13-4173-cv

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

SHELDON G. ADELSON,

Plaintiff-Appellant,

—against—

DAVID A. HARRIS, MARC R. STANLEY, NATIONAL JEWISH DEMOCRATIC COUNCIL,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR *AMICI CURIAE* MEDIA ORGANIZATIONS IN SUPPORT OF DEFENDANTS-APPELLEES

LAURA R. HANDMAN
DAVIS WRIGHT TREMAINE LLP
1633 Broadway, 27th Floor
New York, New York 10019
(212) 489-8230

LISA B. ZYCHERMAN
MICAH J. RATNER
DAVIS WRIGHT TREMAINE LLP
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20006
(202) 973-4200

Attorneys for Amici Curiae Media Organizations in Support of Defendants-Appellees

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rules 26.1 and 29(c)(1) of the Federal Rules of Appellate Procedure, undersigned counsel for *amici curiae* provide the following disclosures of corporate identity:

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

Bloomberg L.P. d/b/a Bloomberg News is a privately held company.

The Center for Public Integrity is a nonprofit organization. It has no parent company and issues no stock.

The Digital Media Law Project is an unincorporated association hosted by the Berkman Center for Internet & Society at Harvard University.

The E.W. Scripps Company is a publicly traded corporation. It has no parent corporation, and no publicly owned company owns 10% or more of its stock.

Gannett Co., Inc. is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. No publicly held company holds 10% or more of its stock.

The Media Law Resource Center has no parent corporation and issues no stock.

The National Press Photographers Association is a 501(c)(6) nonprofit organization that has no parent company and issues no stock.

National Public Radio, Inc. is a privately supported, not-for-profit membership organization that has no parent company and issues no stock.

NBCUniversal Media, LLC is indirectly owned by Comcast Corporation. Comcast Corporation is a publicly held corporation. No other publicly held corporation owns 10% or more of the equity of NBCUniversal Media, LLC.

The Newspaper Association of America is a non-stock corporation with no parent corporation, and no publicly held corporation owns 10% or more of any form of interest in it.

The New York Times Company is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. No publicly held company owns 10% or more of its stock.

The Online News Association is a nonprofit organization. It has no parent company and issues no stock.

The Reporters Committee for Freedom of the Press is an unincorporated association of reporters and editors with no parent corporation and no stock.

Reuters America LLC is an indirect wholly-owned subsidiary of Thomson Reuters Corporation, a publicly held company. No publicly held company owns 10% or more of the stock of Thomson Reuters Corporation.

The Society of Professional Journalists is a 501(c)(3) nonprofit organization with no parent company and no stock.

Nash Holdings LLC is the sole parent of WP Company LLC (d/b/a The Washington Post). Nash Holdings LLC is privately held and does not have any outstanding securities in the hands of the public.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Federal Cases

State Cases

State Statutes

Rules

Other Authorities

INTEREST OF *AMICI*[1]

Media *Amici* are 17 leading news organizations and trade organizations. They or their members gather and disseminate news and information across the country, including in the Second Circuit.[2] *Amici* or their members are frequent defendants in SLAPP lawsuits in federal court, and have invoked the protections of state Anti-SLAPP laws when sued over a publication on a matter of public concern. *Amici* or their members also rely on the fair report privilege when reporting on official proceedings and offer opinions in that regard. The use of hyperlinks for attribution to source material in this reporting, allowing their Internet readers to navigate to judicial documents, raw data or other news stories, and then draw their own conclusions, has become an invaluable and ubiquitous tool for Media *Amici*.

For the reasons explained below, Media *Amici* urge this Court to affirm the well-reasoned decision by Judge Paul Oetken.

---

[1] Pursuant to FRAP 29(a), undersigned counsel for the Media *Amici* hereby certify that all parties have consented to the filing of this brief. Under FRAP 29(c)(5), undersigned counsel further certify that no party's counsel authored this brief in whole or part. No party or party's counsel contributed money that was intended to fund preparing or submitting the brief. No person, other than *amici curiae*, their members, or their counsel, contributed money that was intended to fund preparing or submitting the brief.

[2] Addendum A to this brief completely describes each *amicus*.

ARGUMENT

Anti-SLAPP statutes are rooted in the central wisdom fifty years ago of *New York Times Co. v. Sullivan*: "The fear of damage awards ... may be markedly more inhibiting than the fear of prosecution under a criminal statute." 376 U.S. 254, 277, 279 (1964). "[C]omparable 'self censorship[]'" occurs when "would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so." *Id*. at 279. Accordingly, federal courts have long held that claims involving protected speech should be resolved as early as possible to minimize their chilling effect.[3]

Consistent with this mandate, the Nevada anti-SLAPP statute, like its counterparts in other jurisdictions, was enacted to encourage the swift and efficient dismissal of "Strategic Lawsuits Against Public Participation" ("SLAPPs") – "a meritless suit filed primarily to chill the defendant's exercise of First Amendment rights." *John v. Douglas Cnty. Sch. Dist.*, 219 P.3d 1276, 1280 (Nev. 2009) (citation and internal quotation marks omitted). This action arises from precisely the category of speech protected by the statute – core political speech. It is also an

[3] *See, e.g.*, *Washington Post Co. v. Keogh*, 365 F.2d 965, 968 (D.C. Cir. 1966) (early adjudication "even more essential" in cases implicating First Amendment, "[f]or the stake here, if harassment succeeds, is free debate"); *Time, Inc. v. Hill*, 385 U.S. 374, 389 (1967) (recognizing expense in defending meritless defamation suits can have chilling effect on First Amendment rights).

archetype of suits for which Media *Amici* regularly rely upon the substantive protections embodied in state anti-SLAPP statutes.

