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STATE OF WASHINGTON

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**SUPREME COURT OF THE STATE OF WASHINGTON  
CASE NO.: 78603-8**

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BELLEVUE JOHN DOES 1-11, FEDERAL WAY JOHN DOES 1-5 and  
JANE DOES 1-2, and SEATTLE JOHN DOES 1-13, and JANE DOE

Petitioners,

v.

BELLEVUE SCHOOL DISTRICT #405, FEDERAL WAY SCHOOL  
DISTRICT #210, AND SEATTLE SCHOOL DISTRICT #1, and  
SEATTLE TIMES COMPANY,

Respondents.

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**JOHN DOE PETITIONERS' ANSWER TO *AMICUS CURIAE*  
BRIEFS OF SESAME, WASHINGTON COALITION FOR OPEN  
GOVERNMENT AND ALLIED NEWSPAPERS OF WASHINGTON**

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COURT OF APPEALS, DIVISION I  
CASE NO. 54300-8

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## I. INTRODUCTION

This Court is charged with the difficult task of finding the proper balance between two distinct but important public policies, open government versus the right of privacy. Much of the discussion by the Amici in this case focuses exclusively on the important public policy of open government. However, the Amici ignore entirely the competing yet equally important policy at issue in this case, the right of privacy. In fact, the right of privacy is so essential that our state legislature included five separate sections about it within the Public Records Act. *See*, RCW 42.56.050, RCW 42.56.210, RCW 42.56.070. RCW 42.56.230, RCW 42.56.240; *see also*, RCW 50.13.010.

The legal right of privacy finds as its origin an article authored by Louis Brandeis. Warren & Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890). The foundation for the argument advanced by Warren and Brandeis was laid by E.L. Godkin, in an article published in *Scribner's Magazine*. Godkin's article considered "the right to decide how much knowledge . . . of [an individual's] own private . . . affairs . . . the public at large shall have." Godkin, *The Rights of the Citizen: IV - To His Own Reputation*, 8 SCRIBNER'S MAGAZINE 58, 65 (July 1890).

The core theoretical concepts and assumptions employed in the Brandeis article view privacy as a condition and right that is essentially tied to human dignity, the principle of equal respect for persons, and the notion of personhood itself. These views were expressed as part of the

thesis that privacy is part of a more general right. The more general right was said to be the "right to immunity of person," the "right to be let alone," and the "right to one's own personality."<sup>1</sup>

Edward Bloustein contended that the right of privacy reflects a concern by writers and courts for protecting human dignity and personal autonomy. Bloustein focused on Warren and Brandeis' view that the principle of inviolate personality was the core value that was protected by privacy. He found that this principle posited "the individual's independence, dignity and integrity; it defines man's essence as a unique and self-determining being." Bloustein, *Privacy As An Aspect of Human Dignity*, 39 N.Y.U.L. REV. 962 (1964).

These fundamental values associated with the right of privacy are echoed by most people in their views toward privacy.<sup>2</sup> As information and database mining by the government has become more prevalent in the news, the average citizen's concerns regarding their right of privacy have escalated. These concerns regarding governmental incursions have employed various literary references to depict the dangers of governmental omnipotence and intrusion. One such reference is to recall

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<sup>1</sup> Turkington, *Legacy of the Warren and Brandeis Article: The Emerging Unencumbered Constitutional Right to Informational Privacy*, 10 N. Ill. U. L. Rev. 479, (1990)(quoting Warren & Brandeis, at 205).

<sup>2</sup> See Priscilla M. Regan, *Legislating Privacy* 60-62 (1995) (discussing polling data from various sources). An October 2000 study at UCLA concluded that almost two-thirds of Internet users and three-fourths of non-Internet users fear that going online endangers their privacy. Reuters, *Web Privacy Tops List of Consumer Concerns*, CNET News.Com, at <http://news.cnet.com/news/0-1005-200-3293032.html> (Oct. 25, 2000). See also UCLA Center for Communication Policy, *The UCLA Internet Report: Surveying the Digital Future* at 45, at <http://www.ccp.ucla.edu/pages/internet-report.asp> (October 25, 2000) (discussing concern about privacy of personal data was the number one worry about

Jeremy Bentham's horrific "Panopticon" vision, Jeremy Bentham, *The Panopticon Writings* (Miran Bozovi ed., 1995), which describes the ultimate utilitarian prison that consisted of a central watchtower surrounded by a multi-storied ring of prison cells. The inner wall of each cell is a clear window, floor to ceiling, facing the watchtower. Each prisoner is completely exposed through the window twenty-four hours a day, so a single guard in the watchtower can see every movement. Knowing that one could be observed, a prisoner would behave in accordance with the expected norm.<sup>3</sup>

The right of privacy is a core value shared by most Americans and in today's information age where the individual is regularly confronted by governmental intrusions, limitations compelled by the right of privacy are critical to the continued validity of our democratic principles.

