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19 **IN THE UNITED STATES DISTRICT COURT FOR THE**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 **Pro Publica Inc.,**

22 *Plaintiff,*

23 v.

24 **Rear Admiral Lea Reynolds; Carlos**
25 **Del Toro; Caroline D. Krass; and**
26 **Lloyd J. Austin, III,**

27 *Defendants.*

28 Case No. 3:22-CV-1455-BTM-KSC
**UNOPPOSED MOTION OF THE
REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS AND 34
MEDIA ORGANIZATIONS FOR
LEAVE TO FILE AMICI CURIAE
BRIEF IN SUPPORT OF
PLAINTIFF PRO PUBLICA, INC.’s
MOTION FOR SUMMARY
JUDGMENT**

Date: February 21, 2025

Time: 11:00 a.m.

Judge: Hon. Barry Ted Moskowitz

1 Proposed amici curiae the Reporters Committee for Freedom of the Press
2 (“Reporters Committee”) and the 34 Media Organizations identified below (together,
3 “amici”) respectfully request leave to file the attached amici curiae brief in support of
4 Plaintiff Pro Publica, Inc.’s (“ProPublica” or “Plaintiff”) Motion for Summary Judgment.

5 Plaintiff consents to the filing of amici’s brief. Counsel for amici asked Defendants’
6 counsel if they would oppose the filing of amici’s brief, and Defendants’ counsel responded
7 and asked amici to convey the following: “Defendants do not object to the extent that the
8 amicus brief does not simply duplicate Plaintiff’s briefs. See, e.g., *Voices for Choices v.*
9 *Illinois Bell Tel. Co.*, 339 F.3d 542, 544 (7th Cir. 2003).” As is clear from a comparison
10 of Plaintiff’s briefs and amici’s brief, amici’s brief does not simply duplicate Plaintiff’s.
11 As such, the filing of amici’s brief is unopposed.

12 Amici write to emphasize the public interest at stake in this case and to highlight the
13 importance of timely access to court documents to the news media and the public. As
14 advocates for the First Amendment and newsgathering rights of members of the news
15 media, amici have an interest in the issues presented that extends beyond the facts of this
16 particular case, as the attached brief explains. As organizations that report the news,
17 including stories concerning the U.S. armed forces, and/or advocates for the interests of
18 the press, amici have a strong interest in safeguarding the public’s presumptive right of
19 access to court documents. See, e.g., *Press-Enter. Co. v. Superior Ct. of Cal., Riverside*
20 *Cnty.*, 478 U.S. 1, 13 (1986); *United States v. Travers*, 25 M.J. 61, 62 (C.M.A. 1987).
21 Timely access to court documents—including records in court-martial proceedings—is
22 essential to accurate and thorough reporting about the military justice system. *Grove Fresh*
23 *Distribs., Inc. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994) (“To delay or
24 postpone disclosure” at the time when the public is most interested in a case “undermines
25 the benefit of public scrutiny and may have the same result as complete suppression.”).
26 The attached brief also sets forth examples of news reporting about the U.S. military
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1 implicating important public policy issues, many of which relied on access to military
2 documents.

3 In further support of the motion, amici state as follows:

4 1. Amici have a long-standing interest in the issues raised by this litigation. On
5 October 5, 2022, the Reporters Committee filed an unopposed motion for leave to proceed
6 as amicus curiae in support of ProPublica’s motion for a preliminary injunction. ECF No.
7 14. The Court denied the Reporters Committee’s motion as moot without prejudice to
8 renew, after the parties stipulated to a stay of the proceedings. ECF No. 43. Additionally,
9 the Reporters Committee and 38 other media and news organizations sent a letter to
10 Department of Defense General Counsel Caroline D. Krass regarding her predecessor’s
11 guidance on Article 140a of the Uniform Code of Military Justice, upon which the Navy
12 has relied to deny access in this and other courts-martial. See Letter from Reporters
13 Committee and 38 Media Orgs. to C. Krass, Gen. Couns., Dep’t of Def. (Sept. 13, 2022),
14 available at [https://www.documentcloud.org/documents/22415281-2022-09-13-us-v-](https://www.documentcloud.org/documents/22415281-2022-09-13-us-v-mays-news-media-coalition-letter/)
15 [mays-news-media-coalition-letter/](https://www.documentcloud.org/documents/22415281-2022-09-13-us-v-mays-news-media-coalition-letter/).