The district court properly granted defendants' motion to dismiss under Federal Rule of Civil Procedure ("FRCP") 12(b)(6) because the statements in defendants' petition were based, in part, on a news report of allegations made in a court proceeding and thus protected by the fair report privilege. The sources were available to readers through hyperlinks which "foster[] the facile dissemination of knowledge on the Internet," acting as "a twenty-first century equivalent of the footnote" and "a well-recognized means for an author or the Internet to attribute a source," "instanteously permit[ting] the reader to verify an electronic article's claims." *Adelson v. Harris*, --- F. Supp. 2d ---, 2013 WL 5402973, at *13, *14 (S.D.N.Y. Sept. 30, 2013). The petition urged the Republican Presidential nominee to reject plaintiff's money as "dirty" or "tainted" – statements that were properly held protected as non-actionable opinion.

Recognizing the statute's strong substantive protections for speech on matters of public concern, the district court also held that, based on the undisputed facts, plaintiff could not demonstrate, as a matter of law, knowledge of falsity, and, thus, his claims were subject to dismissal under the Nevada anti-SLAPP statute. Not only does the district court's decision appropriately resolve the case on the merits –in a manner fully consistent with the standards of the Federal Rules of Civil Procedure – it also allows the defendants to seek to recover fees and costs for

successfully defending against a particular breed of state-law claim that Nevada has chosen to restrict through a statute that provides for immunity and fee-shifting.

This brief will address two points. First, this case illustrates that anti-SLAPP laws can comfortably exist "side by side" with the Federal Rules in a federal diversity action, "each controlling its own intended sphere of coverage without conflict." *Walker v. Armco Steel Corp.*, 446 U.S. 740, 752 (1980). All the Circuits that have decided the issue, as well as numerous district courts across the country, have come to the same conclusion – state anti-SLAPP laws apply in federal diversity actions. Second, Media *Amici* assert that the district court correctly found that attribution to source material via hyperlinking is sufficient under the fair report privilege.

I. NEVADA'S ANTI-SLAPP ACT, LIKE OTHER ANTI-SLAPP LAWS, PROVIDES SUBSTANTIVE PROTECTIONS FOR THE MEDIA'S PUBLICATION OF NEWS ON MATTERS OF PUBLIC CONCERN AND APPLIES TO FEDERAL DIVERSITY ACTIONS

A. This Case Illustrates That Anti-SLAPP Laws Can Comfortably Exist "Side by Side" With the Federal Rules in a Federal Diversity Action

In adopting and amending the Nevada Anti-SLAPP Statute, Nev. Rev. Stat. ("NRS") § 41.637 *et seq.* (the "Act"), the Nevada Legislature recognized "that SLAPP lawsuits abuse the judicial process by chilling, intimidating, and punishing individuals for their involvement in public affairs." *John*, 219 P.3d at 1281 (citing 1997 Nev. Stat., ch. 387, preamble, at 1364). This Circuit has similarly recognized

that SLAPP suits "masquerade as ordinary lawsuits but are brought to deter" or "to punish" speech, and that anti-SLAPP laws were "enacted to allow for early dismissal of meritless first amendment cases aimed at chilling expression through costly, time-consuming litigation." *Liberty Synergistics Inc. v. Microflo Ltd.*, 718 F.3d 138, 143 n.4 (2d Cir. 2013).

Unlike FRCP 12 and 56, the Act, as amended, does not apply to all claims, but (as relevant to the media) ***only*** to claims based on: (1) a "[c]ommunication that is aimed at procuring any governmental or electoral action, result or outcome"; (2) a "[w]ritten or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law"; or (3) a "[c]ommunication made in direct connection with an issue of public interest in a place open to the public or in a public forum," as long as that communication is "truthful or made without knowledge of its falsehood." NRS § 41.637(1), (3)-(4) (as amended effective Oct. 1, 2013).[4]

Like 27 other states, the District of Columbia, and Guam, Nevada's anti-SLAPP law seeks to mitigate the chilling effect of meritless lawsuits brought not with the expectation of winning, but to harass and silence those who speak and

[4] The decision below was rendered before the effective date of the amendments, but, for the reasons discussed in Appellees' brief, the amendments only clarified the Act's original legislative intent. *See* Appellees' Br. at 47-49.

publish on matters of public interest.[5] Federal courts – including every circuit court to decide the issue – have acknowledged the laws' substantive, speech-protective nature by applying them in diversity actions, where they supplement, rather than supplant, Rules 12 and 56.[6]

Nearly 15 years ago, the Ninth Circuit held that California's anti-SLAPP statute applied in federal court, finding that the statute "can exist side by side" with the Federal Rules, "each controlling its own intended sphere of coverage without conflict." *U.S. ex rel. Newsham v. Lockheed Missiles & Space Co.*, 190 F.3d 963, 972 (9th Cir. 1999) (quoting *Walker*, 446 U.S. at 752). *See also Burlington Northern R.R. Co. v. Woods*, 480 U.S. 1, 4-5 (1987); *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398 (2010). Since then, the Ninth Circuit has routinely resolved anti-SLAPP appeals. *See, e.g., DC Comics v. Pac. Pictures Corp.*, 706 F.3d 1009 (9th Cir. 2013); *Northon v. Rule*, 637 F.3d 937 (9th Cir. 2011); *Hilton v. Hallmark Cards*, 599 F.3d 894 (9th Cir. 2010); *Gardner v.*

[5] *See* Thomas R. Burke, *Anti-SLAPP Litigation*, App. B (The Rutter Group 2013).

[6] *See* Colin Quinlan, Note, *Erie and the First Amendment: State Anti-SLAPP Laws in Federal Court After Shady Grove*, 114 Colum. L. Rev. 367, 400-03 (2014) (explaining how state anti-SLAPP laws "complement[] -- rather than conflict[] with" the Federal Rules).

Martino, 563 F.3d 981 (9th Cir. 2009); *Batzel v. Smith*, 333 F.3d 1018 (9th Cir. 2003).[7]

The First and Fifth Circuits have followed suit, finding that state anti-SLAPP laws provide substantive protections that apply to state claims in federal court. *See Godin v. Schencks*, 629 F.3d 79, 91 (1st Cir. 2010); *Henry v. Lake Charles Am. Press, LLC*, 566 F.3d 164, 168-70 (5th Cir. 2009). This Circuit held last year in the context of transfer of venue that California's anti-SLAPP statute "reflects a substantive policy favoring the special protection of certain defendants from the burdens of litigation because they engaged in constitutionally protected activity." *Liberty Synergistics*, 718 F.3d at 148. This Court granted immediate appeal under the collateral order doctrine, noting California's "substantial public interest in safeguarding constitutionally protected activities," and reversed the district court's refusal to apply California's anti-SLAPP law, holding the transferee court erred since "California's anti-SLAPP rule would apply to this suit if the claim were proceeding in a California state court." *Id.* at 156.