In this case, the identity of a teacher, against whom false or unsubstantiated allegations of misconduct are made, should remain private. The trial court applied this standard relying on RCW 42.56.050. This Court should do the same. Protecting the identity of the teachers is consistent with the Public Records Act and with the constitutional right to privacy. This case decides "how much knowledge . . . of [an individual's] own private . . . affairs . . . the public at large shall have" Godkin, *supra*.

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shopping online).

## II. LEGAL ANALYSIS

This Brief responds to the various Amicus Briefs filed in this case. Initially, this Brief examines the arguments urged by the SESAME Amici. Next, this Brief examines the arguments made by the Coalition Amicus. Finally, this Brief will examine the relevant arguments urged by the Allied Amici.

### A. **The Arguments of SESAME are Wrong and the Materials Upon Which they Rely Are Inadmissible and Improper.**

The self-proclaimed “Public Interest” Amici<sup>4</sup> are misleading this Court by asserting that the John Doe Petitioners are seeking to maintain a culture of silence around allegations of child abuse. As John Doe Petitioners have made abundantly clear on several occasions, all requested documents were released to the Seattle Times immediately. There is no claim that documents were withheld from disclosure. Neither has there been any assertion that there is no legitimate public interest in the adequacy of the investigation. John Doe Petitioners merely contend that there is no legitimate public interest in the identity of an individual against whom an unsubstantiated or false allegation has been made.

SESAME erroneously cites *Dawson v Daly*, 120 Wn.2d 782, 845 P.2d 995 (1993) stating that this Court distinguished evaluations from

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<sup>3</sup> *Id.*; see e.g., David Lyon, *The Electronic Eye: The Rise of Surveillance Society* 62 (1994).

<sup>4</sup> The brief filed by SESAME, Pacific Northwest Association of Journalism Educators, Seattle Community Council Federation and Center for Justice collectively refer to themselves as “Public Interest amici.” This Brief will refer to them as SESAME hereafter.

misconduct allegations. (SESAME Brief at 8). However, the *Dawson* Court clearly distinguished routine performance evaluations from “specific instances of misconduct.” *Id* at 796-7. Precisely what is before this Court is the critical distinction between *allegations* of misconduct and *instances* of misconduct, a distinction that SESAME ignores.

SESAME again attempts to blur the line between allegations and known sexual misconduct in their discussion of *Brouillet v. Cowles Publ’g Co.*, 114 Wn.2d 788, 798, 791 P.2d 526 (1990). SESAME equates unsubstantiated allegations of sexual misconduct with the *Brouillet* Court’s holding pertaining to *known instances of* sexual misconduct. (See Brief at 9). In every case addressed by the *Brouillet* Court, there was a finding, by clear and convincing evidence, of sexual misconduct sufficient to cause the Office of Superintendent of Public Instruction to revoke the certificate of the teacher at issue. In none of the cases to be addressed by this Court were there findings of any such egregious misconduct.

SESAME relies on massive amounts of anecdotal newspaper articles that are largely irrelevant to the case before this Court. This information is not at all useful in assisting this Court in determining a rule that will guide agencies in how to respond to broad requests for public records like the one made here. Neither is this information useful for assisting this court in guiding trial courts in how to address the concerns of teachers who do not wish their identity to be publicly linked with false or unsubstantiated allegations of child abuse.

This Court should not give any weight to the news articles and reports cited by SESAME. Most of the articles relied upon concern individuals against whom there were findings of misconduct and thus are irrelevant to the issue before this Court. This Court will not determine that unfounded or false allegations of sexual misconduct are matters of legitimate public concern because newspapers publish articles on founded allegations of sexual misconduct. This case is not about *founded* allegations of sexual misconduct. Rather, this case is about whether the Times is entitled to obtain the identities of teachers who have been *falsely* accused of misconduct.

Other articles reference situations where there was no investigation,<sup>5</sup> a record that would have been disclosed before the trial court in this case, and therefore not a factual scenario before this court.

