

No. 20-2710

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IN THE  
**United States Court of Appeals**  
for the  
**Eighth Circuit**

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DEVIN G. NUNES,

*Plaintiff – Appellant*

v.

RYAN LIZZA AND HEARST MAGAZINE MEDIA, INC.,

*Defendants – Appellees*

HEARST MAGAZINES, INC.

*Defendant.*

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On Appeal from the United States District Court for  
the Northern District of Iowa  
Civil Action No. 5:19-cv-04064-CJW  
The Honorable C.J. Williams, Judge Presiding

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**BRIEF *AMICI CURIAE* OF 35 NATIONAL AND LOCAL  
MEDIA ORGANIZATIONS AND JOURNALISTS IN  
SUPPORT OF REHEARING**

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**TABLE OF CONTENTS**

TABLE OF AUTHORITIES .....ii

CORPORATE DISCLOSURE STATEMENT..... iv

INTEREST OF AMICI CURIAE ..... 1

SOURCE OF AUTHORITY TO FILE..... 2

PRELIMINARY STATEMENT..... 3

ARGUMENT ..... 4

I. DECLARING THAT A HYPERLINK IS A REPUBLICATION  
CONTRADICTS PRECEDENT, AND WILL SIGNIFICANTLY  
RESTRICT THE FLOW OF INFORMATION TO THE PUBLIC..... 4

II. DECLARING THAT A PRE-PUBLICATION DENIAL,  
ALONE, RENDERS PLAUSIBLE AN ALLEGATION OF  
ACTUAL MALICE ALSO CONTRADICTS PRECEDENT, AND  
WILL SIGNIFICANTLY CHILL PROTECTED SPEECH ..... 9

CONCLUSION ..... 12

**TABLE OF AUTHORITIES**

<b>Cases</b>	<b>Page(s)</b>
<i>Adelson v. Harris</i> , 973 F. Supp. 2d 467 (S.D.N.Y. 2013).....	5
<i>Betrand v. Mullin</i> , 846 N.W.2d 884 (Iowa 2014) .....	9, 10
<i>Biro v. Condé Nast</i> , 171 A.D.3d 463 (N.Y. App. Div. 2019).....	6, 7
<i>Biro v. Condé Nast</i> , 963 F. Supp. 2d 255 (S.D.N.Y. 2013).....	10
<i>Clark v. Viacom Int’l</i> , 617 F. App’x 495 (6th Cir. 2015) .....	5, 8
<i>Doctor’s Data, Inc. v. Barrett</i> , 170 F. Supp. 3d 1087 (N.D. Ill. 2016).....	6, 8
<i>Firth v. State</i> , 775 N.E.2d 463 (N.Y. 2002) .....	7
<i>Harte-Hanks Commc’ns v. Connaughton</i> , 491 U.S. 657 (1989) .....	9
<i>Klayman v. City Pages</i> , 2015 U.S. Dist. LEXIS 49134 (M.D. Fla. Apr. 3, 2015) .....	6
<i>U.S. ex rel. Klein v. Omeros Corp.</i> , 897 F. Supp. 2d 1058 (W.D. Wash. 2012) .....	6, 7
<i>Life Designs Ranch v. Sommer</i> , 364 P.3d 129 (Wash. Ct. App. 2015) .....	6, 7
<i>Lindberg v. Dow Jones &amp; Co.</i> , 2021 U.S. Dist. LEXIS 151397 (S.D.N.Y. Aug. 11, 2021) .....	5, 7
<i>Lokhova v. Halper</i> , 995 F.3d 134 (4th Cir. 2021) .....	5, 7

<i>Masson v. New Yorker Magazine</i> , 960 F.2d 896 (9th Cir. 1992) .....	10
<i>In re Mineral Res. Int’l</i> , 565 B.R. 684 (Bankr. D. Utah 2017) .....	6
<i>Penrose Hill, Ltd. v. Marbray</i> , 479 F. Supp. 3d 840 (N.D. Cal. 2020).....	5, 6
<i>Perlman v. Vox Media</i> , 2020 Del. Super. LEXIS 321 (June 24, 2020) .....	6, 7
<i>In re Phila. Newspapers</i> , 690 F.3d 161 (3d Cir. 2012).....	5, 7, 8
<i>Reader’s Digest Ass’n v. Superior Court</i> , 690 P.2d 610 (Cal. 1984) .....	10
<i>Sayler v. S. Poverty Law Ctr.</i> , 701 F. Supp. 2d 912 (W.D. Ky. 2009).....	6, 7
<i>Shepard v. TheHuffingtonPost.com</i> , 2012 U.S. Dist. LEXIS 163374 (D. Minn. Nov. 15, 2012).....	6
<i>Shepard v. TheHuffingtonPost.com</i> , 509 F. App’x 556 (8th Cir. 2013) .....	6
<i>Slozer v. Slattery</i> , 2015 Pa. Super. Unpub. ....	6
<i>Sundance Image Tech. v. Cone Editions Press</i> , 2007 U.S. Dist. LEXIS 16356 (S.D. Cal. Mar. 7, 2007) .....	6
<b>Statutes &amp; Other Authorities</b>	
Restatement (Second) of Torts § 557A cmt. d .....	6
1 Rodney A. Smolla, <i>Law of Defamation</i> § 3:65.50 (2d ed.) .....	9

## CORPORATE DISCLOSURE STATEMENT

**Advance Publications, Inc.** does not have any parent corporation. Nor does any publicly held corporation own more than 10% of its stock.

