IN THE CIRCUIT COURT OF THE CITY OF SAINT LOUIS
STATE OF MISSOURI

Ruby Freeman and Wandrea Moss, Plaintiff(s)/Counterclaim Defendant(s), v. James Hoft, Joseph Hoft, and TGP Communications LLC d/b/a *The Gateway Pundit,* Defendant(s)/Counterclaim Plaintiff(s).	Case No. 2122-CC09815

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO DISMISS COUNTERCLAIM

Just because you are in a lawsuit, that does not give you the unmitigated privilege of defaming the opposing party outside of court pleadings. Yet, that is precisely what Ruby Freeman and Wandrea Moss ask this Court to declare is the law. Of course, they are not serious about this legal proposition—if they were, they would not have filed their Second Amended Petition, wherein at Paragraphs 151-162, they make claim against Defendants over their own post-suit statements. The motion to dismiss is a baseless, dilatory tactic designed to thwart scrutiny regarding the profit motives of Protect Democracy, which is filling its coffers on the backs of Defendants' reputation. It must be denied.

1.0 Factual Background

Protect Democracy is a politically-motivated entity that employs Attorneys John Langford, Brittany Williams, and Rachel Goodman to represent Ruby Freeman and Wandrea Moss in this politically-motivated lawsuit; likewise, Attorney David Schulz has done so in the course and scope

of his work with Yale University.[1] Counterclaim at ¶¶ 1-7 & 13. They have engaged in fundraising to pay these lawyers to sue Joseph Hoft, James Hoft, and TGP Communications as political lawfare. *Id.* at ¶¶ 17 & 18. Instead of attempting to make Ms. Freeman and Ms. Moss whole for any injuries they may have suffered, these individuals have claimed that others, including former President Donald Trump, former Mayor Rudolph Giuliani, and One America News Network were actually the causes of the claimed injuries, for which it appears they have already been compensated. *Id.* at ¶¶ 14-16.

Outside of legal pleadings, Protect Democracy, including its employed lawyers in the course and scope of representing Ruby Freeman and Wandrea Moss, made a series of public, false and defamatory statements about Joseph Hoft, James Hoft, and TGP Communications. *Id.* at ¶¶ 19-35. Those false statements are as follows:

- On its misnamed "Law4Truth" website,[2] Protect Democracy, on behalf of its clients Ruby Freeman and Wandrea Moss, published the following false and defamatory statement: "*The Gateway Pundit, along with its founding editor Jim Hoft, and contributor Joe Hoft, knowingly fabricated and disseminated blatantly false stories claiming that Ms. Freeman and Ms. Moss were involved in a conspiracy to commit election fraud, and continued to publish these untruths long after they were proven to be false*."[3] *Id.* at ¶ 20.
- Protect Democracy, on behalf of its clients Ruby Freeman and Wandrea Moss, published the following false and defamatory statement: "*The Hofts' defamations, aimed at*

[1] A scrivener's error in Paragraph 7 refers to Yale University as "Protect Yale University", mirroring the beginning of Paragraph 6. Counterclaim Defendants do not appear to contest this is a scrivener's error.
[2] Law4Truth admits it engages in "strategic litigation", which is precisely what the first two letters in the "SLAPP suit" acronym stand for. https://www.law4truth.org/what-we-do . This is what is known as "saying the quiet part out loud."
[3] https://www.law4truth.org/freeman-moss-gp

undermining confidence in the 2020 election in an effort to overturn the will of the voters, targeted two Black women for doing their jobs as election workers. In significant measure because of the lies told by The Gateway Pundit, our clients were and continue to be targeted with threats of violence and racial intimidation."[4] *Id.* at ¶ 23.