The trial court ruled in this case that:

*The identity of the accused teacher is a matter of legitimate public concern when the investigation of the allegations are inadequate, the allegations are deemed substantiated, or the employee is disciplined with what amounts to more than a letter of direction. The identity of the accused teacher, including his or her name and certificate number, is not a matter of legitimate public concern when the allegations remain unsubstantiated or are proven false after an adequate investigation.*

CP 97-115, Conclusions of Law 12 & 13 (emphasis added).

This Court should also reject SESAME's improper reliance on this inadmissible material. The Amici attempt to describe the numbers of children who have been the victims of sexual misconduct by reliance on

newspaper and magazine articles. However, these materials are not a part of the trial record and are not appropriate for judicial notice. (See Brief at 11-12).

Similarly, relying on the same flawed materials, Amici also argues that school districts conduct inadequate investigations. This assertion ignores the actual record before this Court however. Many school districts used trained third party investigators. In other instances the districts used trained internal investigators. *See e.g.*, CP 885, CP 887-88, CP 927, CP 719,

These Amici also discuss an alleged “veil of secrecy” when the policy supported by the trial court’s decision encourages exactly the opposite conclusion. Nothing about the cases before this Court discourage a full investigation by an impartial third party into allegations of misconduct. In fact, since the complete investigation and its conclusions are subject to public scrutiny, a thorough investigation is in the best interest of both the school district and the employee.

Pursuant to *City of Tacoma v. Tacoma News, Inc.*, 65 Wn.App. 140, 827 P.2d 1094 (1992) it is only when the allegations remain unsubstantiated or false after an adequate investigation that the trial court properly allowed the redaction of the identity of the teacher.

SESAME references these articles without clearly stating the

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<sup>5</sup> See the situation referenced in the Brief, at Footnote 4.

purpose for which they are referenced.<sup>6</sup> Amici insert irrelevant facts into this litigation to create a world of prejudicial facts, hoping that the Court will focus on scandal rather than the actual trial record. This Court should reject this improper effort. This Court cannot take judicial notice of the improperly submitted materials because Washington courts prohibit the admission of inadmissible evidence by way of judicial notice. *State v. Duran-Davila*, 77 Wn.App. 701, 892 P.2d 1125(1995). The articles contain written reports derived from a massive collection of unauthenticated double and triple hearsay documents. Moreover, RAP 9.11 restricts judicial notice on appeal.<sup>7</sup>

Finally, John Doe Petitioners could cite an equal number of articles about the tragedies faced by those whose names have been linked to false allegations as well as articles showing the public consensus that disclosure such as those at issue here are highly offensive and lack legitimate public interest. For example, the Seattle Times editor reported the public response was unanimous: “don't name the accused unless and until guilt is established.” See Michael R. Fancher, *No Names, Please, Say Readers On Accusations Of Sexual Misconduct*, SEATTLE TIMES, A2, Oct. 9, 1994. For examples of teachers and administrators who were falsely accused and whose lives were consequently ruined, see the following

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<sup>6</sup> At least one of the citations provided is incorrect. It is not possible to respond to the content as the article since it cannot be retrieved by going to the cite provided: <http://www.ed.gov.rschstat/research/pubs/misconductreview/report.pdf> (See Brief at 11).

<sup>7</sup> *King County v. Central Puget Sound Growth Mgmt. Hearings Bd.*, 142 Wn.2d 543, 549 n. 6, 14 P.3d 133 (2000); *Bryant v. Palmer Coking Coal Co.*, 86 Wn.App. 204, 221, 936 P.2d 1163 (1997).

articles: Millicent Lawton, More Students Falsely Charge Teachers With Abuse, EDUCATION WEEK August, 1994; Brass, Len, *Till Proven Innocent*, PHI DELTA KAPPAN(1992) Vol.73, Iss. 6; pg. 472; Caroline Hendrie, *The Accused*, TEACHER MAGAZINE, February 1, 1999; *Parents Recant Abuse Charge Against Teacher*, NEW YORK TIMES, B8, September 28, 1993; *Presumed Guilty*, TEACHER MAGAZINE, May 1, 1991.

In summary, the highly offensive nature of disclosing the identities of falsely accused teachers was apparent to the Court of Appeals, and should be apparent to this Court. *Bellevue Jone Does v. Bellevue School Dist. 405*, 129 Wn. App. 832, 853-4; 120 P.3d 616 (2005). The damage caused by disclosure of the identity of those against whom false or unsubstantiated allegations have been made is real. This damage takes the form of whispers, finger-pointing, looks of disgust, fear, judgment as well as knowing that people are always wondering, never entirely dismissing the idea that the accusations could be true, even if there are no findings and the record remains unsubstantiated. It simply does not serve the public interest to require disclosure of the identity of the falsely accused.

