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No. 53289-1

No. 98768-8

COURT OF APPEALS, DIVISION II
FOR THE STATE OF WASHINGTON

PIERCE COUNTY,

Appellant,

v.

BRIAN GREEN

Respondent.

RESPONDENT'S RESPONSE TO AMICUS CURIAE MEMORANDUM OF ALLIED DAILY NEWSPAPERS OF WASHINGTON

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TABLE OF CONTENTS

I. INTRODCUTION 1

II. ARGUMENT 1

A. Bona Fide News Gathering Under RCW 5.68.010 Absolutely Hinges On Intent 1

1. Good Faith Intent *Is* The Test Under RCW 5.68.010(5) 2

2. The Strength Of Connection To News Gathering is *Irrelevant* To This Current Action 5

3. It Is Harmful To Consider The Strength Of Connection To News Gathering In The Definition Of News Media Under RCW 5.68.010(5) 7

4. No Economic Test In The Plain Language Of RCW 5.68.010(5) 9

5. Consideration Of Business Status In the Definition Of News Media Violates The First Amendment.....13

a. It Violates The First Amendment To Create Two Tiers of News Media.....16

b. It Violates The First Amendment To Force News Media To Enter A Pay-For-Play Scheme To Receive The Protections Of RCW 5.68.010.....18

