters of public concern and safety. It also advocates for member stations and represents the broadcasting industry before the Indiana General Assembly and in Washington, D.C.

- The Investigative Reporting Workshop, based at the School of Communication (SOC) at American University, is a nonprofit, professional newsroom. The Workshop publishes in-depth stories at [investigativereportingworkshop.org](http://investigativereportingworkshop.org) about government and corporate accountability, ranging widely from the environment and health to national security and the economy.
- The National Press Photographers Association (“NPPA”) is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA’s members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher, its General Counsel.
- The News Leaders Association was formed via the merger of the American Society of News Editors and the Associated Press Media Editors in September 2019. It aims to foster and develop the highest standards of trustworthy, truth-seeking journalism; to advocate for open, honest and transparent government; to fight for free speech and an independent press; and to nurture the next generation of news leaders committed to spreading knowledge that informs democracy.
- The News Media Alliance is a nonprofit organization representing the interests of digital, mobile and print news publishers in the United States and Canada. The Alliance focuses on the major issues that affect today's news publishing industry, including protecting the ability of a free and independent media to provide the public with news and information on matters of public concern.
- 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.
- 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.

Proposed amici agree with Appellant-Defendant Stabosz that the lower court erred in holding that Appellee-Plaintiff did not have to put forth sufficient evidence to create a triable issue of material fact as to actual malice at the anti-SLAPP motion to dismiss phase of litigation. Proposed amici write to highlight the importance of the element of fault to the anti-SLAPP regime and defamation law writ large. Proposed amici also write to detail the burdens borne by defendants forced to defend against SLAPPs and to explain the silencing effect such specious claims impose on all speakers.

For the above reasons, proposed amici respectfully request that the Court grant this motion and permit the accompanying amici curiae brief to be filed.

Dated: July 29, 2022

Respectfully submitted,

/s/ Michael A. Wilkins

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**WORD COUNT CERTIFICATE**

I verify that this motion does not exceed 4,200 words.

/s/ Michael A. Wilkins  
*Counsel for Proposed Amicus Curiae*

## CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2022, the foregoing motion of Reporters Committee for Freedom of the Press And 14 Media Organizations to file amici curiae brief was filed with the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court and was served on the following via the Indiana E-filing System (“IEFS”):

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