- Attorney Brittany Williams of Protect Democracy, on behalf of their clients Ruby Freeman and Wandrea Moss, published the following false and defamatory statement: *"Lies like those that The Gateway Pundit knowingly told about Ruby Freeman and Shaye Moss cannot be divorced from the devastation they leave behind—both for the targeted individuals and for our democracy itself."*[5] *Id.* at ¶ 28.
- On or about March 12, 2022, in an interview on NPR, Attorney John Langford of Protect Democracy, on behalf of Ms. Freeman and Ms. Moss, published the following false and defamatory statement: "*But that didn't stop some of the former president's top allies in the media - The Gateway Pundit, One America News Network - from continuing to spread that lie about our clients*."[6] *Id.* at ¶ 30.
- On or about December 2, 2021, Protect Democracy, on behalf of Ms. Freeman and Ms. Moss, published the following false and defamatory statement of and concerning Counterclaim Plaintiffs: "*The defendants repeatedly published unverified and uncorroborated information claiming that Ms. Freeman and Ms. Moss were involved in a conspiracy to commit election fraud. They continued to publish these untruths long after they were proven to be false. Further, by identifying Ms. Freeman and Ms. Moss by name*

[4] https://protectdemocracy.org/update/the-gateway-pundit-must-defend-itself-in-missouri-state-court-judge-rules/

[5] https://protectdemocracy.org/work/defamed-georgia-election-workers-sue-the-gateway-pundit-over-ballot-fraud-disinformation/

[6] https://www.npr.org/2022/03/12/1086274333/libel-suits-and-disinfo

and by publishing pictures of them online, Gateway Pundit caused, and was directly responsible for, the abuse and harassment Ms. Freeman and Ms. Moss suffered."[7] *Id.* at ¶ 32.

- On December 2, 2021, the Yale University Media Freedom & Information Access Clinic, on behalf of Ms. Freeman and Ms. Moss, published the following false and defamatory statement of and concerning Counterclaim Plaintiffs: "*Last year the Gateway Pundit knowingly published lies about two Georgia election workers.*"[8] *Id.* at ¶ 36; and
- On December 2, 2021, Attorney David Schulz of the Yale University Media Freedom & Information Access Clinic, on behalf of Ms. Freeman and Ms. Moss, published the following false and defamatory statement of and concerning Counterclaim Plaintiffs: "*the type of disinformation campaign waged by the Gateway Pundit is undermining the very ability of our democracy to function*." *Id.* at ¶ 38.[9]

Based on these statements, Counterclaim Plaintiffs made a claim of defamation *per se* against Counterclaim Defendants, "as they impute a lack of integrity and misconduct in the field of journalism, their line of calling. *Id.* at 44-45. And, because Counterclaim Defendants had, in their possession, the actual statements of Counterclaim Defendants, they had actual knowledge that these statements contained no factual inaccuracies, notwithstanding any disagreement with opinions and conclusions drawn from the factual statements, meaning they were knowingly false or made in reckless disregard of the truth or falsity thereof. *Id.* at 53-54. As a proximate result of

[7] https://protectdemocracy.org/update/defamed-georgia-election-workers-sue-the-gateway-pundit-over-ballot-fraud-disinformation/

[8] https://twitter.com/MFIAclinic/status/1466479845576171524?s=20&t=CSuKgwHIXlGhluNa6vz4uQ

[9] *See* https://law.yale.edu/yls-today/news/mfia-clinic-files-suit-behalf-georgia-election-workers . Although the citation to the source was omitted from the Counterclaim, Counterclaim Defendants do not appear to contest this statement was made.

the defamation, Counterclaim Plaintiffs suffered general, actual, consequential, and special damages, including, but not limited to, impairment of reputation and standing. *Id.* at ¶ 56.

2.0 Legal Standard

As the Missouri Supreme Court recognizes, in a motion under Rule 55.27(a)(6), "[a] motion to dismiss is an attack on the petition and solely a test of the adequacy of the pleadings. [The Court] must determine if the facts pleaded and the reasonable inferences therefrom state any grounds for relief. We assume the factual allegations are true and make no attempt to weigh credibility or persuasiveness. We review the petition in an almost academic manner to determine if the facts alleged meet the elements of a recognized cause of action or of a cause that might be adopted in that case." *Avila v. Cmty. Bank of Va.*, 143 S.W.3d 1, 4 (Mo. banc 2020)(internal citations omitted.