TABLE OF AUTHORITIES

UNITED STATES CONSTITUTION

U.S. Const. amend. I 13

WASHINGTON CONSTITUTION

Wash. Const. art. II, § 20 11

WASHINGTON CASE LAW

Christensen v. Ellsworth, 162 Wash.2d 365 (2007) 10

City of Seattle v. Drew, 70 Wn.2d 405 (1967).....1, 14

Clampitt v. Thurston County, 98 Wn.2d 638 (1983) 5-6

In re Estate of Mower, 193 Wn.App. 706 (2016) 5

Jongeward v. BNSF R. Co., 174 Wn.2d 586 (2012).....5

Joy v. Department of Labor and Industries, 170 Wn.App. 614 (2012).....15

Martin v. Aleinikoff, 63 Wn.2d 842 (1964).....14

State v. Barnes, 189 Wn.2d 492 (2017) 3

State v. Ervin, 169 Wn.2d 815 (2010) 10

West v. Thurston County, 168 Wn.App. 162 (2012).....2, 15

FEDERAL CASE LAW

Branzburg v. Hayes, 408 US 665 (1972).....15

Citizens United v. Federal Election Com'n, 130 S.Ct. 876 (2010) 14, 17-18, 19

Estes v. Texas, 381 US 532 (1965). 15

Lovell v. City of Griffin, 303 US 444, 450 (1938) 13-14, 17, 19, 20

Thornhill v. Alabama, 310 US 88 (1940) 14, 17

Time, Inc. v. Hill, 385 US 374 (1967).....1, 17

Winters v. New York, 333 US 507 (1948).....17

Zerilli v. Smith, 656 F. 2d 705 (D.C. Cir. 1981) 14-15

NEW JERSEY CASE LAW

Too Much Media, LLC v. Hale, 206 N.J. 209 (2011) 2, 4

WASHINGTON STATUTES

Chapter 19.80 RCW.....20

RCW 5.68.010 ..... *passim*

RCW 19.80.010 ..... *passim*

NEW JERSEY STATUTE

N.J.S.A. § 2A:84A-21.....4

N.J.S.A.§ § 2A:84A-21a.....4

WASHINGTON ADMINISTRATIVE CODE

WAC 458-02-300.....20

WASHINGTON COURT RULE

ER 201 8

DICTIONARIES

Bona Fide, *Black's Law Dictionary*.....3

Bona Fide, *Merriam-Webster Dictionary*.....3

OTHER AUTHORITIES

Final. Rep. on HB 1366, 60th Leg., Reg. Sess. (Wash. 2007).....12

Original H.B. 1366, 60th Leg., Reg. Sess. (Wash. 2007)..... 11-12

S. B. Rep. on HB 1366, 60th Leg., Reg. Sess. (Wash. 2007).....12

I. INTRODUCTION

Amicus Allied Daily Newspapers of Washington forgets the constitutional guarantees of freedom of the press "are not for the benefit of the press so much as for the benefit of all of us. A broadly defined freedom of the press assures the maintenance of our political system and an open society." *Time, Inc. v. Hill*, 385 US 374, 389 (1967). No reason is given by Amicus Allied Daily Newspapers of Washington why the statute should not be construed broadly, as Respondent Brian Green has repeatedly argued. This is important because if a statute is "reasonably capable of a constitutional construction, it must be given that construction." *City of Seattle v. Drew*, 70 Wn.2d 405, 408 (1967). At the very least, since RCW 5.68.010(5) is capable of the construction that argued for by Respondent Brian Green, this court must construe the statute that way. The construction proposed by Amicus Allied Daily Newspapers of Washington will run afoul of the First Amendment.

This Court should affirm the trial court's ruling in favor of Respondent Brian Green.

II. ARGUMENT

A. Bona Fide News Gathering Under RCW 5.68.010 Absolutely Hinges On Intent

Bona fide news gathering under RCW 5.68.010 absolutely hinges on intent and to construe the statute otherwise would be to ignore the term "bona fide."

1. Good Faith Intent *Is* The Test Under RCW 5.68.010(5)

It ignores the plain language of the statute for Amicus Allied Daily Newspapers of Washington to argue the shield law does not mention good faith. In making its argument Amicus Allied Daily Newspapers does not mention the plain language of Washington's Media Shield law once, but instead its argument solely centers on court cases involving New Jersey's and California's media shield laws.[1]

"When a statute does not define a term, we give the term its plain and ordinary meaning unless a contrary legislative intent is indicated."

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[1] This Court must ignore Amicus Allied Daily Newspapers of Washington conclusory argument that this Court should not use a good faith test in determining news media under RCW 5.68.010(5) because it would "investigate the thought processes of journalists, which would be highly intrusive and offend the First Amendment right to freedom of the press." See Allied Daily Newspapers of Washington Amicus Br. at 6-7. This is an impermissible argument and must be disregarded by this Court because there is no law or authority used to substantiate this First Amendment proposition. *West v. Thurston County*, 168 Wn.App. 162, 192 (2012) (stating the party did not cite to any "authority to support this argument, we do not further consider it.").

Furthermore, Amicus Allied Daily Newspapers of Washington's own legal authority undercuts this proposition. As explained below, the court in *Too Much Media, LLC v. Hale*, 206 N.J. 209 (2011) expressly states that in that case Amicus Reporters Committee for Freedom of the Press, among others, asked the court to adopt an intent based test to determine the applicability of the New Jersey Media Shield law. *Id.* at 224-25.

While Amicus Allied Daily Newspapers of Washington may believe an intent based test to determine news media under RCW 5.68.010(5) may infringe upon its First Amendment rights, other respected newspaper trade groups do not feel the same.

State v. Barnes, 189 Wn.2d 492, 495 (2017) (internal quotation marks omitted). To determine the plain and ordinary meaning of undefined statutory terms, Washington courts use a "a standard English dictionary." *Id*. at 496.

A common definition of the term "bona fide" is "made in good faith." See Bona Fide, Black's Law Dictionary, at 186 (8th ed. 2004) (defining bona fide as: "1. Made in good faith; without fraud or deceit. 2. Sincere; genuine."); see also Bona Fide, Merriam-Webster Dictionary, (February 07, 2020, 8:23 AM), https://www.merriam-webster.com/dictionary/bona%20fide (defining bona fide as: "1 : neither specious nor counterfeit : genuine has become a bona fide celebrity 2 : made with earnest intent : sincere a bona fide proposal 3 law : made in good faith without fraud or deceit a bona fide offer to buy a farm").

