**4TH CIVIL NO. D075723**

COURT OF APPEAL, STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

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**CARLSBAD POLICE OFFICERS ASSOCIATION, et al.**
*Petitioners and Respondents,*

v.

**CITY OF CARLSBAD, et al.**
*Respondents and Respondents;*

**SCRIPPS MEDIA, INC., d/b/a KGTV-TV, et al.**
*Intervenors and Appellants.*

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APPEAL FROM THE
SAN DIEGO COUNTY SUPERIOR COURT
Hon. Eddie C. Sturgeon
Case No. 37-2019-00005450-CU-WM-CTL

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# APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND PROPOSED AMICUS CURIAE BRIEF OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS IN SUPPORT OF INTERVENORS AND APPELLANTS

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## APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

**TO THE HONORABLE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF THE FOURTH APPELLATE DISTRICT, DIVISION ONE:**

Pursuant to California Rule of Court 8.200(c), the Reporters Committee for Freedom of the Press respectfully requests leave to file the attached brief as amicus curiae in support of Intervenors and Appellants Scripps Media, Inc., The San Diego Union-Tribune, LLC, KFMB-TV, LLC, KNSD (NBC7), KPBS Public Broadcasting, Voice of San Diego, the American Civil Liberties Union of San Diego & Imperial Counties, and Flora Rivera. The Reporters Committee for Freedom of the Press has previously appeared as *amicus curiae* in numerous cases involving access to public records under state and federal law in courts around the country, including in California.

### INTEREST OF AMICUS CURIAE

The Reporters Committee for Freedom of the Press is an unincorporated nonprofit association of reporters and editors dedicated to defending the First Amendment and newsgathering rights of journalists and news organizations. Members of the news media frequently file public records requests to gather information to keep the public informed about how the government is conducting the people's business. Accordingly, the Reporters Committee has a strong interest in ensuring that the California Public Records Act ("CPRA" or the "Act") is interpreted and applied in a manner that facilitates prompt public access to government information.

Reverse-CPRA cases like this one force requesters to expend resources litigating public records cases that the requesters did not initiate and creates uncertainty as to their

ability to recover reasonable attorneys' fees even when their litigation efforts result in the disclosure of records. When requesters are not able to recover the fees that they incur in these cases, requesters' willingness to exercise their rights under the CPRA is chilled and the purpose of the Act is undermined.

For these reasons, which are discussed in more detail in the attached amicus brief, the Reporters Committee agrees with Intervenors-Appellants that the trial court erred in not permitting them to seek reasonable fees under the fee shifting provision of the CPRA (Cal. Gov. Code § 6259(d)), and/or California's private attorneys general statute (Code Civ. Proc. § 1021.5). The Reporters Committee respectfully requests that the Court accept and file the attached amicus brief. No party or counsel for any party authored this brief in whole or in part or funded its participation.

Respectfully submitted,

REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS
Katie Townsend (SBN 254321)
Bruce D. Brown**
Lin Weeks**
***Of counsel*

*/s/ Katie Townsend*
Katie Townsend
*Counsel of Record for Amicus Curiae*

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# AMICUS CURIAE BRIEF OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS IN SUPPORT OF INTERVENORS AND APPELLANTS


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## CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Pursuant to California Rule of Court 8.208(e)(1) and (2), the Reporters Committee for Freedom of the Press, by and through its undersigned counsel, certifies that it is an unincorporated nonprofit association of reporters and editors with no parent corporation or stock. The Reporters Committee has no financial or other interest in the outcome of this proceeding that the justices should consider in determining whether to disqualify themselves.

Dated: December 20, 2019

*/s/ Katie Townsend*
Katie Townsend
*Counsel of Record for Amicus Curiae*

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## INTRODUCTION

Access to public records is essential in a democracy; it prevents the government from operating in secret and allows the public to monitor the actions of government agencies and officials. For this reason, the California Public Records Act (the "CPRA" or the "Act") and the California Constitution enshrine the public's right to records concerning the conduct of the people's business. (Gov. Code § 6250 *et seq.*; Cal. Const., art. I § 3, subd. (b)(1)).