Counterclaim Defendants also bring their motion pursuant to Rule 55.27(a)(11), which is a defense "[t]hat the counterclaim or cross-claim is one which cannot be properly interposed in this action." Counterclaim Defendants incorrectly assert are no cases interpreting this rule, though they suggest it means that matters outside the pleadings may be referred to (as only Rule 55.27(a)(6) explicitly cabins such motions).[10] Counterclaim Plaintiffs disagree with this interpretation—Rule 55.32 governs what counterclaims and cross-claims may be interposed, whether compulsory or permissive. *Compare J.C. Jones & Co. v. Doughty*, 760 S.W.2d 150 (Mo. App. 1988)(interpreting same rule as formerly numbered Rule 55.27(a)(12)); *J.C. Jones & Co. v. Doughty*, 760 S.W.2d 150 (Mo. App. 1984). Counterclaim Defendants make no argument that the counterclaims are not permissive under Rule 55.32(b), by which "[a] pleading may state as a

[10] That they misinterpret the rule does not favor them either, as they do not refer to matters outside the pleadings.

counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim." None of the statements at issue in the Counterclaim are the subject matter of the claims in the Second Amended Petition. Thus, to the extent the motion is brought under Rule 55.27(a)(11), it must be denied as frivolous.

3.0 Argument

Counterclaim Defendants cannot avoid their liability for defaming Messrs. Hoft and TGP Productions by pretending the claims are something different and then making straw man arguments. A properly pleaded defamation claim was filed. It is not a malicious prosecution claim. The statements were not privileged. And, the statements were made with actual malice.

3.1 This is a Defamation Claim, Not Malicious Prosecution

Counterclaim Defendants devote the bulk of their motion to miscasting the defamation claim as one for malicious prosecution. It is not. Counterclaim Defendants jump through hoops to make this argument, but the Court should not join this circus.

At no point in *State ex rel. O'Basuyi v. Vincent*, 434 S.W.3d 517 (Mo. 2014), does the Supreme Court of Missouri address claims for defamation brought against the opposing party based on any statements, let alone extrajudicial ones that do not directly address allegations made in a pleading. Neither does the *O'Basuyi* citation to *In re Solv-Ex Corp. Sec. Litig.*, 198 F. Supp. 2d 587, 597 (S.D.N.Y. 2002), *quoting Harris v. Steinem*, 571 F.2d 119, 124 (2d Cir. 1978) support this argument. The *O'Basuyi* Court was citing to these cases for the sole proposition that "a claim in the nature of malicious prosecution, which arises out of the bringing of the main action, generally cannot be asserted either as a compulsory or a permissive counterclaim, since such a claim is premature prior to the determination of the main action." 434 S.W.3d at 523. Counterclaim Plaintiffs do not dispute this proposition.

Moreover, in *Harris,* thie defendant "counterclaimed for libel based both on the complaint itself, which was alleged to have been 'brought maliciously,' and also on several subsequent published statements of Harris concerning her lawsuit." 571 F.2d at 121. In contrast, Counterclaim Plaintiffs make no claims based on the Second Amended Petition nor on published statements explicitly concerning this lawsuit. Thus, even if the *O'Basuyi* decision could be understood to adopt *sub silencio* the holding that a libel claim based on statements made in and about a lawsuit is a flavor of malicious prosecution, such does not affect any of the claims made here. Notably, in questioning the soundness of *Harris* on this point, the Fourth Circuit Court of Appeals took care to distinguish *Harris*, permitting as a counterclaim defamation claim that were "distinct and apart from a filing of a lawsuit[,]" as is the case here. *Painter v. Harvey,* 863 F.2d 329, 333-334 (4th Cir. 1988).