[7] Federal courts in Nevada have frequently applied the Act. *See, e.g.*, *Drussel v. Elko Cnty. Sch. Dist.*, 2013 WL 3353531 (D. Nev. July 2, 2013); *Haack v. City of Carson City*, 2012 WL 3638767 (D. Nev. Aug. 22, 2012); *Rebel Commc'ns, LLC v. Virgin Valley Water Dist.*, 2011 WL 3841340 (D. Nev. Apr. 25, 2011); *Balestra-Leigh v. Balestra*, 2010 WL 4280424 (D. Nev. Oct. 19, 2010); *Pacquaio v. Mayweather*, 2010 WL 1439100 (D. Nev. Apr. 9, 2010). *Cf. Murguia v. Palmer*, 2013 WL 1250449 (D. Nev. Mar. 27, 2013) (plaintiff's claim did not fall within scope of law).

The Ninth Circuit recently reaffirmed *Newsham*, declining a request by Chief Judge Kozinski that the *en banc* court reconsider (and reverse) its earlier ruling, saying it would be "bad policy" if the citizens of those states which had passed anti-SLAPP laws "should be stripped of their state's free speech protections whenever they step inside a federal court." *Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1187 (9th Cir. 2013) (Wardlaw, J., concurring), *denying rehearing of* 715 F.3d 254, 275 (9th Cir. 2013) (Kozinski, C.J., concurring).

The *Makaeff* court recognized that, in limiting certain categories of frivolous state-law claims, anti-SLAPP laws act alongside – not in conflict with – the Federal Rules. *Id.* at 1183; *see also Godin*, 629 F.3d at 87-88; *Henry*, 566 F.3d at 168-69. In fact, these are precisely the type of substantive state laws that are given effect under *Erie*. *Milam v. State Farm Mut. Auto Ins. Co.*, 972 F.2d 166, 170 (7th Cir. 1992). The tools of an anti-SLAPP law – fee-shifting, expedited consideration, a required *prima facie* showing of support for the claim (with discovery permitted only as necessary for that showing), and an immediate right of appeal – add "additional, unique weapon[s] to the pretrial arsenal" that supplement the gatekeeping protections of Rules 12 and 56, helping to protect speech on matters of public concern from costly litigation by quickly weeding out claims that have no hope of succeeding on the merits. *Newsham*, 190 F.3d at 973.[8]

[8] In arguing that the Act does not apply, Appellant relies on Chief Judge Kozinski's position in *Makaeff*, which failed to carry the day, and on *3M Co. v.*

Media *Amici* have found through experience that anti-SLAPP statutes work in concert with, rather than contravene, Rules 12 and 56. "Some [SLAPP] motions, like Rule 12(b)(6) motions, will be resolved on the pleadings," while others "will permit courts to look beyond the pleadings to affidavits and materials of record, as Rule 56 does." *Godin*, 629 F.3d at 90 & n.17. Moreover, the fee-shifting provision of an anti-SLAPP statute – a well-established expression of substantive state law routinely given effect in diversity cases[9] – is a significant deterrent to would-be plaintiffs without a meritorious claim and reduces the incidence of appeals, which are often dropped in exchange for a waiver of attorney fees. *See* Robert D. Richards, *A SLAPP in the Facebook: Assessing the Impact of Strategic Lawsuits Against Public Participation on Social Networks, Blogs &*

Boulter, 842 F. Supp. 2d 85 (D.D.C. 2012), the one D.C. district court decision holding that the D.C. anti-SLAPP statute does not apply in federal court. Since *3M* was decided, every district court judge to address the issue has rejected *3M*'s reasoning and applied the D.C. statute in federal court. *See Forras v. Rauf*, --- F. Supp. 2d ---, 2014 WL 1512814, at *3-4 (D.D.C. Apr. 18, 2014) (Rothstein, J. sitting by designation); *Abbas v. Foreign Policy Grp., LLP*, --- F. Supp. 2d ---, 2013 WL 5410410 (D.D.C. Sept. 27, 2013) (Sullivan, J.), *appeal docketed*, No. 13-7171 (D.C. Cir. Oct. 25, 2013); *Boley v. Atlantic Monthly Grp.*, 950 F. Supp. 2d 249, 254 (D.D.C. 2013) (Walton, J.); *Farah v. Esquire Magazine*, 863 F. Supp. 2d 29, 36 n.10 (D.D.C. 2012) (Collyer, J.), *aff'd on 12(b)(6) grounds*, 736 F.3d 528 (D.C. Cir. 2013); *cf. Sherrod v. Breitbart*, 843 F. Supp. 2d 83, 85 (D.D.C. 2012) (Leon, J.) (D.C. statute is "substantive – or at the very least, has substantive consequences" that would make it applicable in federal court under *Erie*), *aff'd on other grounds*, 720 F.3d 932 (D.C. Cir. 2013).

[9] *See Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 259 n.31 (1975); *Godin*, 629 F.3d at 86 n.10 & 90 n.15; *Cotton v. Slone*, 4 F.3d 176, 180 (2d Cir. 1993) ("attorney's fees mandated by state statute are available" in diversity cases) (citing *Aleyska*).

Consumer Gripe Sites, 21 DePaul J. Art Tech. & Intell. Prop. L. 221, 245 (Spring 2011). If federal courts did not apply state anti-SLAPP laws, this preemptive effect would dissipate as plaintiffs simply shifted to federal court. *Makaeff*, 736 F.3d at 1187.