**American Public Media Group** is a non-profit corporation, has no parent corporation, and has no stock.

The **Associated Press** is a news cooperative incorporated under the Not-for-Profit Corporation Law of New York and has no parents, subsidiaries or affiliates that have any outstanding securities issued to the public.

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**Bloomberg LP** is a limited partnership; its general partner is Bloomberg Inc.; and no publicly-held corporation owns 10% or more of Bloomberg L.P.'s limited partnership interests.

**Buzzfeed Inc.** d/b/a BuzzFeed News, is a privately owned corporation. Ten percent or more of its stock is owned by NBCUniversal Media LLC, a wholly-owned indirect subsidiary of Comcast Corporation, which is publicly traded. No other publicly held company owns 10% or more of its stock.

**The Daily Beast LLC** is a wholly-owned indirect subsidiary of IAC/InterActive Corp., a publicly traded company.

**Dow Jones & Company, Inc.** ("Dow Jones") is a Delaware corporation. News Corporation, a publicly held company, is its indirect parent corporation. Ruby Newco, LLC, a subsidiary of News Corporation and a non-publicly held company, is the direct parent of Dow Jones. No publicly held company directly owns 10% or more of the stock of Dow Jones.

**Foundation for National Progress**, the publisher of Mother Jones, is a non-profit corporation that has no parent corporation and no stock.

**Fox News Network, LLC** is wholly owned by Fox Television Stations, LLC, which, in turn, is wholly owned by Fox Television Holdings, LLC, which in turn is wholly owned by Foxcorp Holdings LLC, which in turn is wholly owned by Fox Corporation. Fox Corporation is the ultimate corporate parent of Fox News Network, LLC and is a publicly traded corporation.

**Gannett Co., Inc.** is a publicly traded company (NYSE: GCI). BlackRock Inc., also a publicly traded entity, owns more than a 10% interest in Gannett Co., Inc.

**Gray Television, Inc.** is a publicly-traded corporation and no entity holds 10% or more of its equity.

**Herald Publishing Company**, the publisher of the Carroll Times Herald, does not have any parent corporation. Nor does any publicly held corporation own more than 10% of its stock.

**Insider, Inc.** is owned by Axel Springer Digital Ventures GmbH, which is owned by Axel Springer SE. There are no publicly held corporations that own more than 10% of its stock.

**Iowa Capital Dispatch** is part of States Newsroom, a national not-for-profit news network that has no parent corporation and no stock.

**The Iowa Freedom of Information Council** is a non-profit corporation, has no parent corporation, and has no stock.

**Lake Avenue Publishing**, the publisher of The New Republic, does not have any parent corporation. Nor does any publicly held corporation own more than 10% of its stock.

**Los Angeles Times Communications LLC** is a wholly-owned subsidiary of NantMedia Holdings, LLC, which is a privately held company. No company with a 10% or greater ownership share in NantMedia Holdings, LLC is publicly traded.

**Media Law Resource Center** is a non-profit corporation, has no parent corporation, and has no stock.

**The New York Times Company**, a publicly traded company, has no parent company and no publicly held corporation owns 10% or more of its stock.

**Penske Media Corporation** has no parent company and no publicly held corporation owns 10% or more of its stock.

**POLITICO, LLC's** parent corporation is Capitol News Company. No publicly held corporation owns 10% or more of its stock.

**Pro Publica, Inc.** is a non-profit corporation that has no parent corporation and 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 News & Media Inc.** is a Delaware corporation whose parent is Thomson Reuters U.S. LLC, a Delaware limited liability company. Reuters News & Media Inc. and Thomson Reuters U.S. LLC are indirect and wholly-owned subsidiaries of Thomson Reuters Corporation, a publicly-held corporation, which is traded on the New York Stock Exchange and Toronto Stock Exchange. There are no intermediate parent corporations or subsidiaries of Reuters News & Media Inc. or Thomson Reuters U.S. LLC that are publicly held, and there are no publicly-held companies that own 10% or more of Reuters News & Media Inc. or Thomson Reuters U.S. LLC shares.

**Star Tribune Media Company LLC** has no parent company and no publicly held corporation owns 10% or more of its stock.

**The Storm Lake Times Company**, publisher of the publisher of The Storm Lake Times, has no parent company and no publicly held corporation owns 10% or more of its stock.