There is no dispute into the plain meaning of the word bona fide as the common definition of it is made in good faith. Then under the rules of statutory construction the undefined term of "bona fide" in RCW 5.68.010(5)(b) means made in good faith.

Using the common definition of the word bona fide makes sense in terms of the construction of RCW 5.68.010(5). RCW 5.68.010(5) is the subsection of the statute which provides the definition of news media. Moreover, then RCW 5.68.010(5)(b) more narrowly defines persons who

have a nexus with news media. In defining persons who have a nexus with news media the Washington Legislature intended to provide a good faith intent standard.

Furthermore, this Court should find Amicus Allied Daily Newspapers of Washington's argument that RCW 5.68.010(5) does not include a good faith test unpersuasive. It primarily relies upon the case *Too Much Media, LLC v. Hale*, 206 N.J. 209 (2011), which dealt with whether New Jersey's Media Shield statute extends to a self-described journalist who posted comments on an Internet message board. *Too Much Media, LLC*, 206 N.J. at 216. There the Defendant, Amicus American Civil Liberties Union, and Amicus Reporters Committee for Freedom of the Press asked the court to adopt an intent based test to determine the applicability of the New Jersey Media Shield law. *Id.* at 224-25. The Too Much Media court "decline[d] to rely solely on an intent test because that approach does not comport with the precise language of the Shield Law." *Id*. at 226; N.J.S.A.§ 2A:84A-21; N.J.S.A.§ § 2A:84A-21a. The text of New Jersey's Media Shield statute is attached in Exhibit A of this Response Brief.

That is not the case here. As explained above, the plain language of Washington's Media Shield statute uses a good faith test by the Washington Legislature's use of the term bona fide. To ignore the term

"bona fide" in the definition of news media in RCW 5.68.010(5)(b) would violate canons of construction. "[A] court must not interpret a statute in any way that renders any portion meaningless or superfluous." *Jongeward v. BNSF R. Co.*, 174 Wn.2d 586, 601 (2012); *In re Estate of Mower*, 193 Wn.App. 706, 720 (2016) (using the rule against surplusage).

Ignoring the words "bona fide" in RCW 5.68.010(5(b) makes the intent part of the statute meaningless, and a violation of the canons of statutory construction.

2. The Strength Of Connection To News Gathering is ***Irrelevant*** To This Current Action

The argument concerning the strength of news gathering is irrelevant to this case, as it is a test to apply privilege under RCW 5.68.010(1)-(2). Whereas the issue in this appeal is the definition of news media under RCW 5.68.010(5).

Amicus Allied Daily Newspapers of Washington argues that in Washington common law "courts considered the reporter's relationship to the underlying case." *See* Allied Daily Newspapers of Washington Amicus Br. at 6-7. It contends the strength of newsgathering test identified in *Clampitt v. Thurston County,* 98 Wn.2d 638 (1983) is reflected through the use of the term "bona fide news gathering" in RCW 5.68.010(5)(b). This argument is irrelevant to this current action because

whether a person or entity is news media under RCW 5.68.010(5) is a mandatory prerequisite to determine whether news media's confidential sources are privileged.

For example, in *Clampitt v. Thurston County*, the Washington Supreme Court considered whether a reporter for the Daily Olympian newspaper has a qualified privilege against disclosure of the identify of a confidential source. *Clampitt,* 98 Wn.2d at 640. The *Clampitt* court did not consider whether the Daily Olympian newspaper reporter met a definitional standard for news media for the purpose of invoking the qualified privilege. *See generally Id.* Instead, the Court assumed the reporter was news media and considered whether the qualified news media privilege applied by in pertinent part looking the strength of the connection to news gathering. *Id.* at 643-44

It only makes sense that whether a person or entity meets the definition of news media under RCW 5.68.010(5) is the threshold determination for the Court to make before deciding privilege. It would be a waste of judicial resources for the Court to first determine whether privilege applies, and then second determine if a person or entity is news media. It is unnecessary for the Court to determine the application of the privilege to persons who do not meet the statutory definition of news media.