An anti-SLAPP motion forces a plaintiff to take an honest look at the merits early on – before litigation costs mount. *See, e.g.*, *Snyder v. Creative Loafing, Inc.*, No. 2011–CA 003168-B (D.C. Super. Ct. filed Apr. 26, 2011) (Washington Redskins owner, Dan Snyder, dropped his libel suit against the Washington City Paper over a column criticizing his management of the team after a motion under the D.C. anti-SLAPP law was filed); *see also* Bruce E.H. Johnson & Sarah K. Duran, *A View from the First Amendment Trenches: Washington State's New Protections for Public Discourse & Democracy*, 87 Wash. L. Rev. 495, 503 (June 2012). Where the parties attach material outside the pleadings, the Act establishes a "summary-judgment-like procedure available at an early stage of litigation that poses a potential chilling effect on speech-related activities." *Makaeff*, 736 F.3d at 1183 (internal quotation marks and citation omitted). Federal courts construing similar provisions in state anti-SLAPP statutes have explained that this standard is "comparable to that used on a motion for judgment as a matter of law." *Abbas*, 2013 WL 5410410, at *7 (quoting *Price v. Stossel*, 620 F.3d 992, 1000 (9th Cir. 2010)). As a result, the anti-SLAPP law functions, "merely as a mechanism for

considering summary judgment at the pleading stage as is permitted under Rule 12(d)." *Makaeff*, 736 F.3d at 1183.

B. Anti-SLAPP Laws, Like Nevada's, Dispose of Meritless Cases Brought to Retaliate Against Speech on Matters of Public Concern

A robust anti-SLAPP statute allows the media to do its job of informing the public without being subject to the expense, harassment, and disruption caused by groundless reprisal lawsuits. Media defendants regularly rely on anti-SLAPP statutes to combat abusive suits and avoid drawn-out, expensive litigation over reporting on matters of public concern. For example:

- *Foreign Policy* magazine won an anti-SLAPP motion dismissing claims by Yasser Abbas – a prominent Palestinian businessman, politician, and son of Palestinian Authority President Mahmoud Abbas – on grounds that the statements were non-actionable rhetoric and opinion. *Abbas*, 2013 WL 5410410, at *13.

- *Esquire* Magazine won both an anti-SLAPP motion and Rule 12(b)(6) motion dismissing claims brought by "birther" activists (*i.e.*, those who question President Obama's birthplace) on grounds that the blog post lampooning plaintiffs' book, titled "Where's the Birth Certificate?," was First Amendment-protected satire on a topic of public interest. *Farah*, 863 F. Supp. 2d at 31.

- *The Atlantic* won an anti-SLAPP motion to dismiss defamation claims brought by a former Liberian public official ultimately deported from the United States for alleged war crimes, over two articles that called plaintiff a "warlord," on grounds that defendants submitted unrebutted public documents showing both lack of falsity and lack of actual malice. *Boley*, 950 F. Supp. 2d at 250, 262-63.

- A publisher and author won an anti-SLAPP motion and dismissal of false light and defamation claims over a true-crime book describing the details of the plaintiff's killing of her husband – a crime to which the plaintiff had

pleaded guilty, because the plaintiff failed to show that any statements in the book were false or defamatory. *Northon v. Rule*, 409 F. App'x 146 (9th Cir. 2011) (affirming grant of anti-SLAPP motion); *Northon v. Rule*, 637 F.3d 937 (9th Cir. 2011) (affirming grant of attorneys' fees).

- *ProPublica* and *Amicus* the *New York Times* won an anti-SLAPP motion dismissing a doctor's libel and false light suit over a Pulitzer Prize-winning article about alleged euthanasia of patients by hospital staff during Hurricane Katrina, on grounds that even limited discovery could not rebut defendants' showing there was no negligence or substantial falsity in publishing the reports. *Armington v. Fink*, 2010 WL 743524, at *1, *5 (E.D. La. Feb. 24, 2010).

- The *Los Angeles Times* won an anti-SLAPP motion arising out of an article questioning plaintiff's claims in a published biography that he was a war hero, on grounds that the article was protected as opinion and did not intend to convey the impression that the plaintiff lied about his past. *Thomas v. L.A. Times Commc'ns LLC*, 189 F. Supp. 2d 1005, 1013-14 (C.D. Cal.), *aff'd*, 45 F. App'x 801 (9th Cir. 2002).

- The Associated Press won an anti-SLAPP motion to dismiss invasion of privacy claims based on publication of unaltered photographs of Navy SEALs allegedly mistreating Iraqi prisoners on grounds that the complaint failed to allege offensiveness or a reasonable expectation of privacy. *Four Navy Seals v. Associated Press*, 413 F. Supp. 2d 1136, 1140, 1149-50 (S.D. Cal. 2005).

- A scientific journal won an anti-SLAPP motion dismissing libel and unfair competition claims arising out of a peer-reviewed scientific research article about heart disease, on grounds that, since the statements were protected by California's common interest privilege, the plaintiff had no reasonable likelihood of succeeding on his claim. *Critical Care Diagnostics, Inc. v. American Ass'n for Clinical Chemistry, Inc.*, 2014 WL 842951 (S.D. Cal. Mar. 4, 2014).

- A local broadcaster won an anti-SLAPP motion dismissing claims brought by a Canadian prescription drug distributor on grounds that defendant's news report on the safety and legality of pharmaceuticals involved a matter of public interest and was substantially true or not defamatory. *CanaRx Servs. v. LIN Television Corp.*, 2008 WL 2266348 (S.D. Ind. May 29, 2008).

- The producers of an Academy Award-nominated documentary film about the U.S. healthcare system won an anti-SLAPP motion dismissing a right of publicity claim on grounds that the documentary was an expressive work, and plaintiff's likeness was published in connection with a matter of public interest. *Aronson v. Dog Eat Dog Films, Inc.*, 738 F. Supp. 2d 1104, 1112-13 (W.D. Wash. 2010).