**Student Publications, Inc.**, the publisher of The Daily Iowan, is a non-profit corporation that has no parent corporation and no stock.

**Substack, Inc.** does not have any parent corporation. Nor does any publicly held corporation own more than 10% of its stock.

**Univision Communications Inc.** is wholly owned by Broadcast Media Partners Holdings, Inc., which is wholly owned by Univision Holdings, Inc., which is itself wholly owned by Univision Holdings II, Inc. No publicly held company directly owns 10% or more of Univision Communications Inc. or any of its subsidiaries.

**Vice Media LLC** is a Delaware limited liability company and a wholly-owned subsidiary of Vice Group Holding Inc. No publicly-traded company owns 10% or more of its stock.

**Vox Media, LLC** has no parent corporation. NBCUniversal Media, LLC, a publicly held corporation, owns at least 10% of its stock.

## INTEREST OF AMICI CURIAE

The thirty-five *amici* represent a diverse collection of news companies, Iowa-based journalists, and professional organizations that support and advocate on behalf of journalists and free expression.<sup>1</sup> Each *amici* has a direct interest in the common law and constitutional rules that govern publication. They submit this *amicus* brief in support of the rehearing petition of appellees Ryan Lizza and Hearst Magazine Media, Inc. (“Hearst”) because of their shared concern that the panel’s decision sharply contradicts what has, until now, been settled law governing both the use of hyperlinks to reference information online and the actual-malice pleading obligations of public officials and public figures. They believe that rehearing of that decision is warranted.

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<sup>1</sup> A supplemental statement of the identity of *amici curiae* is annexed as Appendix A. No party’s counsel or other person except *amici* and their counsel authored this brief or contributed money to fund its preparation or submission.

**SOURCE OF AUTHORITY TO FILE**

Pursuant to FRAP 29(b)(2), *amici* have filed a motion for leave to file this *amici curiae* brief.

## PRELIMINARY STATEMENT

The panel misapplied settled law regarding the use of hyperlinks and the constitutional requirement that libel plaintiffs such as Congressman Devin Nunes plead and prove that the publication they are challenging was published with “actual malice,” *i.e.*, with knowledge of its falsity or serious doubts about its truth.

The panel reversed the dismissal of Nunes’ libel claim against Lizza and Hearst, even though it agreed with the district court that Nunes failed to adequately allege that the article prompting the lawsuit was published with actual malice. The panel based its reversal on a “tweet” posted by the article’s author (Lizza) after Nunes filed his initial complaint, which included a hyperlink to the article, but did not repeat anything from the article itself. The panel held that the tweet was actionable, even though initial publication of the article was not, on the ground that (1) tweeting the hyperlink “republished” the article, and (2) Lizza’s then-awareness of Nunes’ lawsuit challenging the article plausibly supported the inference that he republished the article with actual malice. Each of these holdings represents a dramatic departure from well-established law.

In disseminating the news, journalists rely on a wide and long-standing judicial consensus that providing a reader with a hyperlink to an article does not republish it for purposes of a libel claim. They also rely on long-settled precedent holding that receiving a prepublication denial from the subject of a critical report does not, on its own, establish actual malice in publishing the report. The panel’s decision departing

from these two key principles, if permitted to stand, could create havoc for not just news publishers, but all distributors of content, by (1) exposing them to defamation liability not only for what they publish, but for what they link to as well, (2) lowering the bar for public-official and public-figure plaintiffs to plead actual malice, and (3) incentivizing meritless libel litigation by giving public-official and public-figure plaintiffs the power to effectively deter anyone from repeating a disfavored statement by filing a lawsuit denying its truth, thereby rendering any repetition a publication with actual malice. *Amici* urge the Court to grant rehearing.

## ARGUMENT

### **I. DECLARING THAT A HYPERLINK IS A REPUBLICATION CONTRADICTS PRECEDENT, AND WILL SIGNIFICANTLY RESTRICT THE FLOW OF INFORMATION TO THE PUBLIC**

The panel's holding that Nunes could state a claim for defamation based on a tweet that hyperlinked to—but did not repeat the substance of—an allegedly defamatory article threatens to upend long-standing legal principles governing the dissemination of news and information in the Internet age.

Hyperlinks are essential to the dissemination of information today. Almost without exception, online news stories contain hyperlinks to other online material, such as related reporting, additional information on the subject matter, or underlying source material. The same is true of news reports disseminated on social media, where journalists use hyperlinks to direct readers to their published work and the published work of others, and to engage with the public about that reporting.

All of this vastly improves the reliability and transparency of news reporting. As one analyst has observed, hyperlinking enables journalists to direct readers to crucial background information and context in a concise and efficient fashion; permits readers to directly access a journalist’s source material; and permits journalists to engage with, and build on, the reporting of other journalists. Jonathan Stray, *Why Link Out? Four Journalistic Purposes of the Noble Hyperlink*, Nieman Lab (June 8, 2010), <https://www.niemanlab.org/2010/06/why-link-out-four-journalistic-purposes-of-the-noble-hyperlink/>; *see also Adelson v. Harris*, 973 F. Supp. 2d 467, 484 (S.D.N.Y. 2013) (“hyperlink is the twenty-first century equivalent of the footnote”).