This Court should summarily disregard the argument that the definition of news media in RCW 5.68.010(5) incorporates the strength of connection to news gathering as there is no law or authority that supports it.

3. It Is Harmful To Consider The Strength Of Connection To News Gathering In The Definition Of News Media Under RCW 5.68.010(5)

It is harmful to consider the strength of the connection to news gathering in the definition of news media under RCW 5.68.010(5), as it would exclude most news agencies.

Here Amicus Allied Daily Newspapers of Washington argues that when considering news media status Washington courts "should consider the extent of the nexus between the information seeking at issue (in this case, the PRA request) and the entity at issue (Libertys Champion)." See Allied Daily Newspapers of Washington Amicus Br. at 11. The court record is absent of this argument being briefed at the trial court.

It will disqualify many institutional news media from the protections of RCW 5.68.010 if the strength of the connection to news gathering is construed to be part of the definitional requirements of news media. It is an undeniable fact that news happens irrespective to the strength of the connection to a news agency. In other words, news stories

develop regardless of the entities involved. Bona fide news stories can and do involve the news media.

For example, this Court does not need to look any further than recent examples by local news organizations reporting on news stories it is directly involved in. It is not uncommon for the News Tribune, a newspaper based in Tacoma, Washington, to report on news stories which it has direct involvement in. One example is when the News Tribune reported on the News Tribune's objection to subpoenas from the Pierce County Prosecuting Attorney's Office for "emails texts and/or phone messages, which tend to demonstrate, acknowledge, or show Tacoma News Tribune receipt of Dr. Megan Quinn's whistleblower complaint against Pierce County." *See* Alexis Krell, The News Tribune objects to subpoena from prosecutor seeking whistleblower records, The News Tribune, August 15, 2019, available at: https://www.thenewstribune.com/news/local/article233966032.html (last accessed December 16, 2019).[2] The News Tribune also publishes stories about its Public Records Act litigation, where it is a named party. *See* Kari Plog, Judge rules in favor of News Tribune in fight over Fife public records, The News Tribune, October 22, 2014, available at: https://www.thenewstribune.com/news/local/article25888630.html (last

[2] *See* ER 201 ("Judicial notice may be taken at any stage of the proceeding").

accessed February 18, 2020).[3] More recently, the News Tribune reported on its lawsuit, *Associated Press v. Washington State Legislature*, 454 P.3d 93 (Wash. 2019), in which the News Tribune and many other local news organizations were named Plaintiffs.[4] See James Drew, Court: state public records law applies to legislators, The News Tribune, December 20, 2019, available at: https://www.thenewstribune.com/news/state/washington/article238539973.html (last accessed February 18, 2020).[5]

This Court must dismiss this untimely argument as it is harmful to news media to consider in the definition of news media the strength of connection to news gathering.

4. No Economic Test In The Plain Language Of RCW 5.68.010(5)

There is no evidence in the record the either the Washington Senate or the Washington Legislature as a whole intended an economic test to be included in RCW 5.68.010(5).

Amicus Allied Daily Newspapers of Washington argues the Washington Legislature intended for there to be an economic test in RCW 5.68.010, and cites to the House Bill Report on HB 1366. *See* Allied

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[3] *Id.*
[4] Other Plaintiffs include: Northwest News Network, KING-TV ("King 5"), KIRO 7, Allied Daily Newspapers of Washington, The Spokesman-Review, Washington Newspaper Publishers Association, Sound Publishing, Inc., and The Seattle Times.
[5] *Id.*

Daily Newspapers of Washington Amicus Br. at 12. The problem with this argument is House Bill Report 1366 is based off a draft of the law, and not the final version that was enacted into law.

As argued in Respondent's response brief, this Court is bound by the plain language of RCW 5.68.010(5). Only after Washington Courts have inquired into the plain meaning of the statute, and "the statute is susceptible to more than one reasonable interpretation, it is ambiguous and we may resort to statutory construction, legislative history, and relevant case law for assistance in discerning legislative intent." *State v. Ervin*, 169 Wn.2d 815, 820 (2010) (quoting *Christensen v. Ellsworth*, 162 Wash.2d 365, 373 (2007)).