By applying state anti-SLAPP laws, the court in each of these cases was able to efficiently dispose of meritless claims brought to retaliate against speech on matters of public concern, stifle criticism, or settle political or policy disagreements – be they brought by Birthers (*Farah*), a foreign leader's son (*Abbas*), a warlord (*Boley*), or a football team owner (*Snyder*).[10] If the application of state anti-SLAPP laws were limited to state courts, SLAPP plaintiffs would simply evade them by filing in or removing to federal court, thus effectively commandeering the federal courts to help chill reporting on matters of public

[10] *See also Makaeff*, 715 F.3d at 261-62 (claim brought by company associated with mogul Donald Trump arising from plaintiff's letters to Better Business Bureau and online comments describing company's alleged fraud); *Davis v. Cox*, --- P.3d ---, 2014 WL 1357260, at *1-2, (Wash. Ct. App. Apr. 7, 2014) (claims brought by plaintiffs who disagreed with defendants' boycott of Israeli products and investments); *Haywood v. St. Michael's Coll.*, 2012 WL 6552361 (D. Vt. Dec. 14, 2012) (claim brought by presidential primary candidate against college journalism students who profiled him on a course website), *aff'd on other grounds*, 536 F. App'x 123, 124 (2d Cir. 2013); *Rehak Creative Servs., Inc. v. Witt*, 404 S.W.3d 716, 733-34 (Tex. Ct. App. 2013) (advertising agency's claims against political candidate whose website implied that the agency donated to opponent's campaign in exchange for government contracts), *review denied* (Sept. 6, 2013).

concern. *See Makaeff*, 736 F.3d at 1187 (citing *Hanna v. Plumer*, 380 U.S. 460, 474 (1965) (Harlan, J., concurring)); *Newsham*, 190 F.3d at 973.

These are not academic concerns. Following the *3M* decision, a defamation plaintiff attempted to abandon his action in D.C. Superior Court – on the eve of oral arguments on dispositive motions – for the admitted purpose of pursuing his claims in federal court because he assumed the D.C. anti-SLAPP statute would not be applied there. *See Dean v. NBCUniversal*, No. 12 Civ. 00283, ECF No. 5-1 (D.D.C. filed Feb. 21, 2012) (notice of voluntary dismissal: "[T]he Complaint has been refiled in the U.S. District Court for the District of Columbia due to the Court's recent decision in *3M v. Boulter*."). This blatant forum-shopping was thwarted only when plaintiff failed to meet the Superior Court's condition for dismissal without prejudice – payment of defendants' attorneys' fees and costs for work that could not be applied to defend the federal suit. *Dean v. NBC Universal*, No. 2011-CA-0060055-B (D.C. Super. Ct. Nov. 14, 2012), *aff'd*, No. 12 Civ. 1177 (D.C. Apr. 25, 2014) (affirming dismissal with prejudice). An identical forum-shopping maneuver failed when the federal court granted dismissal under the D.C. anti-SLAPP statute. *Forras*, 2014 WL 1512814, at *1, *6-8.[11] Such forum-

[11] Both claims were classic SLAPP actions using a libel action to settle a political dispute. *Dean* involved claims against an MSNBC television host and *Amicus* NBC for broadcasts discussing political candidates, their views on homosexuality, and their controversial associations with plaintiff, an outspoken anti-gay activist. *Forras* involved plaintiffs' legal efforts to prevent an Islamic community center from opening near Ground Zero in New York.

shopping undermines the interest of the state in protecting its citizens from abusive lawsuits, particularly where media outlets regularly report on matters of national and international concern – and where, as a result, the potential plaintiff is often a citizen of another U.S. state or a foreign citizen, with the ability to invoke the federal court's diversity jurisdiction.

II. THE COURT CORRECTLY FOUND THAT ATTRIBUTION TO SOURCE MATERIAL VIA HYPERLINKING IS SUFFICIENT UNDER THE FAIR REPORT PRIVILEGE

Consistent with Media *Amici*'s experience, the instant suit provides yet another illustration that dismissal under a state anti-SLAPP law can exist comfortably "side by side" with the Federal Rules. Here, the district court dismissed libel claims brought by Adelson, well-known funder of "Super PACs" supporting Republican candidates in the 2012 election, against defendants, Democratic activists, over their petition urging the Republican Presidential candidate not to accept Adelson's money because it was "dirty" or "tainted," which the court found qualified for dismissal under 12(b)(6) and for the anti-SLAPP statute's protection.

The basis for defendants' views was made plain via hyperlinks to various source materials including an Associated Press article, "a report disseminated by a reputable news organization," which referenced a "sworn declaration" filed in a court proceeding. These undisputed facts led Judge Oetken, observing the reality of how people read on the Internet, to grant Appellees' Rule 12(b)(6) motion on

grounds that Defendants' Internet publication referred, via hyperlinks, to allegations that were privileged as a fair report of allegations in a judicial proceeding as to which they offered non-actionable opinion. *Adelson*, 2013 WL 5420973, at *11-19. The court also granted dismissal under the Nevada Act because Plaintiff could not, based on the undisputed facts, show knowledge of falsity. *Id.* at *27 (citing *Liberty Lobby, Inc. v. Dow Jones & Co.*, 838 F.2d 1287, 1297 (D.C. Cir. 1988)).[12]

"Hyperlinks" or "links" are text, icons, or images located on a web page that allow the user, by the click of a mouse, to switch to another document "located anywhere on the Internet." *See Reno v. ACLU*, 521 U.S. 844, 852 (1997). Indeed, as early as 1997, when the Internet was in its infancy, the Supreme Court recognized the "straightforward" nature of hyperlinking, explaining how "a particular Web page may contain the information sought by the 'surfer,' or, through its links, it may be an avenue to other documents located anywhere on the

[12] This case is the classic example of why the discovery stay under SLAPP statutes and Rule 56(d) do not conflict when a plaintiff cannot meet his burden under *Liberty Lobby* of coming forward with evidence of actual malice. Where a defendant to a SLAPP suit has relied on reputable news sources like AP reporting on sworn declarations in lawsuits protected by the fair report privilege, no amount of discovery will be able to meet plaintiff's burden, making even limited discovery "demonstrably unnecessary." *Id.* at n.26 (citing *Hoffman v. Airquip Heating & Air Conditioning*, 480 F. App'x 110, 111-12 (2d Cir. 2012)). *See Beckham v. Bauer Publ'g Co.*, 2011 WL 977570, at *1 (C.D. Cal. Mar. 17, 2011) (granting California anti-SLAPP motion where publisher presented evidence of lack of actual malice), *appeal docketed*, No. 13-56874 (9th Cir. Oct. 13, 2013); *Boley*, 950 F. Supp. 2d at 250.