This valuable and ubiquitous use of hyperlinks is possible because courts around the country have repeatedly concluded that hyperlinking to an article does not republish it such as to make the linker liable for its contents. As the Fourth Circuit put it earlier this year, “the traditional principles of republication dictate that a mere hyperlink, without more, cannot constitute a republication.” *Lokhova v. Halper*, 995 F.3d 134, 143 (4th Cir. 2021). As another court noted barely a month before the panel’s surprising contrary conclusion, courts “consistently agree that the publication of a hyperlink that references an article but does not restate the defamatory material is not a republication of the material.” *Lindberg v. Dow Jones & Co.*, 2021 U.S. Dist. LEXIS 151397, at \*13 (S.D.N.Y. Aug. 11, 2021).<sup>2</sup> Even this Court—in a panel

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<sup>2</sup> *See, e.g., Clark v. Viacom Int’l*, 617 F. App’x 495, 505 (6th Cir. 2015) (hyperlink is not a republication); *In re Phila. Newspapers*, 690 F.3d 161, 175 (3d Cir. 2012) (same); *Penrose*

comprised of Judges Loken, Melloy, and Benton—previously affirmed a district court’s dismissal of a defamation lawsuit on the ground that a hyperlink is not a republication. *See Shepard v. TheHuffingtonPost.com*, 509 F. App’x 556 (8th Cir. 2013) (affirming *Shepard*, 2012 U.S. Dist. LEXIS 163374).

In reaching its conflicting conclusion in this case, the panel accepted that whether a hyperlink constitutes a republication of the linked material is governed by the “single-publication rule,” which provides that the original publication of a work of mass media “constitutes one publication that may support only one cause of action,” notwithstanding that it may continue to be distributed after its initial publication. Op. 12-14 (quoting Restatement (Second) of Torts § 557A cmt. d). This rule has long provided significant protection to publishers, especially online publishers, because it ensures both that the statute of limitations for publication-based torts is not retriggered each new time a work is accessed or distributed, and that linking to

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*Hill, Ltd. v. Marbray*, 479 F. Supp. 3d 840, 851 (N.D. Cal. 2020) (same); *In re Mineral Res. Int’l*, 565 B.R. 684, 697-98 (Bankr. D. Utah 2017) (same); *Doctor’s Data, Inc. v. Barrett*, 170 F. Supp. 3d 1087, 1137 (N.D. Ill. 2016) (same); *Klayman v. City Pages*, 2015 U.S. Dist. LEXIS 49134, at \*36 (M.D. Fla. Apr. 3, 2015) (same); *Shepard v. TheHuffingtonPost.com*, 2012 U.S. Dist. LEXIS 163374, at \*6 (D. Minn. Nov. 15, 2012) (same); *U.S. ex rel. Klein v. Omeros Corp.*, 897 F. Supp. 2d 1058, 1072-74 (W.D. Wash. 2012) (same); *Saylor v. S. Poverty Law Ctr.*, 701 F. Supp. 2d 912, 917-18 (W.D. Ky. 2009) (same); *Sundance Image Tech. v. Cone Editions Press*, 2007 U.S. Dist. LEXIS 16356, at \*20-21 (S.D. Cal. Mar. 7, 2007) (same); *Perlman v. Vox Media*, 2020 Del. Super. LEXIS 321, at \*14-16 (June 24, 2020) (same); *Biro v. Condé Nast*, 171 A.D.3d 463, 464 (N.Y. App. Div. 2019) (same); *Slozer v. Slattery*, 2015 Pa. Super. Unpub. LEXIS 4259, at \*17-19 (Nov. 18, 2015) (same); *Life Designs Ranch v. Sommer*, 364 P.3d 129, 138 (Wash. Ct. App. 2015) (same).

content does not make the publisher liable for the linked material. *See generally Lokhova*, 995 F.3d at 142-44 (providing history of rule as applied to online publishing).

The panel justified departing from the settled consensus that hyperlinking is not a republication on the ground that Lizza’s tweet encouraged new readers to click the link to the article, and thus fell within an exception to the single-publication rule for when a “subsequent publication is intended to and actually reaches a new audience.” Op. 12-14 (quoting *Firth v. State*, 775 N.E.2d 463, 466 (N.Y. 2002)). This is not a point of distinction. Courts holding that a hyperlink is not a republication have readily acknowledged that “[t]he purpose of the hyperlink” is often “to entice readers who had not previously read” the publication “to click on the link and be directed to the article.” *Saylor*, 701 F. Supp. 2d at 916.<sup>3</sup> But this has been consistently rejected as grounds for holding that a hyperlink is a republication because a hyperlink “does not present the defamatory contents of the article to the audience,” *Phila. Newspapers*, 690 F.3d at 175, or expand the article’s potential audience beyond those to