16 2. The attached brief provides information and context from the perspective of
17 the broader news media, including several news organizations that regularly or exclusively
18 report on the U.S. military and Department of Defense, which may aid the Court here in its
19 decisional process. The Reporters Committee regularly files briefs in federal and state
20 courts regarding the First Amendment right to access. See, e.g., Brief of *Amici Curiae*
21 Reporters Committee & 27 Media Orgs., *Courthouse News Serv. v. Planet*, 947 F.3d 581
22 (9th Cir. 2020); Brief of *Amici Curiae* Reporters Committee & Nat’l Press Photographers
23 Assoc., *Leigh v. Salazar*, 677 F.3d 892 (9th Cir. 2012).

24 3. This motion to proceed as amici curiae is not being filed to harass, delay, or
25 for any other improper purpose. Defendants’ reply is due to be filed on February 11, and
26 the hearing on the parties’ cross-motions for summary judgment is scheduled for February
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21. Granting this motion and accepting this amici curiae brief as filed would cause no delays in the schedule ordered by the Court nor would it prejudice either party.

Statements of Interest of Individual Amici Curiae

American Broadcasting Companies, Inc. is a broad-based communications company. Alone or through its subsidiaries, it owns ABC News, abcnews.com, and local broadcast television stations that regularly gather and report news to the public. ABC News produces the television programs World News with David Muir, Good Morning America, Nightline, 20/20, and This Week, among others.

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.

Courthouse News Service is a California-based legal news service that publishes a daily news website with a focus on politics and law. The news service also publishes daily reports on new civil actions and appellate rulings in both state and federal courts throughout the nation. Subscribers to the daily reports include law firms, universities, corporations, governmental institutions, and a wide range of media including newspapers, television stations and cable news services.

Dow Jones & Company is the world's leading provider of news and business information. Through The Wall Street Journal, Barron's, MarketWatch, Dow Jones

1 Newswires, and its other publications, Dow Jones has produced journalism of unrivaled
2 quality for more than 130 years and today has one of the world's largest newsgathering
3 operations. Dow Jones's professional information services, including the Factiva news
4 database and Dow Jones Risk & Compliance, ensure that businesses worldwide have the
5 data and facts they need to make intelligent decisions. Dow Jones is a News Corp company.

6 **The E.W. Scripps Company** is the nation's fourth-largest local TV broadcaster,
7 operating a portfolio of 61 stations in 41 markets. Scripps also owns Scripps Networks,
8 which reaches nearly every American through the national news outlets Court TV and
9 Newsy and popular entertainment brands ION, Bounce, Grit, Laff and Court TV Mystery.
10 The company also runs an award-winning investigative reporting newsroom in
11 Washington, D.C., and is the longtime steward of the Scripps National Spelling Bee.

12 **First Amendment Coalition** ("FAC") is a nonprofit public interest organization
13 dedicated to defending free speech, free press and open government rights in order to make
14 government, at all levels, more accountable to the people. The Coalition's mission assumes
15 that government transparency and an informed electorate are essential to a self-governing
16 democracy. FAC advances this purpose by working to improve governmental compliance
17 with state and federal open government laws. FAC's activities include free legal
18 consultations on access to public records and First Amendment issues, educational
19 programs, legislative oversight of California bills affecting access to government records
20 and free speech, and public advocacy, including extensive litigation and appellate work.
21 FAC's members are news organizations, law firms, libraries, civic organizations,
22 academics, freelance journalists, bloggers, activists, and ordinary citizens.

23 **Gannett** is the largest local newspaper company in the United States. Our more than
24 200 local daily brands in 43 states — together with the iconic USA TODAY — reach an
25 estimated digital audience of 140 million each month.

26 **The Inter American Press Association** ("IAPA") is a not-for-profit organization
27 dedicated to the defense and promotion of freedom of the press and of expression in the
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1 Americas. It is made up of more than 1,300 publications from throughout the Western
2 Hemisphere and is based in Miami, Florida.

3 **The Intercept Media, Inc.** is a non-profit digital media venture committed to
4 rigorous, adversarial journalism in the public interest.

5 **Los Angeles Times Communications LLC** is one of the largest daily newspapers
6 in the United States. Its popular news and information website, www.latimes.com, attracts
7 audiences throughout California and across the nation.