There are no good policy reasons to dismiss the counterclaim, which is not even recognized as a proper Rule 55.27(a) defense. Missouri courts should not accept Counterclaim Defendants' invitation to create a new rule that would allow one side to repeatedly amend a petition to add post-petition statements as new defamation claims (as they have done), while denying the other side a forum in which to contest statements made about them. What is sauce for the goose should be sauce for the gander, and it is inequitable to apply a double standard or force a defendant to initiate a separate lawsuit. *Compare Computer Assocs. Int'l, Inc. v. Altai, Inc*., 893 F.2d 26, 29 (2d Cir 1990)(refusing to enjoin prosection of separate defamation action filed by original defendant in another court where it could not be made a counterclaim under *Harris*). Just as Plaintiffs are suing Defendants for post-litigation statements, so, too, in a permissive counterclaim, should Counterclaim Plaintiffs have the right to sue for Counterclaim Defendants' own statements. Otherwise, the Court would give a license to a plaintiff to commit libel merely by filing suit, for

which there is no legal basis, and seemingly excuse plaintiffs' lawyers (and only plaintiffs' lawyers) from their obligations under Rule 4-3.6(a) of the Rules of Professional Conduct.

In fact, as Counterclaim Defendants note, there is overlap between the claims in chief and the counterclaims. For example, Yale's statement "*Last year the Gateway Pundit knowingly published lies about two Georgia election workers*" speaks to whether Defendants made their statements with actual malice, *i.e.* whether they were knowingly false or made in reckless disregard of the truth or falsity. It makes little sense to have two competing court cases address this issue—whether Messrs. Hoft or TGP knowingly lied—with a potential for inconsistent outcomes. Nor can Counterclaim Plaintiffs (or any defendant, for that matter) afford to sit idly by and wait for a decision here, as they must be mindful of short statutes of limitations on defamation claims, especially as other courts have not seen fit to adopt the ill-considered *Harris* holding that a defamation claim can be a type of malicious prosecution claim.

Counterclaim Defendants' "policy reasons" help them little. If they prevail in their defamation claim, that would be decided at the same time as the counterclaim, so there is little to be saved in terms of judicial economy. Neither is there potential for tactical abuse here—Counterclaim Plaintiffs specifically selected actionable statements that were neither in nor about pleadings, in order to avoid privilege defenses. Yet, to not allow the counterclaim to proceed is abusive, for it lets one side, and only one side, commit defamation without recourse. Nor is there risk of any plaintiff being discouraged—except, perhaps, a plaintiff who hires lawyers who use their case as a fundraising mechanism instead of for legitimate litigation purposes, which abuses the judicial system.

The counterclaim is not a dilatory tactic—it was interposed because there is only so much abuse a defendant need suffer at the hands of commercial donation solicitations by opposing

counsel. It was Plaintiffs' choice to continue amending the petition, knowing that a counterclaim could be interposed under the rules—if they are allowed to continue lumping more claims into this case, with no evidence of potential incremental harm, merely so they can inflate numbers, then Defendants must be allowed to exercise their rights as well. Neither should Counterclaim Plaintiffs be penalized because they sought to contest overbroad and excessive discovery requests and, like any other litigant faced with a court's discretion over discovery, prevailed in some and not in others.

The counterclaim was not interposed to drive a wedge between Plaintiffs and their counsel. To the contrary, the motion to dismiss only confirms that their counsel were both acting in the course and scope of their representation and in support of the entities' advocacy and fundraising purposes, which is exactly what prompted Defendants' concerns regarding the confidentiality protective order. If counsel perceive a conflict of interest between their goals and their clients', that is because of their actions and has nothing to do with the validity of the counterclaims. Similarly, the risks regarding counsel being witnesses were risks they took when they chose to defame Counterclaim Plaintiffs. An injured party should not be denied recourse merely because a lawyer is doing it in the course and scope of representing an opposing party, otherwise that would give lawyers a license to violate Rules 4-3.4, 4-4.1, 4-4.4, and 4-8.4(c) & (d). Disallowing the counterclaim would only encourage bad behavior by plaintiffs' attorneys at the expense of defendants. Thus, there is no basis to dismiss the counterclaim on the straw man argument it is a claim for malicious prosecution.