Here Amicus Allied Daily Newspapers of Washington does not contend the plain language of RCW 5.68.010 is ambiguous. In fact, the court record is absent of any argument by any party that the plain language of RCW 5.68.010 is ambiguous. This Court must limit its analysis to the plain language of RCW 5.68.010.

In the alternative, this Court should find Amicus Allied Daily Newspapers of Washington's argument that there was an economic test identified in House Bill Report on HB 1366, as this report was based upon a draft of the law that was subsequently amended, removing the economic test before it became law.

Procedurally the Washington Constitution permits "[a]ny bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other." Wash. Const. art. II, § 20.

Here HB 1366 originated in the house of representatives. This is evidenced by the abbreviation of "HB" in HB 1366, which stands for "House Bill." The original bill introduced into the house of representatives included an economic test. Section 5(a)(ii) of the original bill[6] provided:

> Any person who is or has been a journalist, a scholar or researcher employed by any institution of higher education, or other individual who either: (A) **At the time he or she obtained or prepared the information that is sought was earning or about to earn a substantial portion of his or her livelihood by obtaining or preparing information for dissemination** by any person or entity listed in (a)(i) of this subsection, or (B) obtained or prepared the information that is sought while serving in the capacity of an agent, assistant, employee, or supervisor of any person or entity listed in (a)(i) or (ii)(A) of this subsection.

[6] *See* Original H.B. 1366, 60th Leg., Reg. Sess. (Wash. 2007) https://lawfilesext.leg.wa.gov/biennium/2007-08/Pdf/Bills/House%20Bills/1366.pdf?q=20200219113656.

Original HB 1366, 60th Leg., Reg. Sess. (Wash. 2007) (emphasis added). When HB 1366 was transferred to the senate that economic test was removed, as evidenced in the Senate Bill Report for HB 1366.[7]

> **The definition of news media no longer includes** any person who is or has been a journalist, a scholar, or researcher employed by any institution of higher education, or other individual who, either at the time he or she obtained or prepared the information that is sought**, was earning or on a professional track to earn a significant portion of his or her livelihood** by obtaining or preparing information for dissemination by any person or entity listed in the definition of news media.

S. B. REP. on H.B. 1366, 60th Leg., Reg. Sess. (Wash. 2007) (emphasis added). Pursuant to the senate's article 2, section 20 powers under the Washington Constitution, it made amendments to the original bill, which included removing the economic test. The Final Bill Report, which is a joint report after the bill passes both the house of representatives and senate, does not mention an economic test.[8]

This argument should be rejected by this Court as a complete review of the original bill, all three bill reports, and the codified law in RCW 5.68.010 clearly identifies that while the house of representatives

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[7] *See* S. B. Rep. on HB 1366, 60th Leg., Reg. Sess. (Wash. 2007) https://lawfilesext.leg.wa.gov/biennium/2007-08/Pdf/Bill%20Reports/Senate/1366.SBR.pdf?q=20200224093543.

[8] *See* Final. Rep. on HB 1366, 60th Leg., Reg. Sess. (Wash. 2007) https://lawfilesext.leg.wa.gov/biennium/2007-08/Pdf/Bill%20Reports/House/1366.FBR.pdf?q=20200224093543.

may have intended for an economic test to be in the Media Shield Law, it was removed by the senate and not included in the final bill which became law.

5. Consideration Of Business Status In the Definition Of News Media Violates The First Amendment

Any attempt to define news media with an economic/business test would run afoul of the constitutional protections of the Freedom of Press by creating two different classes of the press. It is unconstitutional to create different tiers of press, as it would create a chilling effect on the free flow of information to the public.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." *See* U.S. Const. amend. I. The Freedom of the Press is a fundamental right. *Lovell v. City of Griffin*, 303 US 444, 450 (1938). While the First Amendment does not provide a definition of the press, the United States Supreme Court explained in 1938 that:

> The liberty of the press is not confined to newspapers and periodicals. It necessarily embraces pamphlets and leaflets. These indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own

> history abundantly attest. The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion.