Internet." *Id.* Thus, the Court observed, the Internet "is … comparable, from the readers' viewpoint, to … a vast library including millions of readily available and indexed publications…." *Id*. at 852-53.

Since 1997, the avenues by which the public accesses Internet content have multiplied dramatically. No longer tied to personal computers, the Internet is now accessed via a multitude of devices, with ever-changing platforms for navigating and accessing content. From mobile laptops, to smartphones, tablets, and soon-to-come wearable devices such as iWatches and Google Glass,[13] Internet content no longer needs a click of the mouse, but may be accessed through the slide of a finger.

Media companies strive to enhance the readers' experience through new technology with ever more creatively viewed and accessed content. Internet news stories are now commonly annotated with hyperlinks to related sources, pictures, or video. Indeed, many news organizations are entirely resident on the web, where their reporting is solely disseminated via the Internet.[14] And with the knowledge that much of the public accesses news stories via the Internet, publishers have

[13] *See, e.g.*, Google Glass, Google+, https://plus.google.com/+GoogleGlass/posts#+GoogleGlass/posts; Gary Marshall and Kate Solomon, Apple iWatch release date, news and rumors (Feb. 17, 2014), http://www.techradar.com/us/news/portable-devices/apple-iwatch-release-date-news-and-rumours-1131043 (describing available wearable technology and commenting on anticipated Apple iWatch).

[14] *See, e.g.*, Slate (slate.com), Huffington Post (huffingtonpost.com), Real Clear Politics (realclearpolitics.com).

redesigned their online news sites to be compatible with the mobile devices their readers use.[15]

Reporting that capitalizes on the power of hyperlinks is lauded by the publishing community. For example, the 2014 Pulitzer Prize for Investigative Reporting was awarded to Chris Hamby of *Amicus The Center for Public Integrity*, a non-profit digital news organization, "for his reports on how some lawyers and doctors rigged a system to deny benefits to coal miners stricken with black lung disease, resulting in remedial legislative efforts."[16] In addition to annotating his reporting with hyperlinks to pertinent sources, Hamby's reporting included two interactive graphics that allowed readers to access digital copies of relevant court records and compare the testimony of a defense black lung expert with the x-ray readings of other doctors.[17]

---

[15] For example, Internet news publishers can create their own device-sensitive applications to view published content, such as the New York Times App for IPad. Or, readers can access their content using services such as Flipboard, Apple's Newstand, or Google Play Newsstand that offer paywall integration and allow users to integrate their reading with social applications such as Facebook or Google+. In addition, online publications can be viewed on any device using a publication's website address.

[16] *The 2014 Pulitzer Prize Winners: Investigative Reporting*, http://www.pulitzer.org/citation/2014-Investigative-Reporting.

[17] *Withheld evidence*—Interactive graphic (Oct. 29, 2013), http://www.publicintegrity.org/2013/10/29/13583/withheld-evidence; *X-ray readings compared*—Interactive graphic (Oct. 30, 2013), http://www.publicintegrity.org/2013/10/30/13551/x-ray-readings-compared.

Similarly, in a series begun in 2010, Secrets of the System, *The Wall Street Journal* has explored Medicare's vast databases and showed how they can be used to expose potential fraud and waste.[18] The series, a Pulitzer Prize finalist in 2010,[19] has published numerous articles based on government documents, including interactive reports that allow readers to search its databases of government records to see the types and number of procedures performed and the amounts paid to providers by Medicare.[20] The *New York Times*'s critically acclaimed "Invisible Child" series about a homeless girl named Dasani included links to complaints made by residents at the shelter where the girl lived, a sampling of inspection reports,[21] and a separate section for "source notes," which included hyperlinks to sources, including official statements reported in prior news articles and government reports.[22] Innovations such as these works capitalize on the power of hyperlinking to annotate and add multimedia content to online publications, thus

---

[18] *Secrets of the System*, http://topics.wsj.com/subject/S/secrets-of-the-system/6281.

[19] *Explanatory Reporting*, http://www.pulitzer.org/bycat/Explanatory-Reporting.

[20] *Medicare Payments to Providers in 2012*, http://projects.wsj.com/medicarebilling/?mod=medicarein.

[21] *Invisible Child*—Documents, http://www.nytimes.com/projects/2013/invisible-child/documents/.

[22] *Invisible Child*—Summary of Reporting and Source Notes, http://www.nytimes.com/projects/2013/invisible-child/notes/.

demonstrating the powerful reality of what the Supreme Court foresaw almost twenty years ago.[23]

In Nevada, New York, and the overwhelming majority of states in which Media *Amici* publish and disseminate news reporting, courts recognize and enforce the fair report privilege.[24] "As a general matter, in order to enjoy the protection of the privilege, the publication in issue must clearly attribute the statement in question to the official proceeding or document on which it is reporting or from which it is quoting." Hon. Robert D. Sack, *Sack on Defamation*, § 7:3.5[B][1], 7-19 (4th ed. 2010). The protection afforded to Media *Amici* under this privilege and the resulting benefit to the public's awareness of official proceedings cannot be overstated. So long as the accuracy and fairness tests have been met, it immunizes the republication of allegations and findings in official proceedings whether or not the publisher knows them to be true. *Restatement (Second) of Torts* § 611 cmt. a (1967).

---

[23] Hyperlinks are not only useful to annotate deep dive investigatory reporting, they also offer readers immediate access to the sources attributed in breaking news articles. *See, e.g.*, Josh Gerstein, *Court: Release Legal Memo on Drone Killing*, Politico (Apr. 21, 2014), http://www.politico.com/blogs/under-the-radar/2014/04/court-release-legal-memo-on-drone-killing-187153.html (reporting on this Court's order requiring U.S. government to release redacted copy of Justice Department memo discussing legal basis for using deadly drone strikes to kill American citizen overseas, with hyperlink to order for readers).