3.2 The Statements were Not Privileged

Counterclaim Defendants made a multitude of false and defamatory statements about Counterclaim Plaintiffs. However, only seven were identified for the counterclaim precisely

because they are not privileged. Notably, Counterclaim Defendants do not attempt to highlight any portion of the complained-of statements to assert they are within the bounds of the privilege.

Counterclaim Defendants cite to Restatement (Second) of Torts § 586 for the proposition that the statements of counsel are "absolutely privileged". However, that privilege only applies, by the very terms placed in bold in the motion "during the course of and as a part of, a judicial proceeding in which he participates as counsel, if it has some relation to the proceeding." Not one of the statements at issue were part of any judicial proceeding. Rather, they are all statements made on non-judicial websites—Twitter, an NPR interview, and Yale and Protect Democracy's various websites. Three of the statements are on pages that solicit donations.[11] The statements at issue do not fall within the bounds of the absolute privilege.

Neither should this Court accept Counterclaim Defendants' footnoted argument to expand an absolute privilege to "extrajudicial statements reporting or elaborating on the contents of a petition[.]" Motion at 15 n. 5. "Because absolute privilege is a complete immunity and an exception to the general rules of liability for defamation and is founded on a definite public policy, the tendency and policy of the courts is to not extend the number or instances of absolute privilege unless the policy upon which privilege is based is found to exist in the new situations." *Laun v. Union Electric Co.*, 350 Mo. 572, 578 (1942). As recently as 2020, it has only been applied to statements "contained both in the pleadings and in pre-suit correspondence seeking to address concerns made the basis of the lawsuit for which those pleadings derive." *Blueline Rental, Llc, & United Rentals v. Rowland*, 2020 U.S. Dist. LEXIS 68782, *15-16 (E.D. Mo. Apr. 20, 2020). There

[11] The pages were cited by URL in the counterclaim and were, thereby, incorporated by reference. "Matters quoted in, attached to, or incorporated by reference into the pleadings may be considered" in a dispositive motion. *Busch v. Busch*, 310 S.W.3d 253, 259 (Mo. App. 2010)(addressing similarly-considered motion for judgment on the pleadings).

is no good policy to allow counsel for a party to defame the other party in the media, whether it be its own website, social media, or the news—those statements are not in pleadings nor "seeking to address concerns." Hit-jobs are antithetical to the rules of professional conduct. Moreover, even if there were such a good policy, the statements were no "regarding or elaborating on the content of a petition", and Counterclaim Defendants offer nothing to suggest they are. While they might state, at times, what has also been stated in documents covered by the privilege, there is no indication to the public that that is what the lawyers are doing. None of the statements at issue are of the kind "As we said in the Petition, X"; instead, the public is simply and falsely being told by lawyers that X is true.

Counterclaim Defendants do not truly believe their arguments. If they did, they would have immediately withdrawn the Second Amended Petition as frivolous, as it, too, asserts liability for post-suit statements made about a party to litigation, that could potentially be interpreted as falling under the same purported absolute privilege. The statements identified in Paragraphs 151-163 of the Second Amended Petition merely mirror what Counterclaim Plaintiffs pleaded in their answer(s) and other filings in this case. That they have not withdrawn these paragraphs is damning to their efforts to claim there is some policy basis on which the privilege should be extended. Thus, the absolute privilege does not allow Counterclaim Defendants to lie about Counterclaim Plaintiffs in the media with impunity. The motion, therefore, should be denied.

3.3 The Defamation Claims were Properly Pleaded

Counterclaim Plaintiffs made a single claim for defamation *per se*, and they properly pleaded it. "To prevail on a claim for defamation, [a plaintiff] must prove the following elements: 1) publication, 2) fault, 3) the statement is defamatory, 4) causation, and 5) damages." *Semo Servs. v. BNSF Ry. Co.*, 660 S.W.3d 430, 437 (Mo. App. E.D. 2022). "Statements falsely attributing

conduct incompatible with the complaining party's business are defamatory *per se*." *Id.* "[I]n defamation cases the old rules of *per se* and *per quod* do not apply and plaintiff need only to plead and prove the unified defamation elements set out in MAI 23.01(1) and 23.01(2)." *Nazeri v. Missouri Valley College*, 860 S.W.2d 303, 313 (Mo. 1993). These requirements have been met.