**B. The Distinction Between Truth and Falsity Is An Important Consideration.**

Coalition Amicus<sup>8</sup> make the flawed argument that this Court should reverse *Tacoma News, supra*. They oversimplify their description

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<sup>8</sup> This section of this brief is in response to the Amicus Brief of the Washington Coalition for Open Government hereinafter referred to as "Coalition Amicus." Of note, an attorney for one of the parties and the party itself are board members for this Amicus organization.

of the facts in *Tacoma News* as involving an allegation of parental abuse against a dependent minor. But, they fail to mention that this parent was also a candidate for mayor and was treated by Division Two as a public figure. *Id.* at 147.

Coalition Amicus also argue that Division Two mistakenly relied on Restatement Second of Torts §652(E). Yet, Division Two's rationale properly applied *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 580 P.2d 246 (1978) as well as the Legislature's intent in adopting RCW 42.17.255, stating:

*In Hearst Corp. v. Hoppe, supra*, the Supreme Court ... said that "the legislature intended the right of privacy to mean what it meant at common law," and that "the most applicable privacy right would appear to be that expressed in tort law." Because the plaintiff sought records containing information the truth of which was not disputed, the court adopted and applied Restatement § 652D.

The *Hearst* court was not dealing with records said to contain false information, and it did not preclude the application of § 652E in a case involving such records. By the same token, it did not preclude public agencies or courts from considering, in a proper case, whether information set forth in public records was true or false.

*Tacoma News, supra* at 147. (Citations omitted).

Division Two continued by stating the obvious: "As a matter of common sense, one factor bearing on whether information is of legitimate concern to the public is whether the information is true or false." *Id.* at 148. Coalition Amicus deny this fact when it asserts that one's reputation is preserved when an allegation is made, an investigation is done and the accused's name is cleared. (Brief at p. 8). Numerous cases and common

sense unfortunately reflect that it is human nature to associate guilt with an unfounded allegation. To prevent this negative gossip and unfounded association of guilt, this Court should find the right to privacy protects from disclosure the identity of teachers against whom unsubstantiated or false allegations have been made.

Describing the legislative intent in adopting RCW 42.17.255,

Division Two stated:

[T]o avoid unnecessary confusion “privacy” as used in RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in *Hearst v. Hoppe*. Laws 1987, ch. 403, § 1.

...*Hearst* equated privacy for purposes of RCW 42.17 with the Restatement’s description of the common law tort of invasion of privacy; and the common law as expressed in the Restatement allows consideration of whether information is true or false. Consequently, we believe that the legislature intended to allow public agencies and courts to consider whether information in public records is true or false, as one factor bearing on whether the records are of legitimate public concern within the meaning of RCW 42.17.255

*Id* at 148. (Citations omitted).

Thus, the Legislature has defined the right of privacy by its common law meaning, a definition that acknowledges that the publication of false information is highly offensive to the reasonable person. And, since common sense dictates also that publication of false information is of no legitimate concern to the public, this Court need not reverse *Tacoma News*. Applying the above rationale to this case, which involves a broad fishing

expedition for public records, requires this Court to affirm the trial court and to adopt a rule which takes into consideration the truth or falsity of the allegations in deciding whether the public has a legitimate or reasonable interest in the material. False and unsubstantiated records are of no interest to reputable media. Rather such material is the province of such publications as the National Enquirer.

**C. This Court Should Not Ignore the Interpretation of the Right of Informational Privacy Adopted by Nearly Every Federal Circuit Court of Appeals.**

Allied Amici<sup>9</sup> argues that this Court may and should ignore Ninth Circuit decisions in deciding issues of interpretation of the federal constitution. See Allied Amici at page 13 citing *In re Matter of Grisby*, 121 Wn.2d 419, 430, 853 P.2d 901 (1993). However, "the Ninth Circuit's interpretation of federal constitutional law is persuasive authority." *State v. Hanna*, 123 Wn.2d 704, 718, 871 P.2d 135 (1994). Further, the Ninth Circuit is not alone in its interpretation of the federal constitution as it relates to the informational right of privacy, a fact ignored by Allied Amici. Indeed, all but one Circuit protects the constitutional right of informational privacy.

The Second Circuit appears to apply an "intermediate standard of review" for the majority of confidentiality violations. See *Barry v. City of*

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<sup>9</sup> Amicus Allied Daily Newspapers of Washington is a coalition of various newspapers and shall be referred to as Allied Amici in this Brief.