[24] According to a 2010 judicial tally, "[t]he fair-report privilege has been recognized by common law or statute in at least forty-seven states and the District of Columbia." *Salzano v. N. Jersey Media Grp. Inc.*, 201 N.J. 500, 514 n.2, 993 A.2d 778, 787 n.2 (2010).

There is no requirement under the fair report privilege that publishers must describe the official proceedings completely or in legalistic detail for the privilege to attach. *Restatement (Second) of Torts* § 611 cmt. f. *See also Holy Spirit Ass'n for Unification of World Christianity v. New York Times Co.*, 49 N.Y.2d 63, 68, 424 N.Y.S.2d 165, 168 (1979) ("When determining whether an article constitutes a 'fair and true' report, the language used therein should not be dissected and analyzed with a lexicographer's precision. This is so because a newspaper article is, by its very nature, a condensed report of events which must, of necessity, reflect to some degree the subjective viewpoint of its author.") Nevertheless, the advent of the Internet and the ability to hyperlink has opened a new door for publishers, like Media *Amici*, to provide richer and fuller source attribution to their readers. Indeed, the Internet makes attribution to official proceedings seamless and allows readers to quickly see the source for themselves.[25]

Where hyperlinked sources are also protected by the fair report privilege, readers are all the more aware that the reporting is premised on allegations in official proceedings. *See Jankovic v. Int'l Crisis Grp.*, 593 F.3d 22, 26-27 (D.C. Cir. 2010) (hyperlinked material assumed to satisfy attribution requirement, even

[25] To the extent some of the links may be to sources requiring payment, that is no different than cites to Westlaw or Pacer. As for link rot, the reality is, as Judge Oetken observed, that the article will have been read and the statute of limitations for defamation, generally one or two years, will have expired well before the link may have become inaccessible. *Adelson*, 2013 WL 5420973, at *14 n.13.

where publication did not accurately describe the governmental document to which it hyperlinked); *Global Telemedia Int'l, Inc. v. Doe 1*, 132 F. Supp. 2d 1261, 1268 (C.D. Cal. 2001) (link confirmed defendant's statement was "clearly based on a public document"). And in such cases, the reader – through hyperlinked sources – is able to evaluate any opinions drawn from those documents for themselves.[26] *Franklin v. Dynamic Details, Inc.*, 10 Cal. Rptr. 3d 429, 431 (Cal. App. 2004) (links disclosed facts because reader "could view those Web sites").

As Judge Oetken pointed out in this case, the petition "repeatedly uses the phrase 'reportedly' and 'reports' when referring to the accusation in the Jacobs Declaration and puts in quotation marks the words 'personally approved,' which together make plain that the hyperlink connects to a source suggesting that

[26] Courts have recognized that a hyperlink can establish the attribution necessary for a statement to be considered an opinion based on disclosed facts. *See, e.g.*, *Abbas*, 2013 WL 5410410, at *11 & n.7 (hyperlinks sufficient to disclose facts as basis for fair comment privilege); *Boley*, 950 F. Supp. 2d at 262 (hyperlinking to earlier article sufficient to "incorporat[e] that article by reference and provid[e] the necessary context for the allegedly defamatory remark"); *Agora, Inc. v. Axxess, Inc.*, 90 F. Supp. 2d 697, 704-05 (D. Md. 2000) (dismissing defamation claim based on facts disclosed through hyperlinks), *aff'd*, 11 F. App'x 99 (4th Cir. 2001); *Sandals Resorts Int'l Ltd. v. Google Inc.*, 86 A.D.3d 32, 45 (1st Dep't 2011) (hyperlinks constitute disclosure of facts supporting opinion where "e-mail is supported by links to the writer's sources"). Indeed, since the early years of the Internet, courts have accepted that hyperlinking to the facts underlying a statement of opinion provides the requisite factual disclosure, allowing the reader to easily evaluate the opinion expressed. *See, e.g.*, *Nicosia v. DeRooy*, 72 F. Supp. 2d 1093, 1103 (N.D. Cal. 1999), *cited in Adelson*, 2013 WL 5420973, at *17 n.19 ("[T]he underlying facts were fully disclosed both in the Petition itself and via hyperlink.").

Adelson 'personally approved' prostitution in Macau." *Adelson*, 2013 WL 5420973, at *12. In this manner an Internet publication offers tools to inform readers that its reporting relies on outside sources, thus both achieving proper attribution and indicating to the reader that the source is resident outside of the article. *See Jankovic v. Int'l Crisis Grp.*, 429 F. Supp. 2d 165, 177 n.8 (D.D.C. 2006) (noting that even if meaning of allegedly defamatory statement was unclear, it was clarified by "two internet links" at end of statement because "[w]hat little confusion the sentence could possibly cause is easily dispelled by any reader willing to perform minimal research.").

For example, in *Rakofsky v. Washington Post*, 39 Misc. 3d 1226(A) (tbl.), 971 N.Y.S.2d 74, 2013 WL 1975654, at *2-5 (N.Y. Sup. Ct. 2013), the court found that blog posts criticizing a lawyer were based on disclosed facts, where they linked to newspaper articles describing a mistrial in the murder case plaintiff handled. The court found that blogs that referenced initial *Washington Post* articles reporting on related judicial proceedings were privileged fair reports, notwithstanding the fact that the links were not to the original court documents. *Id.* at *9. Similarly, in a case like this involving political speech, a Texas appellate court recently held that a political campaign website's links to underlying source materials provided the requisite context for the statement in suit that the plaintiff benefited from an official "reward[ing his] cronies." *Rehak*, 404 S.W.3d at 730, 732. The court observed that "the linked documents are part of the context that

must be taken into consideration when assessing what the website actually conveyed," because it is essential to "address[] how a person of ordinary intelligence would perceive the website's message."