Lovell, 303 US at 452; *accord Thornhill v. Alabama*, 310 US 88, 101-02 (1940) (explaining the freedom "of the press guaranteed by the Constitution embraces at the least the liberty to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment."). "We have consistently rejected the proposition that the institutional press has any constitutional privilege beyond that of other speakers." *Citizens United v. Federal Election Com'n*, 130 S.Ct. 876, 905 (2010).

The First Amendment is a paramount consideration when this Court construes RCW 5.68.010(5), as it is bound by the canon of construction that if a statute is "reasonably capable of a constitutional construction, it must be given that construction." *City of Seattle v. Drew*, 70 Wn.2d 405, 408 (1967); *Martin v. Aleinikoff*, 63 Wn.2d 842, 850 (1964) (stating "if a statute is subject to two interpretations, one rendering it constitutional and the other unconstitutional, the legislature will be presumed to have intended a meaning consistent with the constitutionality of its enactment").

It is uncontested that "[c]ompelling a reporter to disclose the identity of a confidential source raises obvious First Amendment

problems." *Zerilli v. Smith*, 656 F. 2d 705, 710 (D.C. Cir. 1981). This is because "[t]he reporter's constitutional right to a confidential relationship with his source stems from the broad societal interest in a full and free flow of information to the public." *Branzburg v. Hayes*, 408 US 665, 725 (1972) (Stewart, J., dissenting) (internal citations and quotation marks omitted). Courts have long understood "[t]he free press has been a might catalyst in awakening public interest in governmental affairs, exposing corruption among public officers and employees and generally informing the citizenry of public events and occurrences, including court proceedings." *Estes v. Texas*, 381 US 532, 539 (1965).

This argument that business status is a consideration is nothing more than a conclusion which does not explain how the business test would operate. *West v. Thurston County*, 168 Wn.App. 162, 195 (2012) (stating the party did not cite to any "authority to support this argument, we do not further consider it."); *Joy v. Department of Labor and Industries*, 170 Wn.App. 614, 629 (2012) (stating "[w]e do not consider Joy's conclusory vested rights argument in her opening brief that was unsupported by citation to authority."). The argument does not provide any definitions for the undefined statutory terms. Since the argument does not include a standard to determine what is and is not a business, or even attempt to define the undefined statutory terms, it is nothing more than

passing treatment of the issue and this court should decline to consider the argument. However, even if the argument is considered it still fails for the following reasons.

a. It Violates The First Amendment To Create Two Tiers of News Media

It is an affront and violates the First Amendment of the United States Constitution to create two tiers of news media. This Court will be creating two tiers of news media if it construes RCW 5.68.010(5) to include a business/economic test: 1. The preferred tier with a restrictive definition of news media under RCW 5.68.010(5) which includes the business/economic test; and 2. The secondary tier with a broader definition of news media under the First Amendment.[9]

Here Amicus Allied Daily Newspapers of Washington argues the "plain language of the shield law indicate that a 'news media' entity must be a business." *See* Allied Daily Newspapers of Washington Amicus Br. at 11-12. This means that under the theory advanced by Allied Daily Newspapers of Washington there would be a business/economic test in the definition of RCW 5.68.010(5), when determining if there is protection from subpoenas.

[9] For example, a business/economic test under RCW 5.68.010(5) would exclude student journalists at high schools and universities that do not meet the business/economic test.