Integral to the Act's statutory scheme is Government Code section 6259 subd. (d), which mandates an award of attorneys' fees and costs to a requester who prevails in litigation to vindicate the public's right of access to government records under the CPRA. As the California Supreme Court recognized in *Filarsky v. Superior Court* (2002) 28 Cal.4th 419 ("*Filarsky*"), forcing requesters to bear the costs of successful CPRA litigation would "chill the rights of individuals to obtain disclosure of public records." (*Id.* at 434.) And requiring requesters "to incur fees and costs in defending civil actions they otherwise might not have initiated . . . clearly thwart[s] the Act's purpose of ensuring speedy public access to vital information regarding the government's conduct of its business." (*Ibid.*)

Though *Filarsky* makes clear that government agencies may not attempt to preemptively litigate the application of CPRA exemptions to records requested under the the Act (28 Cal.4th at p. 434–35), in an increasing number of cases across California a different type of preemptive litigant is emerging—a third party who seeks to prevent the

agency from releasing requested records. Such third-party actions, however, differ little in the damage they cause to the public's right to know.

After the passage of SB 1421—landmark legislation requiring the disclosure of certain categories of records relating to police misconduct—Scripps Media, Inc., d/b/a/ KGTV-TV and five other news organizations (the "Media Intervenors") and the American Civil Liberties Union of San Diego and Imperial County and Flora Rivera (the "ACLU") (collectively, "Appellants") filed CPRA requests with a number of public agencies seeking pre-2019 records that are now public under SB 1421. A group of police unions and associations led by the Carlsbad Police Officers Association (the "Unions") responded by suing the agencies from whom the records were sought with the goal of preventing those records from being released. Appellants moved to intervene.

The issue before this Court is Appellants' entitlement to attorneys' fees under California law. In order to vindicate the public's right of access to the records they requested under the CPRA, Appellants have been forced to incur substantial attorneys' fees and costs. Indeed, Appellants have been forced to litigate not only against some agencies that delayed release of the requested records (the "Remaining Agencies"[1]), but also against the Unions. Because the CPRA does not expressly provide for the recovery of fees from a third-party reverse-CPRA plaintiff, the Media Intervenors sought to recover fees only from the agencies under the CPRA. All Appellants sought to recover fees from the Unions under California's private attorneys general statute, which provides

[1] Respondents City of Oceanside, City of El Cajon, and National City, and their respective police chiefs.

for the recovery of fees incurred by litigants whose success "has resulted in the enforcement of an important right affecting the public interest." (Code Civ. Proc. § 1021.5.)

Amicus curiae the Reporters Committee for Freedom of the Press (the "Reporters Committee") is an unincorporated nonprofit association of reporters and editors dedicated to defending the First Amendment and newsgathering rights of journalists and news organizations. The Reporters Committee agrees with Appellants that this Court should reverse the trial court's order prohibiting them from seeking a fee award under either the CPRA or California's private attorneys general statute. CPRA requesters who engage in litigation to vindicate their right to public records often incur substantial fees. Without certainty that those fees will be recovered in successful actions, the incentives to litigate put in place by the Legislature will fail, and the press and public will be disincentivized from pursuing public records that have been wrongfully withheld.

## ARGUMENT

### I. Mandatory fee shifting is necessary to ensure judicial enforcement of the public's right of access to government records.

#### A. Mandatory fee shifting is integral to the CPRA's effectiveness.

The California Legislature provided for mandatory fee shifting in the CPRA to ensure the Act would function as intended. "[T]he very purpose of the attorney fees provision is to provide 'protections and incentives for members of the public to seek judicial enforcement of their right to inspect public records subject to disclosure.'" (*Galbiso v. Orosi Pub. Util. Dist.* (2008) 167 Cal.App.4th 1063, 1088 [quoting *Filarsky*,

*supra*, 28 Cal.4th at p. 427].) The Act's fee-shifting provision eliminates strong financial disincentives to pursuing public records litigation, (*id.*; see *Law Offices of Marc Grossman v. Victor Elementary School Dist.* (2015) 238 Cal.App.4th 1010, 1013), and thus encourages members of the public to enforce their rights under the CPRA. (See *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1447 [noting that section 6259 should be interpreted in light of its overall purpose to "broaden access to public records"].)