Counterclaim Defendants contend that the pleading of damages was insufficient. *Nazeri* abandoned the old rule of pleading special damages in *per quod* cases and presuming damages in *per se* case. Counterclaim Plaintiffs pleaded "actual…damages, including, but not limited to, impairment of reputation and standing." Counterclaim at ¶ 56. Counterclaim Defendants assert this is insufficient, but then only point generally to what they claim are "specific harms". Messages may cause a harm, but they are not a harm of themselves. Temporary relocation is not of itself a harm—it is a mitigation. Each and every harm pleaded by Plaintiffs was as broad and conclusory as those pleaded by Counterclaim Plaintiffs. *Compare* Second Amended Petition at ¶¶ 6-7, 165-195, 210-213, 231 & 241. Thus, damages were properly pleaded. Of course, in the event the Court determines that damages were not sufficiently pleaded (or any part of the claim, for that matter), Counterclaim Plaintiffs should be given leave to replead, per Rule 67.06.

As to the issue of "actual malice", Counterclaim Plaintiffs also sufficiently pleaded that issue. Counterclaim Plaintiffs do not dispute that they are, at a minimum, limited purpose public figures, who must plead "actual malice" "that is, with knowledge that the statements were false, or with a reckless disregard as to whether they were true or false." *Sigafus v. St. Louis Post-Dispatch*, 109 S.W.3d 174, 176-177 (Mo. App. E.D. 2003). However, once more, Counterclaim Defendants make a straw man argument, pretending the counterclaim says something it does not, and then arguing against the imaginary point. Counterclaim Plaintiffs do not plead that possession by Counterclaim Defendants (and their counsel) of the articles means they must have known the

contents therein were true. Rather, Counterclaim Plaintiffs knew the seven statements were false or recklessly disregarded the truth or falsity of the seven statements because the articles themselves did not substantiate their claims. Nothing in the articles shows that:

- Counterclaim Plaintiffs knowingly fabricated and/or disseminated any blatantly false stories regarding Ms. Freeman or Ms. Moss. Counterclaim at ¶ 21. To the contrary, the articles show that Counterclaim Plaintiffs lacked subjective doubt as to the statemens about Ms. Freeman and Ms. Moss.
- Counterclaim Plaintiffs published untruths after they have been irrefutably proven to be false. *Id.* at ¶¶ 22 & 34. To the contrary, the articles show that Counterclaim Plaintiffs were never provided with irrefutable proof that their statements were false.
- Counterclaim Plaintiffs aimed to undermine confidence in the 2020 election. *Id.* at ¶ 24. To the contrary, the articles show that Counterclaim Plaintiffs sought to restore confidence by rooting out fraud.
- Counterclaim Plaintiffs targeted two Black women for doing their jobs as election workers. *Id.* at ¶ 25. To the contrary, the articles show that Counterclaim Plaintiffs wrote about them for not doing their jobs, since election fraud is not supposed to be part of an election workers' job.
- Counterclaim Plaintiffs knowingly told or spread lies about Ms. Freeman or Ms. Moss or engaged in a disinformation campaign. *Id.* at ¶¶ 26, 30, 31, 37 & 39. To the contrary, the articles show that Counterclaim Plaintiffs lacked any subjective doubt as to their statements about Ms. Freeman and Ms. Moss.