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<sup>3</sup> *See also Phila. Newspapers*, 690 F.3d at 175 (acknowledging that a hyperlink is designed to “call the existence of the article to the attention of a new audience”); *Lindberg*, 2021 U.S. Dist. LEXIS 151397, at \*13 (“it is irrelevant” to single-publication rule “whether the purpose of the hyperlink [is] to entice new readers”); *U.S. ex rel. Klein*, 897 F. Supp. 2d at 1072-74 (hyperlink combined with explicit directive to “check [it] out” not a republication); *Perlman*, 2020 Del. Super. LEXIS 321, at \*15-16 (follow-up article linking to original article “may [have] attract[ed] a new audience to the original by motivating them to seek out the earlier publication,” but did not “thereby republish” it); *Biro*, 171 A.D.3d at 464 (email encouraging subscribers to click on link to previously published article not a republication); *Life Designs Ranch*, 364 P.3d at 138 (posting URL and encouraging readers to “click or cut and paste the link” not a republication).

whom it was initially available, *Clark*, 617 F. App'x at 506. Instead, a hyperlink “is simply a new means for accessing the referenced article,” which was already generally available to the public. *Phila. Newspapers*, 690 F.3d at 175; *see also Doctor's Data*, 170 F. Supp. 3d at 1137 (“A hyperlink . . . does not duplicate the content of a prior publication; rather, it identifies the location of an existing publication and, if selected, instructs a search engine to retrieve that publication.”).

At bottom, courts have concluded that a hyperlink is not a republication, even if accompanied by encouragement to read the linked material, because “[s]imply alerting a new audience to the existence of a preexisting statement does not republish it” any more than recommending a book to someone republishes the book. *Clark*, 617 F. App'x at 507; *see also Phila. Newspapers*, 690 F.3d at 175 (same); *Lokhova*, 995 F.3d at 143 (same). The panel’s outlying contrary conclusion creates conditions under which not only news publishers, but *anyone* who links to other material, can be liable both for what they say and for what they link to and reference online. That threatens to upend how information is disseminated and sourced today, and to drastically reduce the flow of information to the public. Rehearing on this issue is plainly warranted.

## II. **DECLARING THAT A PRE-PUBLICATION DENIAL, ALONE, RENDERS PLAUSIBLE AN ALLEGATION OF ACTUAL MALICE ALSO CONTRADICTS PRECEDENT, AND WILL SIGNIFICANTLY CHILL PROTECTED SPEECH**

The panel erred in a second significant respect in holding that Nunes adequately pleaded actual malice based on the allegation that “Lizza republished the article after he knew the Congressman denied” the article’s alleged defamatory implication. Op. 14. Courts have consistently held that the constitutional obligation of public-official and public-figure libel plaintiffs to plead and prove actual malice cannot be satisfied based simply on their prepublication denial of the truth of the report. The Supreme Court has specifically instructed that “the press need not accept denials, however vehement” because “such denials are so commonplace. . . that, in themselves, they hardly alert the conscientious reporter to the likelihood of error.” *Harte-Hanks Commc’ns v. Connaughton*, 491 U.S. 657, 691 n.37 (1989). Thus, “[a] denial only serves to buttress a case for actual malice when there is something in the content of the denial or supporting evidence produced in conjunction with the denial that carries a doubt-inducing quality.” 1 Rodney A. Smolla, *Law of Defamation* § 3:65.50 (2d ed.).

This long-standing rule avoids a situation in which powerful figures subject to critical reporting can create a plausible inference of actual malice simply by issuing a denial. As the Iowa Supreme Court explained in the very decision on which the panel relied, a contrary rule “would significantly chill constitutionally protected speech.”

*Betrand v. Mullin*, 846 N.W.2d 884, 900 (Iowa 2014) (cited at Op. 12-13) (rejecting argument that plaintiff having “publicly told” defendant that “implication was false” supported finding of actual malice).

The panel’s actual-malice holding flouts this well-established law. That Nunes communicated his denial via a complaint does not change the calculus, at least absent something specific in the denial that would carry “a doubt-inducing quality.” Powerful figures routinely threaten or file lawsuits to try to squelch critical reporting. Such an occurrence does not, on its own, warrant the inference that the publisher was thereby led to doubt the accuracy of the challenged reporting, especially where the plaintiff is well known for such tactics. *See, e.g., Masson v. New Yorker Magazine*, 960 F.2d 896, 902-03 (9th Cir. 1992) (book publisher’s awareness that plaintiff’s lawyer had challenged accuracy of article reprinted in book did not support inference of actual malice); *Reader’s Digest Ass’n v. Superior Court*, 690 P.2d 610, 620 (Cal. 1984) (rejecting argument “that the threat or filing of a libel lawsuit should cause a publisher to have serious doubts about the truth of its story,” especially where plaintiff was known for “using litigation for coercing the press into silence”); *Biro v. Condé Nast*, 963 F. Supp. 2d 255, 283 (S.D.N.Y. 2013) (allegation that publisher was aware that plaintiff had filed lawsuit challenging similar contentions was not sufficient to adequately plead actual malice).