"Without some mechanism authorizing the award of attorney fees, private actions to enforce such important public policies will as a practical matter frequently be unfeasible." (*Belth v. Garamendi* (1991) 232 Cal.App.3d 896, 901 n.2 (citation omitted).) Indeed, in states that do not have similar fee-shifting provisions in their public records laws, the financial risk of litigation is a deterrent to requesters. (See Hooper & Davis, *A Tiger with No Teeth: The Case for Fee Shifting in State Public Records Law* (2014) 79 Mo. L. Rev. 949, 967 [stating that "most [state public records laws] provide little or no incentive for plaintiffs to seek legal redress for even the most blatant violations of the law"].) And, agencies in states with mandatory fee-shifting provisions, like California, tend to demonstrate better compliance with public records laws. (See David Cuillier, *Bigger Stick, Better Compliance? Testing Strength of Public Records Statutes on Agency Transparency in the United States* (2019) 6th Global Conference on Transparency Research.[2])

[2] Available at https://eventos.fgv.br/en/6deg-global-conference-transparency-research/executive-and-advisory-committee.

Fee shifting is no less important in reverse-CPRA actions. If prevailing requesters are unable to recover attorneys' fees in reverse-CPRA actions they will be significantly less likely to seek access to public records in the first place or seek to intervene in reverse-CPRA lawsuits arising from their requests. Indeed, several courts have recognized the importance of preserving the Act's carefully considered fee structure in the context of reverse-CPRA actions. For example, in *City of Los Angeles v. Metropolitan Water District of Southern California* (2019) ("*Metropolitan Water District*") the Court of Appeal, Second Appellate District, addressed a challenge to attorneys' fees awarded to the San Diego Union Tribune, which had intervened in a reverse-CPRA action brought by the Los Angeles Department of Water and Power against the Metropolitan Water District (MWD) to prevent the MWD from disclosing records of DWP customers. (Cal. Ct. App., Nov. 19, 2019, No. B272169, 2019 WL 6123675, at *1). The appellate court affirmed the trial court's award of fees under the CPRA against MWD and under California's private attorneys general statute jointly and severally against MWD and the Department of Water and Power. (*Ibid.*)

Similarly, in *Pasadena Police Officers Association v. City of Pasadena* (2018) ("*Pasadena Police Officers Association*"), the Court of Appeal, Second Appellate District, held that an intervening media requester was entitled to fees from an agency against whom a reverse-CPRA lawsuit was initiated, as well as fees from the third-party police union that initiated the lawsuit under the private attorneys general statute. (22 Cal.App.5th 147, 168, 172). The court in that case made clear that the rationale for fee shifting in CPRA actions, generally, applied equally to reverse-CPRA suits, because the

CPRA's "fee award provision is designed to encourage members of the public to seek judicial enforcement of their right to inspect public records subject to disclosure." (*Id.* at p.168.)

Precluding Appellants from seeking to recover fees and costs they incur to advocate for disclosure of the requested records would undercut the policy objectives of the CPRA. As the ACLU points out in its brief, public records requesters often must seek the assistance of attorneys to intervene in reverse-CPRA actions involving their requests. (See ACLU Br. at 6.) When requesters are uncertain as to whether they will be able to recover the full amount of attorneys' fees they expend in a reverse-CPRA matter, their willingness to intervene will, understandably, be reduced.

Members of the news media are also less likely to intervene in reverse-CPRA litigation for the benefit of the public without certainty that they will be able to recover their attorneys' fees if they prevail, in no small part because the news industry is facing increasing economic pressure. From January 2017 to April 2018, at least 36 percent of the largest newspapers in the United States experienced layoffs (See Elizabeth Grieco et al., *About a Third of Large U.S. Newspapers Have Suffered Layoffs Since 2017*, Pew Res. Ctr. (July 23, 2018), https://perma.cc/G9AT-ES6D). Those with the highest circulations were the most likely to be affected—over half of newspapers with circulations of greater than 250,000 suffered layoffs. (*Id.*). In California, more than 70 newsrooms have been eliminated altogether since 2004. (See Penelope Muse Abernathy, *California: The Expanding News Desert*, U. of N.C. Ctr for Innovation & Sustainability in Local Media, https://bit.ly/2JHuZxN.)