8 **The Media Institute** is a nonprofit foundation specializing in communications
9 policy issues founded in 1979. The Media Institute exists to foster three goals: freedom of
10 speech, a competitive media and communications industry, and excellence in journalism.
11 Its program agenda encompasses all sectors of the media, from print and broadcast outlets
12 to cable, satellite, and online services.

13 **MediaNews Group** is a leader in local, multi-platform news and information,
14 distinguished by its award-winning original content and high quality local media. It is one
15 of the largest news organizations in the United States, with print and online publications
16 across the country.

17 **Military Reporters & Editors** exists to advance public understanding of the
18 military, national security and homeland defense. It advocates on behalf of journalists to
19 the government and military, and it informs the public and stakeholders about the
20 importance of our mission. It defends the right to obtain information and access to places
21 where the U.S. military and its allies operate. And it educates members and the public on
22 best practices, tools and techniques for such coverage.

23 **Military.com** is the leading global news and information website for U.S. service
24 members, veterans and their families, and its newsletters reach more than 2 million readers
25 a month. Military.com was founded in 1999 by a veteran who wanted to help navigate the
26 world of defense information and benefits. Since then, its award-winning newsroom, now
27 the largest covering the U.S. military in the world, has delivered critical daily news along
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1 with in-depth investigations on issues that impact the military community. Military.com
2 has been honored with the top reporting awards, including the Gerald R. Ford Journalism
3 Prize for Distinguished Reporting on National Defense and the Joe Galloway Award,
4 presented by Military Reporters and Editors. That work has yielded countless changes to
5 military policy to help protect and assist service members, veterans and their families. Its
6 passion for informing and serving as a watchdog for the military community is deeply
7 embedded in the publication, with a majority of its staff made up of veterans, retirees,
8 military spouses and spouses of veterans.

9 **The National Freedom of Information Coalition** is a national nonprofit,
10 nonpartisan organization of state and regional affiliates representing 45 states and the
11 District of Columbia. Through its programs and services and national member network,
12 NFOIC promotes press freedom, litigation and legislative and administrative reforms that
13 ensure open, transparent and accessible state and local governments and public institutions.

14 **National Newspaper Association** is a 2,000 member organization of community
15 newspapers founded in 1885. Its members include weekly and small daily newspapers
16 across the United States. It is based in Pensacola, FL.

17 **The National Press Club** is the world's leading professional organization for
18 journalists. Founded in 1908, the Club has 3,100 members representing most major news
19 organizations. The Club defends a free press worldwide. Each year, the Club holds over
20 2,000 events, including news conferences, luncheons and panels, and more than 250,000
21 guests come through its doors.

22 **The National Press Photographers Association** ("NPPA") is a 501(c)(6) non-
23 profit organization dedicated to the advancement of visual journalism in its creation,
24 editing and distribution. NPPA's members include television and still photographers,
25 editors, students and representatives of businesses that serve the visual journalism industry.
26 Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of
27 journalists as well as freedom of the press in all its forms, especially as it relates to visual
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1 journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher,
2 its General Counsel.

3 **The Navy Times** provides quality, unbiased reporting on the important issues for
4 the military community, and sailors and their families rely on it as a trusted, independent
5 source for news and information on the most important issues affecting their careers and
6 personal lives. The Navy Times is a part of the Sightline Media Group, formerly known as
7 the Army Times Publishing Company, which first published Army Times in 1940.
8 Throughout its history, the company has a strong heritage and tradition of meeting the
9 highest standards of independent journalism and has expanded with publications serving
10 all branches of the U.S. military, the global defense community, the U.S. federal
11 government, and several special interest, defense-oriented industry sectors. Sightline
12 Media Group also publishes, among others, The Army Times, Defense News, and the
13 website, MilitaryTimes.com.

14 **The New York Times Company** is the publisher of The New York Times and
15 operates the news website nytimes.com.

16 **The News/Media Alliance** represents over 2,200 diverse publishers in the U.S. and
17 internationally, ranging from the largest news and magazine publishers to hyperlocal
18 newspapers, and from digital-only outlets to papers who have printed news since before
19 the Constitutional Convention. Its membership creates quality journalistic content that
20 accounts for nearly 90 percent of daily newspaper circulation in the U.S., over 500
21 individual magazine brands, and dozens of digital-only properties. The Alliance diligently
22 advocates for newspapers, magazine, and digital publishers, on issues that affect them
23 today.