Indeed, the panel’s decision is likely only to exacerbate the problem of powerful figures filing defamation lawsuits to silence critical reporting because of the

perverse incentives it creates. The panel held that Nunes' original lawsuit had not been meritorious, since he did not allege facts plausibly establishing actual malice. Op. 12. But, under the panel's decision, the filing of that non-meritorious lawsuit created conditions under which Hearst or Lizza (or anyone else aware of the lawsuit) could not thereafter repeat the substance of the original article—or even link to it—without exposing themselves to a defamation claim strong enough to survive a motion to dismiss. The panel's decision thus rewards the filing of meritless lawsuits by giving them the power to lay down a marker after which anyone who repeats the contentions giving rise to the original lawsuit can be plausibly alleged to have done so with actual malice. That could significantly chill future reporting and commentary about public officials and public figures.

Accordingly, even if Lizza's hyperlink *did* republish the article (which, as demonstrated above, is contrary to existing law), rehearing is separately warranted of the panel's conclusion that the facts alleged could plausibly support a finding that Lizza tweeted the link with actual malice. If permitted to stand, that holding will lower the bar for public-official and public-figure plaintiffs to state claims for defamation and encourage the filing of meritless defamation lawsuits by imbuing them with the power to stop subsequent critical speech.

## CONCLUSION

For the reasons stated herein, *amici* respectfully urge the Court to grant rehearing.

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## CERTIFICATE OF COMPLIANCE

1. This *amici curiae* brief petition complies with the type-volume limitation of Fed. R. App. P. 29(b)(4) because it contains 2,579 words, excluding the parts of exempted by Fed. R. App. P. 32(f). This count is from the word-count function of Microsoft Word.

2. The brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word Version 16.0.13801.20928 (part of Microsoft Word for Office 365 MSO) in 14 point Garamond font.

3. Pursuant to Local Rule 28A(h)(2), this brief has been scanned for viruses and the motion is virus-free.

**CERTIFICATE OF SERVICE**

I hereby certify that on October 20, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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## APPENDIX A

### STATEMENTS OF INTEREST

**Advance Publications, Inc.** is a diversified privately-held company that operates and invests in a broad range of media, communications and technology businesses. Its operating businesses include Condé Nast's global magazine and digital brand portfolio, including titles such as Vogue, Vanity Fair, The New Yorker, Wired, and GQ, local news media companies producing newspapers and digital properties in 10 different metro areas and states, and American City Business Journals, publisher of business journals in over 40 cities.

**American Public Media Group** is the parent organization for Minnesota Public Radio (MPR). MPR is one of the nation's premier public radio networks producing programming for radio, digital, and live audiences and operating a network of 46 stations and 41 translators serving nearly all of Minnesota and parts of surrounding states including Iowa, North Dakota, and South Dakota. MPR and its three regional services (MPR News, YourClassical MPR, and The Current) reach over 1 million listeners each week.

The **Associated Press** (AP) is a news cooperative organized under the Not-for-Profit Corporation Law of New York. The AP's members and subscribers include the nation's newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 280 locations in more than 100 countries. On any given day, AP's content can reach more than half of the world's population.

**The Atlantic Monthly Group LLC** is the publisher of The Atlantic and TheAtlantic.com. Founded in 1857 by Oliver Wendell Holmes, Ralph Waldo Emerson, Henry Wadsworth Longfellow and others, The Atlantic continues its 160-year tradition of publishing award-winning journalism that challenges assumptions and pursues truth, covering national and international affairs, politics and public policy, business, culture, technology and related areas.

**Bloomberg LP** is the owner and operator of Bloomberg News. Bloomberg's newsroom of more than 2,700 journalists and analysts delivers thousands of stories a day, producing content that is featured across multiple platforms, including digital, TV, radio, print and live events.

**BuzzFeed, Inc.** is an independent digital media company that leverages data and innovation to reach hundreds of millions of people globally. BuzzFeed's massive

cross-platform network includes BuzzFeed News and HuffPost, award-winning news organizations offering world-class reporting and investigative journalism.

**Art Cullen** is the editor and publisher of The Storm Lake Times. He was awarded the Pulitzer Prize for editorial writing in 2017 for his coverage of the conflict between agriculture and the environment in Iowa. He has worked as a reporter and editor for newspapers in Algona, Ames and Mason City, Iowa.

**The Daily Beast LLC** is the publisher of The Daily Beast, a national digital publication that delivers award-winning original reporting and sharp opinion from big personalities in the arenas of politics, pop-culture, world news and more. The Daily Beast reaches more than one million readers each day.