The public's incentive to intervene in reverse-CPRA litigation would be undermined if the trial court's order in this case were approved. Affirming the trial court's order would put public records further out of reach for journalists and, accordingly, limit the public's ability to better understand, analyze, and critique actions of government, contrary to the purpose of the CPRA.

### B. Awarding fees in reverse-CPRA actions will discourage obstructive litigation that undermines the public's right to prompt access to government information.

Reverse-CPRA actions are often brought to delay or deny public access to government information that must be disclosed under the Act. Indeed, a number of recent reverse-CPRA cases have resulted in lengthy delays in the release of important public records. In *Metropolitan Water District*, for instance, the reverse-CPRA lawsuit delayed for nearly eight months the San Diego Union Tribune's access to records it had requested about a taxpayer funded program providing public money for the replacement of grass lawns with drought resistant landscapes. (Cal. Ct. App., Nov. 19, 2019, No. B272169, 2019 WL 6123675, at *3–4). Though the program had been called "largely a gimmick" by the Controller for the City of Los Angeles (*Id.*, 2019 WL 6123675, at *2), it had already ended by the time the newspaper was able to examine and report on the requested documents. (See *City of Los Angeles (Los Angeles Department of Water and Power) v. Metropolitan Water District of Southern California* (Order, Super. Ct. Los Angeles County, 2016, No. BS157056, at p. 1.)). Similarly, in *Los Cerritos Community Newspaper Group v. Water Replenishment District of Southern California*, nearly a year passed between the newspaper's request for a copy of a settlement agreement resolving a

billing dispute involving a government agency and the agency's disclosure of that record. (Order, Super. Ct., Los Angeles County, 2016, Nos. BS160594, BS160827, at p. 3.)

Simply put, in addition to making whole requesters who are forced to incur large fees successfully litigating for access to public records in reverse-CPRA matters, attorneys' fees awards against unsuccessful third-party plaintiffs also deters them from bringing such meritless cases in the first place. Fee awards thereby advance the goal of "ensuring *speedy* public access to vital information regarding the government's conduct of its business." (See *Filarsky*, *supra*, 28 Cal.4th at p. 434, emphasis added.)

## II. Appellants are entitled to seek attorneys' fees in this case.

### A. The Media Intervenors are entitled to reasonable fees under the CPRA if they prevail against the Remaining Agencies.

The CPRA entitles a prevailing requester to an award of reasonable attorneys' fees incurred in litigation arising from its request. The relevant subsection of the Act states:

> The court shall award court costs and reasonable attorney's fees to the requester should the requester prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the requester's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

(Gov. Code, § 6259 subd. (d).) And the California Constitution requires that this provision be "broadly construed if it furthers the people's right of access." (Cal. Const. art. I, § 3, subd. (b)(2); see also *Galbiso*, *supra*, 167 Cal.App.4th at p. 1088 [stating that Section 6259 subd. (d) should be interpreted "in keeping with the overall remedial purpose of the [CPRA] to broaden access to public records"].)

In opposing the Media Intervenors' motion to intervene in this reverse-CPRA action, Respondents City of El Cajon and National City requested that the trial court bar the Media Intervenors from seeking any fees under the CPRA in the event they were permitted to intervene. (2 AA 516–517). The trial court granted the motion to intervene but held that both the Media Intervenors and the ACLU must "strike their request for attorney's fees which will enlarge the issues in this case." (2 AA 567.)

The Remaining Agencies (El Cajon and National City, along with Respondent Ocean City, and their respective police chiefs) advance two arguments as to why they should not be required to pay costs and fees should Appellants succeed in obtaining the requested records. First, the Remaining Agencies rely heavily on dicta in *Marken v. Santa Monica-Malibu Unified School District* (2012) to argue that requesters who intervene in reverse-CPRA cases cannot recover attorneys' fees under the CPRA. (202 Cal.App.4th 1250). The Reporters Committee agrees with the Media Intervenors that *Marken* is neither controlling nor on point. (See Media Intervenor Br. at 50; Media Intervenor Reply Br. at 21.)