*New York*, 712 F.2d 1554, 1559 (2d Cir.), *cert. denied*, 464 U.S. 1017, 104 S.Ct. 548, 78 L.Ed.2d 723 (1983).

In the Third Circuit, the Courts use the Westinghouse balancing test adopted in the Ninth Circuit. See *United States v. Westinghouse Elec. Corp.*, 638 F.2d 570, 577 (3d Cir.1980); *Doe v. Southeastern Pa. Transportation Authority*, 72 F.3d 1133, 1140 (3d Cir.1995) (“The privacy interest in information regarding one’s HIV status is particularly strong because of the stigma, potential for harassment, and “risk of much harm from non-consensual dissemination of the information.”); *Fraternal Order of Police, Lodge No. 5 v. City of Philadelphia*, 812 F.2d 105, 110 (3<sup>rd</sup> Cir. 1987)

In the Fourth Circuit the courts have recognized several categories of private information. See e.g., *Walls v. City of Petersburg*, 895 F.2d 188, 194 (4th Cir.1990) (recognizing a constitutionally protected privacy interest in financial information)

The Fifth Circuit has determined that the constitutional right of informational privacy is so well established that it allows section 1983 claims pursuant to the right. *Plante v. Gonzalez*, 575 F.2d 1119, 1135 (5th Cir.1978) (recognizing a “substantial” privacy interest in confidential financial information); *Fadjo v. Coon*, 633 F.2d 1172, 1175 (5<sup>th</sup> Cir. 1981)

In 1987, the Seventh Circuit, in *Pesce v. J. Sterling Morton High School*, a case involving a school psychologist/student right of

confidentiality, stated: "The Federal Constitution does, of course, protect certain rights of privacy including a right of confidentiality in certain types of information." 830 F.2d 789, 795 (7th Cir.1987) (citing *Whalen v. Roe*, *New York v. Ferber*, 458 U.S. 747, 759 n. 10 (1982), *H.L. v. Matheson*, 450 U.S. 398, 435 (1981)).

The Eighth Circuit has also recognized the right of informational privacy. *Alexander v. Peffer*, 993 F.2d 1348 (8th Cir.1993) (recognizing a constitutionally protected privacy interest in "highly personal medical or financial information").

The Tenth Circuit applies a compelling interest standard to the right of information privacy. See *Mangels v. Pena*, 789 F.2d 836, 839 (10th Cir.1986) (compelling interest analysis for all privacy violations); See also *Sheets v. Salt Lake County*, 45 F.3d 1383, 1388 (10th Cir.1995)(the state's release of intimate and personal information contained in a diary violated the confidentiality element because, although the information was not "extremely sensitive in nature" or embarrassing, it was personal and there was an expectation of privacy).

In *Harris v. Thigpen*, 941 F.2d 1495 (11<sup>th</sup> Cir 1991), the Eleventh Circuit also recognized the right of informational privacy. See also *James v. City of Douglas*, 941 F.2d 1539, 1543 n. 7 (11th Cir.1991) (recognizing Fifth Circuit precedent in this area finding a right to privacy in confidential financial information as binding).

The only circuit to explicitly disavow such a right, and the right of confidentiality in general, is the Sixth Circuit. *See J.P. v. DeSanti*, 653 F.2d 1080, 1090 (6th Cir.1981) (finding that no right of confidentiality exists under the federal constitution).

Allied Amici urge this Court to ignore the majority of Circuits and adopt an interpretation of federal law that will create a split of authority within Washington federal and state courts. Thus, a party could receive different treatment with respect to their constitutional claims simply by filing an action in federal court as opposed to one of the state courts. Before this Court ignores Ninth Circuit law and creates such a split, there should be a good reason for doing so. Amici offers no reason why this Court should ignore the vast majority of federal courts in interpreting federal constitutional law.

Moreover, adopting the balancing tests employed by nearly every circuit in the country recognizes, rather than ignores entirely, the interest at stake, the right of privacy. As Amici point out, under Washington law, courts do not consider the individual's right of privacy. How a court can fairly assess an individual's right of privacy without considering that right is a line of reasoning far too subtle for most. The better approach is that adopted by the majority of federal circuit courts. Reviewing two such cases will best demonstrate this point.