Constitutionally, there is only one press in regard to the First Amendment. *Lovell v. City of Griffin*, 303 US 444, 452 (1938) (defining freedom of the press); *accord Thornhill v. Alabama*, 310 US 88, 101-02 (1940). It is well-established that under First Amendment jurisprudence that the definition of the press (sometimes referred to in case law as news media) is broad and expansive.[10] "The line between the informing and the entertaining is too elusive for the protection of . . . [freedom of the press]." *Time, Inc. v. Hill*, 385 US 374, 388 (1967) (quoting *Winters v. New York*, 333 US 507, 510 (1948)). The reason for this is because our founding fathers intended there to only be one freedom of the press. There is no distinction regarding whether the press is paid or unpaid in order to receive the constitutional protections. *See e.g. Lovell*, 303 US at 452.

Creating a two-tiered system of protection for the press will cause a chilling effect for the press that will stifle expression and speech of the lesser protected press. "Abridgment of freedom of speech and of the press, however, impairs those opportunities for public education that are essential to effective exercise of the power of correcting error through the processes of popular government." *Thornhill v. Alabama*, 310 US 88, 95 (1940); *see also Citizens United v. Federal Election Com'n*, 130 S.Ct. 876, 891 (2010) (stating "[s]ubstantial questions would arise if courts were to

[10] For a more in-depth analysis of this point refer to pages 20-23 in Respondent's Response Brief filed with this Court on December 23, 2019.

begin saying what means of speech should be preferred or disfavored."); *Citizens United v. Federal Election Com'n*, 130 S.Ct. 876, 906 (2010) (explaining "We have consistently rejected the proposition that the institutional press has any constitutional privilege beyond that of other speakers.").

If this Court construes RCW 5.68.010(5) to include a business/economic test it will have a chilling effect on all news media that does not meet the construed statutory standard. This construction of the statute will likely violate the First Amendment as it will be designating means of speech that should be preferred or disfavored.

b. It Violates The First Amendment To Force News Media To Enter A Pay-For-Play Scheme To Receive The Protections Of RCW 5.68.010

It violates the First Amendment to force news media to enter into a pay-for-play scheme to receive the protections of RCW 5.68.010.

Here Amicus Allied Daily Newspapers of Washington is arguing for a business test to determine who is news media under RCW 5.68.010. The amicus brief only identifies the business test derives from RCW 5.68.010(5)(a) which refers to "any entity in the regular business of gathering and disseminating news" and RCW 5.68.010(5)(b) which refers

to "an employee, agent, or independent contractor." *See* Allied Daily Newspapers of Washington Amicus Br. at 12.

Requiring news media to meet any type of a business/economic test is nothing more than a pay-to-play scheme in violation of the First Amendment. Only the institutional press would be able to overcome this vague business/economic test and the United States Supreme Court has already ruled that institutional press does not have any constitutional privilege beyond those of other speakers. *Citizens United v. Federal Election Com'n*, 130 S.Ct. 876, 906 (2010).

In *Lovell v. City of Griffin* the court decided whether an ordinance requiring permission from the government in order to distribute pamphlets and magazines violated the First Amendment of the United States Constitution. *Lovell*, 303 US at 447-48. The *Lovell* court invalided the ordinance because it violated the First Amendment protections of the "freedom of the press by subjecting it to license and censorship." *Id.* at 451. It explained the freedom of the press protects against licenses and censorship:

> Whatever the motive which induced its adoption, its character is such that it strikes at the very foundation of the freedom of the press by subjecting it to license and censorship. The struggle for the freedom of the press was primarily directed against the power of the licensor. It was against that power that John Milton directed his assault by his Appeal

> for the Liberty of Unlicensed Printing. And the liberty of the press became initially a right to publish without a license what formerly could be published only with one.

Lovell v. City of Griffin, 303 US 444, 451 (1938) (internal quotation marks omitted). Requiring a business test for news media protections in Washington is a licensing standard that violates the constitutional protections of the freedom of the press. The Washington government regulates businesses in the state, through the Revised Code of Washington. Chapter 19.80 RCW creates a mandatory statutory duty for any persons conducting business in the state to register that trade name with the state government. RCW 19.80.010; WAC 458-02-300 (requiring fees to register business trade names).