The Remaining Agencies' second line of argument—that an agency cannot be liable for a prevailing requester's costs and attorneys' fees in a reverse-CPRA action because such an action purportedly "will only be filed when the public agency has decided to provide access to the requested records" and, thus, "the interests of the requestor and the agency are aligned," (El Cajon and National City Br. at 12)—is wrong as a matter of both law and fact.

First, as the California Supreme Court has recognized, the public and the courts should not have to rely on the "optimistic presumption" that "public officials conduct official business in the public's best interest." (*City of San Jose v. Superior Court* (2012) 2 Cal.5th 608, 625.) Indeed, public records laws like the CPRA and the federal Freedom of Information Act (5 U.S.C. § 552) ("FOIA") first came into existence because agencies repeatedly violated existing disclosure laws. (See, e.g., H.R. Rep. No. 89-1497, at 26–27 (1966) [documenting numerous times that government officials refused to disclose clearly public information];[3] S.R. Rep. No. 89–813, at 38 (1966) ["Innumerable times it appears that information is withheld only to cover up embarrassing mistakes or irregularities."];[4] cf. *Bruce v. Gregory* (1967) 65 Cal.2d 666, 678–79 (Mosk, J., dissenting) ["Access to and inspection of public records is a fundamental right of citizenship, existing at common law."] (citations omitted); *Nixon v. Warner Commc'ns, Inc.* (1978) 435 U.S. 589, 598 ["It is clear that the courts of this country recognize a general right to inspect and copy public records and documents."].)

Moreover, agencies do work—sometimes directly—with third parties to prevent disclosure through reverse-CPRA actions. For example, in *Long Beach Police Officers Assn. v. City of Long Beach* (2014) the Long Beach Police Officers Association filed a reverse-CPRA action seeking to block the disclosure of records that the *Los Angeles Times* had requested from the City of Long Beach. ((59 Cal.4th 59, 59–60) ("*LBPOA*").) After the newspaper intervened, the City of Long Beach sided with the Police Officers

[3] Available at https://perma.cc/34WE-SU65.
[4] Available at https://perma.cc/Z2EW-57KD.

Association's effort to prevent disclosure. (*Id.* at p. 65). The California Supreme Court ultimately upheld the newspaper's right to obtain the information at issue in that case. (*Id.* at pp. 75–76).

Agencies' efforts to prevent or delay disclosure can take more subtle forms as well. For example, an agency may notify a third party that it has received a CPRA request, thus prompting the third party to file a reverse-CPRA suit. This was the situation in *Pasadena Police*, in which the City of Pasadena informed the Pasadena Police Officers Association that it received the CPRA request at issue and advised the Police Officers Association it "needed to take legal action before [the City was required to respond] if it did not want to have the [requested] report released." (*Pasadena Police*, *supra*, 22 Cal.App.5th 147, 152 n.3). Predictably, the Police Officers Association filed a reverse-CPRA action seeking to prevent the requested record from being disclosed. (*Id.* at pp. 153.)

Here, the interests of Appellants and the Remaining Agencies are plainly not aligned, see Media Intervenors Br. at 20–21, 27–31; 1 AA 103–06; 2 AA 516–17; 4 AA 875–907, and it is eminently possible that Appellants may eventually be found to be the prevailing parties in the portion of this lawsuit that concerns the Remaining Agencies. An agency's mere assurance of its purported willingness to release requested records is not dispositive as to whether an intervenor should recover fees against an agency in a reverse-CPRA case. (Compare Oceanside Br. at 13 [arguing that "Media Intervenors CPRA action *could not possibly* have induced disclosure of the requested records because Respondents *were not withholding the requested records*."] (emphasis original) with

*Sukumar v. City of San Diego* (2017) 14 Cal.App.5th 451, 454 ["A defendant's voluntary action in providing public records that is induced by plaintiff's lawsuit will still support an attorney fee award on the rationale that the lawsuit spurred defendant to act or was a catalyst speeding defendant's response."].) Simply put, Respondent Ocean City's contention that "the only relevant issue in a CPRA action, for purposes of fees, *is the position of the agency defendant* regarding the release of requested records" is incorrect. The relevant inquiry is whether the requester who intervenes in the reverse-CPRA action prevails in that action. (See Ocean City Br. at 13 (emphasis original); see also El Cajon and National City Br. at 12.)