**Dow Jones & Company, Inc.** is a global provider of news and business information, delivering content to consumers and organizations around the world across multiple formats, including print, digital, mobile and live events. Dow Jones has produced unrivaled quality content for more than 130 years and today has one of the world's largest newsgathering operations globally. It produces leading publications and products including the flagship Wall Street Journal; Factiva; Barron's; MarketWatch; Financial News; Dow Jones Risk & Compliance; Dow Jones Newswires; and Dow Jones VentureSource.

**Foundation for National Progress** is the publisher of Mother Jones, a reader-supported investigative news organization whose mission is to deliver hard-hitting, public interest reporting that inspires change and combats disinformation. Founded in 1976, Mother Jones is America's longest-established investigative news organization.

**Fox News Network, LLC**, d/b/a Fox News Media, operates FOX News Channel (FNC), FOX Business Network (FBN), FOX News Digital, FOX News Audio, FOX News Books, the direct-to-consumer digital streaming services FOX Nation and FOX News International and the upcoming AVOD platform FOX Weather. Currently the number one network in all of cable, FNC has also been the most watched television news channel for 19 consecutive years, while FBN currently ranks among the top business channels on cable. Fox News Media reaches over 200 million people each month.

**Gannett Co., Inc.** is the largest local newspaper company in the United States. Its 260 local daily brands in 46 states—together with the iconic USA TODAY—reach an estimated digital audience of 140 million each month. Gannett publishes numerous daily newspapers and websites in multiple states within this Circuit, including the Iowa

City Press-Citizen, the Des Moines Register, the Ames Tribune, the Springfield News-Leader, the Columbia Daily Tribune, the Independence Examiner and the Sioux Falls Argus Leader.

**Michael Gartner** was previously editor and president of The Des Moines Register and president of NBC News. In 1997, he won a Pulitzer Prize for editorials he wrote for the Ames Tribune, where he was editor and co-owner. He also has been an opinion columnist for The Wall Street Journal and USA Today.

**Gray Television, Inc.**, headquartered in Atlanta, Georgia, is the largest owner of top-rated local television stations and digital assets in the United States. Upon its anticipated acquisition of the television stations of Meredith Corporation, Gray will become the nation's second largest television broadcaster, with television stations serving 113 markets that reach approximately 36 percent of US television households. The pro forma portfolio includes 79 markets with the top-rated television station and 101 markets with the first and/or second highest rated television station according to Comscore's audience measurement data. It has multiple stations within this circuit, including KCRG in Cedar Rapids, Iowa; KWQC in Davenport, Iowa; KTTC in Rochester, Minnesota/Mason City, Iowa; KTIV in Sioux City, Iowa; KYOU in Ottumwa, Iowa; KAIT in Jonesboro, Arkansas; KEYC in Mankato, Minnesota; KBJR in Duluth, Minnesota; KYTV/KSPR in Springfield, Missouri; KFVS in Cape Girardeau, Missouri; KNOP in North Platte, Nebraska; KFVR in Bismarck, North Dakota; KVLV in Fargo, North Dakota; KOTA in Rapid City, South Dakota; KSFY/KDLT in Sioux Falls, South Dakota. Gray also produces news-focused programming: Investigate TV and Full Court Press with Greta Van Susteren.

**Herald Publishing Company** is the publisher of the Carroll Times Herald, an independent family-owned newspaper based in Carroll, Iowa. The Carroll Times Herald covers a wide swath of rural west-central Iowa, and has operated continuously since 1929. In 2013, it was named the Newspaper of the Year by the Iowa Newspaper Association.

**Insider Inc.** is an online publication company covering news, politics, lifestyle, and business across multiple platforms and at the websites insider.com and businessinsider.com. It reports on matters affecting the discourse across the United States and the globe with a mission to inform and inspire, reaching millions of readers a day.

**Iowa Capital Dispatch** is a news organization that produces journalism focused on Iowa state government and investigative reporting on topics in the public interest. It is part of States Newsroom, a national not-for-profit news network that is supported

by philanthropy. Its news and commentary product is provided free of charge to readers on [iowacapitaldispatch.com](http://iowacapitaldispatch.com) and is also available for free republication by other news organizations.

**The Iowa Freedom of Information Council** was established in 1976 as a non-profit coalition of journalists, educators, lawyers, librarians, business leaders and other Iowans devoted to open government. The Council assists the Iowa Newspaper Association and the Iowa Broadcasters Association with litigation and advocacy concerning open records and meetings laws. The Council has advocated as *amicus curiae* on behalf of the right to free speech and a free press in the state and federal courts.

**Lake Avenue Publishing** publishes *The New Republic*, an American magazine dedicated to commentary on politics, contemporary culture, and the arts. It was founded more than a century ago with the mission to bring American liberalism into the modern era. It continues that mission today, with a focus on the challenges unique to this age.

**Los Angeles Times Communications LLC** is the publisher of the Los Angeles Times, the largest metropolitan daily newspaper circulated in California. The Los Angeles Times maintains the website [www.latimes.com](http://www.latimes.com), a leading source of national and international news. The Los Angeles Times appears as one of the key news sources in Apple News+ and other large digital distribution channels, reaching millions of readers around the country.