Here, if RCW 5.68.010 is construed as requiring news media to be businesses, it will be an unconstitutional restraint upon the First Amendment to the United States Constitution. Using a business economic test is nothing more than a pay-to-play scheme to gain

Respectfully submitted this 27 day of February 2020.

Joseph Thomas, WSBA # 49532

Certificate of Service

I declare under penalty of perjury under the laws of the State of Washington that on the date specified below, I caused to be served a copy of the following documents via email through the Court of Appeals electronic portal:

- Respondent's response brief to Amicus Allied Daily Newspapers

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Dated this 27 day of December 2020.

_____

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Exhibit A

§ 2A:84A-21. Newspaperman's privilege.

NEW JERSEY PERMANENT STATUTES

Title 2A. ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE

Chapter 2A:84A. Dolls as testimonial aids

Current through L. 2019, c. 336.

§ 2A:84A-21. Newspaperman's privilege

Rule 27.

Subject to Rule 37, a person engaged on, engaged in, connected with, or employed by news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public or on whose behalf news is so gathered, procured, transmitted, compiled, edited or disseminated has a privilege to refuse to disclose, in any legal or quasi-legal proceeding or before any investigative body, including, but not limited to, any court, grand jury, petit jury, administrative agency, the Legislature or legislative committee, or elsewhere.

a. The source, author, means, agency or person from or through whom any information was procured, obtained, supplied, furnished, gathered, transmitted, compiled, edited, disseminated, or delivered; and

b. Any news or information obtained in the course of pursuing his professional activities whether or not it is disseminated.
The provisions of this rule insofar as it relates to radio or television stations shall not apply unless the radio or television station maintains and keeps open for inspection, for a period of at least 1 year from the date of an actual broadcast or telecast, an exact recording, transcription, kinescopic film or certified written transcript of the actual broadcast or telecast.

Cite as N.J.S. § 2A:84A-21

History. L.1960, c.52, p. 458, s.21, eff. July 1, 1960; amended by L.1977, c.253, s.1, eff. Oct. 5, 1977.

§ 2A:84A-21a. Definitions.

NEW JERSEY PERMANENT STATUTES

Title 2A. ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE

Chapter 2A:84A. Dolls as testimonial aids

Current through L. 2019, c. 336.

§ 2A:84A-21a. Definitions

Unless a different meaning clearly appears from the context of this act, as used in this act:

a. "News media" means newspapers, magazines, press associations, news agencies, wire services, radio, television or other similar printed, photographic, mechanical or electronic means of disseminating news to the general public.

b. "News" means any written, oral or pictorial information gathered, procured, transmitted, compiled, edited or disseminated by, or on behalf of any person engaged in, engaged on, connected with or employed by a news media and so procured or obtained while such required relationship is in effect.

c. "Newspaper" means a paper that is printed and distributed ordinarily not less frequently than once a week and that contains news, articles of opinion, editorials, features, advertising, or other matter regarded as of current interest, has a paid circulation and has been entered at a United States post office as second class matter.

d. "Magazine" means a publication containing news which is published and distributed periodically, has a paid circulation and has been entered at a United States post office as second class matter.

e. "News agency" means a commercial organization that collects and supplies news to subscribing newspapers, magazines, periodicals and news broadcasters.

f. "Press association" means an association of newspapers or magazines formed to gather and distribute news to its members.

g. "Wire service" means a news agency that sends out syndicated news copy by wire to subscribing newspapers, magazines, periodicals or news broadcasters.

h. "In the course of pursuing his professional activities" means any situation, including a social gathering, in which a reporter obtains information for the purpose of disseminating it to the public, but does not include any situation in which a reporter intentionally conceals from the source the fact that he is a reporter, and does not include any situation in which a reporter is an eyewitness to, or participant in, any act involving physical violence or

property damage.

Cite as N.J.S. § 2A:84A-21a

History. Added by L.1977, c.253, s.2, eff. Oct. 5, 1977.

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