### B. Appellants are entitled to reasonable fees from the Unions under California's private attorneys general statute.

California's private attorneys general statute provides for the recovery of attorneys' fees by a party who prevails in litigation protecting the public interest. The statute states:

> Upon motion, a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any.

(Cal. Civ. Proc. Code § 1021.5.) "[A]ttorneys fees must be awarded" under this provision "when the statutory criteria are met unless special circumstances render such an award unjust." (*Robinson v. City of Chowchilla* (2011) 202 Cal.App. 382, 391; see also

*Serrano v. Unruh* (1982) 32 Cal. 3d 621, 633 [stating that the California private attorneys general statute "require[s] a full fee award unless special circumstances would render such an award unjust"].) Indeed, "[t]he fundamental objective of the doctrine is to encourage suits enforcing important public policies by providing substantial attorney fees to litigants in such cases." (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 565.) The Reporters Committee agrees with Appellants that by prevailing against the Unions before the trial court, Appellants enforced an important public right affecting the public interest and are entitled to fees under the private attorneys general statute. (See, e.g., Media Intervenors Br. at 39–42; Media Intervenors Reply Br. at 12–14.)

Section 1021.5 "rests upon the recognition that privately initiated lawsuits are often essential to the effectuation of fundamental public policies embodied in constitutional or statutory provisions," (see *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 565). This rationale closely mirrors the purpose of the CPRA's mandatory fee provision, which was designed to encourage requesters to pursue judicial enforcement of the Act's disclosure provisions, as Appellants did here. Absent their intervention in this reverse-CPRA lawsuit, an important public right—the right of access to law enforcement records made public under SB 1421—would have gone unenforced. Precluding successful public records requesters, like Appellants, from recovering attorneys' fees under the private attorneys general statute in reverse-CPRA cases like this one will disincentivize future requesters from seeking to vindicate the public's right to prompt access to government information under the CPRA.

## CONCLUSION

For all of these reasons the Reporters Committee urges this Court to reverse the order of the trial court order prohibiting Appellants from recovering attorneys' fees.

Dated: December 20, 2019

Respectfully submitted,

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS
Katie Townsend (SBN 254321)
Bruce D. Brown**
Lin Weeks**
***Of counsel*

*/s/ Katie Townsend*
Katie Townsend
*Counsel of Record for Amicus Curiae*

## CERTIFICATE OF WORD COUNT

Pursuant to Rule 8.204(c) of the California Rules of Court, I hereby certify that the attached amicus curiae brief was produced using 13-point Roman type, including footnotes, and contains 3,557 words. I have relied on the word-count function of the Microsoft Word word-processing program used to prepare this brief.

Dated: December 20, 2019

*/s/ Katie Townsend*
Katie Townsend
*Counsel of Record for Amicus Curiae*

## PROOF OF SERVICE

I, Lin Weeks, do hereby affirm that I am, and was at the time of service mentioned hereafter, at least 18 years of age and not a party to the above-captioned action. My business address is 1156 15th St. NW, Suite 1020, Washington, D.C. 20005. I am a citizen of the United States and am employed in Washington, District of Columbia.

On December 20, 2019, I served the foregoing documents: **Application for Leave to File Amicus Curiae Brief and Proposed Amicus Curiae Brief of the Reporters Committee for Freedom of the Press in Support of Intervenors and Appellants** as follows:

**[x] By TrueFiling electronic delivery**:

All counsel of record

**[x] By mail**: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed below and dropped the envelope off at a United States Postal Service facility, with postage fully prepaid. I am a resident or employed in the county where the mailing occured.

Clerk
San Diego County Superior Court
330 West Broadway
San Diego, CA 92101

For delivery to:
Honorable Eddie C. Sturgeon
Department 67

I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

Executed on December 20, 2019, in Washington, D.C.

By: */s/ Lin Weeks*
Lin Weeks
lweeks@rcfp.org