Similarly, in the present case, because defendants' statements provided their audience with direct access to the source material summarized via hyperlinks, the district court found that readers were fully equipped to agree or disagree based on the hyperlinked source material, here an AP article that was itself a fair report of a sworn declaration filed in a legal action and included Adelson's response to the claims. *Adelson*, 2013 WL 5420973, at *17 n.19 ("[T]he underlying facts were fully disclosed both in the Petition itself and via hyperlink."). In sum, the district court's opinion forcefully illustrates that dismissal under a state anti-SLAPP law can exist comfortable "side by side" with the Federal Rules and reflects the modern reality that readers of Internet publications view hyperlinks as an integral part of the overall context of online content.

CONCLUSION

For these reasons, Media *Amici* respectfully ask this Court to affirm the district court's decision.

Dated: May 7, 2014

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By: s/ Laura R. Handman
Laura R. Handman
1633 Broadway, 27th Floor
New York, NY 10019
Tel: 212-489-8230
Fax: 212-489-8340

Lisa B. Zycherman
Micah J. Ratner
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20006
Tel: 202-973-4200
Fax: 202-973-4499

Attorneys for *Amici Curiae*

CERTIFICATE OF COMPLIANCE

I certify, pursuant to Rule 32(a)(7)(C) of the Federal Rules of Appellate Procedure, that this brief complies with the type-volume limitation of Rules 29(d) 32(a)(7)(B) and contains 6,354 words, inclusive of headings, footnotes, and quotations.

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: May 7, 2014

By: s/ Laura R. Handman
Laura R. Handman

Attorney for *Amici Curiae*

ADDENDUM A

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, post-secondary 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.

Bloomberg L.P. d/b/a Bloomberg News is one of the world's largest newsgathering organizations, comprised of more than 2,500 journalists around the world in more than 120 bureaus. Bloomberg provides business, legal and financial news through the Bloomberg Professional Service, Bloomberg's website and Bloomberg Television.

The Center for Public Integrity is one of the nation's oldest and largest nonpartisan, nonprofit investigative news organizations. Its mission is to serve democracy by revealing abuses of power, corruption and betrayal of public trust by powerful public and private institutions, using the tools of investigative journalism. The Center's editorial staff consists of journalists, FOIA experts, copy editors, researchers, fact-checkers, and data experts who work on the Center's investigative projects and stories.

The Digital Media Law Project ("DMLP") is an unincorporated association hosted by the Berkman Center for Internet & Society at Harvard University. The DMLP is an academic research project that studies legal challenges to independent journalism and provides free legal tools and resources to the public. The DMLP frequently appears as amicus curiae in cases where the application of law will have a significant effect on the use of digital media to inform the public.

The E.W. Scripps Company is a diverse, 131-year-old media enterprise with interests in television stations, newspapers, and local news and information web sites. Upon completion of its purchase of WKBW-TV in Buffalo, the company's portfolio of locally focused media properties will include: 21 TV stations (11 ABC affiliates, three NBC affiliates, two independents and five Azteca Spanish language stations); daily and community newspapers in 13 markets; and the Washington, D.C.-based Scripps Media Center, home of the Scripps Howard News Service.

Gannett Co., Inc. is an international news and information company that publishes 82 daily newspapers in the United States, including USA TODAY, as well as hundreds of non-daily publications. In broadcasting, the company operates 23 television stations in the U.S. with a market reach of more than 21 million households. Each of Gannett's daily newspapers and TV stations operates Internet sites offering news and advertising that is customized for the market served and integrated with its publishing or broadcasting operations.

The Media Law Resource Center, Inc. (MLRC) is a non-profit professional association for content providers in all media, and for their defense lawyers, providing a wide range of resources on media and content law, as well as policy issues. These include news and analysis of legal, legislative and regulatory developments; litigation resources and practice guides; and national and international media law conferences and meetings.

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 almost 7,000 members include television and still photographers, editors, students and representatives of businesses that serve the photojournalism 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 photojournalism.

National Public Radio, Inc. ("NPR") is a District of Columbia nonprofit membership corporation. It produces and distributes its radio programming through, and provides trade association services to, nearly 800 public radio member stations located throughout the United States and in many U.S. territories. NPR's award-winning programs include Morning Edition, and All Things Considered, and serve a growing broadcast audience of over 23 million Americans weekly. NPR also distributes its broadcast programming online, in foreign countries, through satellite, and to U.S. Military installations via the American Forces Radio and Television Service.

NBCUniversal Media, LLC ("NBC") is one of the world's leading media and entertainment companies in the development, production and marketing of news, entertainment and information to a global audience. Among other businesses, NBC owns and operates the NBC television network, the Spanish-language television network Telemundo, NBC News, news and cable networks including MSNBC and CNBC, and owned-and-operated television stations that produce substantial amounts of local news, sports and public affairs programming.

NBC produces the "Today" show, "NBC Nightly News with Brian Williams," "Dateline NBC" and "Meet the Press."

Newspaper Association of America (NAA) is a nonprofit organization representing the interests of more than 2,000 newspapers in the United States and Canada. NAA members account for nearly 90% of the daily newspaper circulation in the United States and a wide range of non-daily newspapers. The Association focuses on the major issues that affect today's newspaper industry, including protecting the ability of the media to provide the public with news and information on matters of public concern.

The New York Times Company is the publisher of The New York Times and the International New York Times and operates nytimes.com and related websites.

The Online News Association ("ONA") is the nation's premier organization of digital journalists. ONA's members include reporters, news writers, editors, producers, designers, photographers and others who produce news for distribution over the Internet and through other digital media, as well as academics and others interested in the development of online journalism. ONA is dedicated to advancing the interests of online journalists and the public, generally, by encouraging editorial integrity, editorial independence, journalistic excellence, freedom of expression, and freedom of access.

The Reporters Committee for Freedom of the Press is a voluntary, 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 representation, guidance and research in First Amendment and Freedom of Information Act litigation since 1970.

Reuters is the world's largest independent international news agency, reaching more than a billion people every day. Its coverage includes international politics, business, sports and entertainment; Reuters also publishes market data and intelligence to global business and finance consumers.

The 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.

WP Company LLC (d/b/a The Washington Post) publishes one of the nation's most prominent daily newspapers, as well as a website, www.washingtonpost.com, that is read by an average of more than 20 million unique visitors per month.