In an interesting Fifth Circuit case, *Fadjo v. Coon*, 633 F.2d 1172, 1175 (5th Cir.1981), the plaintiff alleged that the state had disclosed to

insurance companies information, collected during a state investigation, which concerned "the most private details" of the plaintiff's life. The court, citing *Plante* and *Whalen*, concluded that the complaint stated a claim (section 1983) for violation of the right of privacy. The opinion in *Fadjo* establishes the rule that a state official may not disclose intimate personal information obtained under a pledge of confidentiality unless the government demonstrates a legitimate state interest in disclosure which is found to outweigh the threat to the individual's privacy interest. In an interesting footnote (fn3) dealing with Florida's Public Records Act, the Court noted, "...it is clear that the legislature cannot authorize by statute an unconstitutional invasion of privacy." *Fadjo v. Coon*, 633 F.2d at 1175.

Thus, in *Fadjo*, the individual's right of privacy is balanced against the state's legitimate interest in disclosure to determine whether disclosure is appropriate. In summary, the right of privacy is best understood when the individual's interest is a part of the consideration.

The competing interests in this case are demonstrated by the factually striking case of *American Civil Liberties Union of Miss. v. State of Miss.*, 911 F.2d 1066 (5th Cir.1990). In *ACLU of Miss. v. State of Miss.*, the Fifth Circuit considered the privacy right of citizens to prevent disclosure of intimate information about them surreptitiously and in some cases unlawfully gathered during the 1950s and 1960s, by a state commission devoted to perpetuating segregation. *Id.* at 1067-1068. Much

of the information was disparaging and highly personal, and included potentially false allegations of homosexuality, child molestation, illegitimate births, sexual promiscuity, drug abuse, and extreme political and religious views. *Id.* at 1070. The Court struck down a district court's order requiring disclosure. The court held, "[A]n intrusion into the interest in avoiding disclosure of personal information will thus only be upheld when the government demonstrates a legitimate state interest which is found to outweigh the threat to the plaintiff's privacy interest." *Id.* (quoting *Fadjo*, 633 F.2d at 1176).

Had the Court in *ACLU of Miss.* instead adopted the rule of law urged by the Amici and Respondent in this case, individuals who were the subject of unlawful governmental spying for the purpose of suppressing their speech would have been prohibited from having their interests of privacy even evaluated in determining whether their right of privacy should be protected. Instead, the Court would simply examine whether the government had a legitimate basis to enact the statute. Such a rule defies common sense and ignores entirely the important role of the right of privacy in our society. For this Court to truly balance the important competing interests of open government and the right of privacy, this Court must adopt a rule that at least contemplates the right of privacy. The right of privacy is a core American value. The right of privacy speaks specifically to the concept of limitations on governmental power—the power to both collect and disseminate information about its citizens.

The arguments of the Amici should be rejected. This Court should not ignore the interpretation of nearly every federal circuit court of appeals in the country, including the Ninth Circuit.

Amici next actually argues the application of the constitutional right to the facts of this case. This Court should not accept an invitation to become a fact finder. Rather this Court should remand the matter to the trial court to allow the parties to litigate the matter under the proper standard. This is particularly appropriate where in this case the Petitioners were the prevailing parties at trial and did not marshal evidence to meet the constitutional standards, particularly those that have not yet been announced. The trial court is the appropriate forum to litigate this matter under the rules announced by this Court. The Petitioners have the right to know the rules before they are obligated to litigate the facts of the case. Remand is the only appropriate resolution.

### III. CONCLUSION

The public has no legitimate interest in learning about false or unsubstantiated allegations. The fact is well demonstrated by the case of *ACLU of Miss. v. State of Miss.*, wherein the victims of outrageous governmental intrusion and abuse sought to have the allegations and their identities protected from the non-consensual disclosure by the government. The media, as well as others, in that case ghoulishly sought the information. The Court properly held that the media had no legitimate

interest in identifying the victims, and salaciously associating the victim's identities with the allegations.

Similarly in this case, the public has no legitimate or reasonable interest in associating the names of victims of false and unsubstantiated allegations of abuse with the actual allegations. While there may be perverse interest in such matters, the public does not need to know the identities of the falsely accused.

DATED this the 12 day of March, 2007

VAN SICLEN, STOCKS & FIRKINS



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**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws  
of the State of Washington that the following is true and correct.  
BY RONALD R. CARPENTER

2007 MAR 12 P 4:00

On March 12, 2007, I caused to be served a true and correct copy

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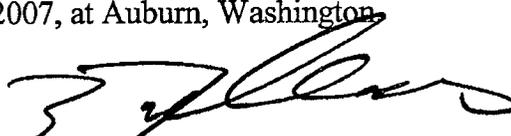
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