24 **Nexstar Media Inc.** (“Nexstar”) is a leading diversified media company that
25 leverages localism to bring new services and value to consumers and advertisers through
26 its traditional media, digital and mobile media platforms. Nexstar owns, operates, programs
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1 or provides sales and other services to 199 television stations and related digital multicast
2 signals reaching 116 markets or approximately 62% of all U.S. television households.

3 **The Online News Association** is the world’s largest association of digital
4 journalists. ONA’s mission is to inspire innovation and excellence among journalists to
5 better serve the public. Membership includes journalists, technologists, executives,
6 academics and students who produce news for and support digital delivery systems. ONA
7 also hosts the annual Online News Association conference and administers the Online
8 Journalism Awards.

9 **Radio Television Digital News Association** (“RTDNA”) is the world’s largest and
10 only professional organization devoted exclusively to electronic journalism. RTDNA is
11 made up of news directors, news associates, educators and students in radio, television,
12 cable and electronic media in more than 30 countries. RTDNA is committed to encouraging
13 excellence in the electronic journalism industry and upholding First Amendment freedoms.

14 **Sinclair Broadcast Group, Inc.** is a diversified media company and leading
15 provider of local news and sports. The Company owns, operates and/or provides services
16 to 185 television stations in 86 markets; is a leading local news provider in the country;
17 owns multiple national networks; and has TV stations affiliated with all the major broadcast
18 networks and owns and/or operates 21 RSN brands. Sinclair’s content is delivered via
19 multiple-platforms, including over-the-air, multi-channel video program distributors, and
20 digital and streaming platforms. Sinclair, either directly or through its venture subsidiaries,
21 makes equity investments in strategic companies. Sinclair Broadcast Group, Inc. was
22 founded in 1986, went public in 1995 and is traded on the NASDAQ Global Select Market
23 under the ticker symbol SBGI.

24 **The Slate Group** publishes Slate, a daily online magazine. Slate features articles
25 and podcasts analyzing news, politics and contemporary culture.

1 **The Society of Environmental Journalists** is the only North-American
2 membership association of professional journalists dedicated to more and better coverage
3 of environment-related issues.

4 **Society of Professional Journalists** (“SPJ”) is dedicated to improving and
5 protecting journalism. It is the nation’s largest and most broad-based journalism
6 organization, dedicated to encouraging the free practice of journalism and stimulating high
7 standards of ethical behavior. Founded in 1909 as Sigma Delta Chi, SPJ promotes the free
8 flow of information vital to a well-informed citizenry, works to inspire and educate the
9 next generation of journalists and protects First Amendment guarantees of freedom of
10 speech and press.

11 **Student Press Law Center** (“SPLC”) is a nonprofit, nonpartisan organization
12 which, since 1974, has been the nation’s only legal assistance agency devoted exclusively
13 to educating high school and college journalists about the rights and responsibilities
14 embodied in the First Amendment to the Constitution of the United States. SPLC provides
15 free legal assistance, information and educational materials for student journalists on a
16 variety of legal topics.

17 **TEGNA Inc.** owns or services (through shared service agreements or other similar
18 agreements) 64 television stations in 52 markets.

19 **The Tully Center for Free Speech** began in Fall, 2006, at Syracuse University's
20 S.I. Newhouse School of Public Communications, one of the nation's premier schools of
21 mass communications.

22 **Vox Media, LLC** owns New York Magazine and several web sites, including Vox,
23 The Verge, The Cut, Vulture, SB Nation, and Eater, with 170 million unique monthly
24 visitors.

25 **The War Horse** is an award-winning nonprofit newsroom and the most trusted
26 source for bulletproof reporting on the human impact of military service. Its
27 reporting seeks to strengthen democracy by holding power to account and improving the
28

1 public’s understanding of the true cost of military service. The U.S. government spends
2 nearly \$1 trillion annually on defense and veterans affairs, more than twice what it spends
3 on health care, education, infrastructure, and diplomacy combined; yet, less than 5% of
4 journalism focuses on military service. This imbalance negatively impacts not only U.S.
5 national security and the viability of the all-volunteer military force, but the everyday lives
6 of veterans, military families, and our nation as a whole. The War Horse team is setting the
7 standard for reporting stories that matter, with diligence and integrity, to rebuild
8 Americans’ trust in the press.

9 ***

10 For the foregoing reasons, amici respectfully request leave to file the attached amici
11 curiae brief in support of ProPublica’s Motion for Summary Judgment.

12 Dated: January 24, 2025

Respectfully submitted,

13
14 /s/ Jean-Paul Jassy

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