- Counterclaim Plaintiffs caused Ms. Freeman or Ms. Moss to be targeted with threats of violence or racial intimidation. *Id.* at ¶ 27. To the contrary, nothing in the articles suggests either woman should be threatened with violence or racial intimidation. That a reader might have independently done so would be like saying "Taxi Driver" caused President Reagan to be shot.
- Counterclaim Plaintiffs published unverified or uncorroborated information regarding Ms. Freeman or Ms. Moss. *Id.* at ¶ 33. To the contrary, the articles show the bases on which Counterclaim Plaintiffs drew their conclusions.
- Counterclaim Plaintiffs caused abuse or harassment of Ms. Freeman or Ms. Moss. *Id.* at ¶ 35. Again, nothing in the articles suggests either woman should be abused or harassed.

It is not circular to plead that because these lawyers had the articles in question they knew what they were saying was false. It is a direct, targeted accusation—they knew it was false because they had the information that showed otherwise. It matters little how many paragraphs appear in the Second Amended Petition when the articles themselves, possessed by these drafters, disprove the extra-judicial statements. Straw man arguments are not "basic logic", and the motion to dismiss should be denied. Actual malice was sufficiently pleaded.

4.0 Conclusion

Counterclaim Defendants cannot escape the consequences of their extra-judicial lies about Messrs. Hoft and TGP Communications. While they may be immune in lying to the Court (which comes with a separate risk, of course), they cannot lie to the public in false statements detached from the litigation. Novel arguments that extra-judicial statements not about the lawsuit are somehow malicious prosecution should be given any weight. The claim was fully and properly

pleaded as to all elements, including damages and actual malice. The motion to dismiss should be denied in its entirety.

Dated: July 11, 2023

Respectfully Submitted,

/s/ *John C. Burns*

John C. Burns (25456)
Burns Law Firm
P.O. Box 191250
St. Louis, Missouri 63119
P: (314) 329-5040
F: (314) 282-8136
TBLF@pm.me

Marc J. Randazza (*Pro Hac Vice)*
Randazza Legal Group, PLLC
4974 S. Rainbow Blvd., Ste. 100,
Las Vegas, NV 89118
P: (888) 887-1776
ecf@randazza.com

Jay M. Wolman (*Pro Hac Vice*)
Randazza Legal Group, PLLC
100 Pearl Street, 14th Floor
Hartford, CT 06013
P: (888) 887-1776
ecf@randazza.com

Attorneys for Defendants,
James Hoft, Joseph Hoft, and TGP Communications LLC d/b/a The Gateway Pundit.

CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2023 the foregoing document was served on all parties or their counsel of record through this Court's e-filing system as follows:

James F. Bennett
John C. Danforth
Matt D. Ampleman
Dowd Bennett LLP
7733 Forsyth Blvd, Suite 1900
St. Louis, MO 63105
jbennett@dowdbennett.com
jdanforth@dowdbennett.com
mampleman@dowdbennett.com

Von A. DuBose
75 14th Street, NE, Suite 2110
Atlanta, Georgia 30309
dubose@dubosemiller.com

Kurt G. Kastorf
Kastorf Law LLC
1387 Iverson Street NE, Suite #100
Atlanta, GA 30307
kurt@kastorflaw.com

Brittany Williams
UNITED TO PROTECT DEMOCRACY, INC.
15 Main St., Suite 312
Watertown, MA 02472
brittany.williams@protectdemocracy.org

Shalini Goel Agarwal
UNITED TO PROTECT DEMOCRACY, INC.
2020 Pennsylvania Ave. NW, Suite 163
Washington, DC 20006
shalini.agarwal@protectdemocracy.org

John Langford
Rachel Goodman
UNITED TO PROTECT DEMOCRACY, INC.
82 Nassau Street, #601
New York, NY 10038

john.langford@protectdemocracy.org
rachel.goodman@protectdemocracy.org

David A. Schulz
Michael Linhorst
MEDIA FREEDOM & INFORMATION ACCESS CLINIC
FLOYD ABRAMS INSTITUTE FOR FREEDOM OF EXPRESSION
YALE LAW SCHOOL
127 Wall Street
P.O. Box 208215
New Haven, CT 06520
david.schulz@yale.edu
michael.linhorst@yale.edu

Attorneys for Plaintiffs

/s/ *John C. Burns*
John C. Burns