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 law and 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 MLRC also works with its membership to respond to legislative and policy proposals, and speaks to the press and public on media law and First Amendment issues. It counts as members over 125 media companies, including newspaper, magazine and book publishers, TV and radio broadcasters, and digital platforms, and over 200 law firms working in the media law field. The MLRC was founded in 1980 by leading American publishers and broadcasters to assist in defending and protecting free press rights under the First Amendment.

**The New York Times Company** is the publisher of *The New York Times* and operates the news website [nytimes.com](http://nytimes.com).

**Penske Media Corporation** (PMC) is a leading independent global media company whose award-winning journalism attracts a monthly audience of more than 310 million. Since 2004, PMC has been a pioneer in digital media, reaching viewers across its ever-growing constellation of iconic brands, which includes Deadline, Variety, Rolling Stone, The Hollywood Reporter, Billboard, WWD, SHE Media, Robb Report, Sportico, BGR, ARTnews, Art in America, Fairchild Media, Spy.com, among many others. PMC is headquartered in New York and Los Angeles with additional offices in 14 countries worldwide.

**POLITICO, LLC** is a news and information company at the intersection of politics and policy. It is based in Washington, D.C. with an affiliated publication located in Brussels, and continued expansion into various state capitals in the United States. Since its 2007 launch, POLITICO has gathered one of the most robust and rapidly expanding rosters of journalists covering politics and policy in the world.

**Pro Publica, Inc.** is an independent, nonprofit newsroom that produces investigative journalism in the public interest. It has won six Pulitzer Prizes, including the 2020 Pulitzer Prize for National Reporting. ProPublica is supported primarily by philanthropy and offers its articles for republication, both through its website, [propublica.org](http://propublica.org), and directly to leading news organizations selected for maximum impact. ProPublica has extensive regional and local operations, and a series of Local Reporting Network partnerships around the country.

The **Reporters Committee for Freedom of the Press** is an unincorporated nonprofit association. The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nation's news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

**Reuters News & Media Inc.**, the news and media division of Thomson Reuters, is the world's largest multimedia news provider. Founded in 1851, it is committed to the Trust Principles of independence, integrity and freedom from bias. With unmatched coverage in over 16 languages, and reaching billions of people worldwide every day, Reuters provides trusted intelligence that powers humans and machines to make smart decisions. It supplies business, financial, national and international news to professionals via desktop terminals, the world's media organizations, industry events and directly to consumers.

**Star Tribune Media Company LLC** is the publisher of the Star Tribune, the largest daily newspaper in Minnesota, as well as startribune.com, which publishes news and entertainment relating to the five-state region, including Iowa.

**The Storm Lake Times Company** is the publisher of The Storm Lake Times, a twice-a-week, county-seat newspaper in Northwest Iowa.

**Herb Strentz** was dean of the Drake University School of Journalism and Mass Communication from 1975 to 1988. From 1975 to 2000, he served as executive secretary of the Iowa Freedom of Information Council, one of the first such councils in the nation. In 2004 he was inducted into the Open Government Hall of Fame by the National Freedom of Information Coalition and the Society of Professional Journalists.

**Student Publications, Inc.** (SPI) is an educational nonprofit corporation that runs and manages The Daily Iowan, a daily newspaper written and produced by students at the University of Iowa in Iowa City, Iowa. The goals of SPI are to train journalists and to provide a newspaper for the University of Iowa community.

**Substack, Inc.** is the home for great writing. Writers on Substack are independent publishers who own their work and their relationship with their audience. With over 500,000 paying subscribers, Substack's community of readers can subscribe directly to writers they trust and value, and support them directly through paid subscriptions.

**Univision Communications Inc.** (UCI) is the leading media company serving Hispanic America. UCI is a leading content creator in the U.S. and includes the Univision and UniMás broadcast networks; 10 cable networks, including Galavisión and TUDN; and 61 owned or operated television stations in major Hispanic markets across the United States.

**Vice Media LLC** (VICE) is the world's largest independent youth media company. Launched in 1994, VICE has offices in 35 cities across the globe and includes: VICE.com, an award-winning international network of digital content; VICE TV, an Emmy-winning international television network; and a Peabody award-winning NEWS division with the most Emmy-awarded nightly news broadcast.

**Vox Media, LLC's** portfolio features editorial properties across the biggest consumer categories, including: Vox, New York Magazine, The Verge, The Cut, Eater, Vulture, The Strategist, Polygon, SB Nation, Intelligencer, Curbed, Grub Street and Recode. Off-platform, the Vox Media Podcast Network is one of the largest collections of popular podcasts spanning technology, news, pop culture, futurism, everything

women are talking about, and more. And Vox Media Studios is the award-winning nonfiction production and distribution studio for multiple TV and streaming partners.