

IN THE FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

ECONOMIC DEVELOPMENT COMMISSION
OF FLORIDA'S SPACE COAST, a Florida
non-profit corporation,

Appellant,

vs.

CASE NO. 5D14-1356

SCOTT ELLIS, in his official capacity as
Brevard County Clerk of the Circuit Court,

Appellee.

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

The First Amendment Foundation, Inc., The Associated Press, The Bradenton Herald, Inc., The Florida Center for Investigative Reporting, The Florida Press Association, Florida Society of News Editors, Halifax Media Group, LLC, Miami Herald Media Company, Miami Herald Media Company, Orlando Sentinel Communications, LLC, Palm Beach Newspapers, LLC, Scripps Media, Inc., Sun-Sentinel Company, LLC, and Tampa Media Group, (“*Amici*”) through counsel, seek leave to file an amicus curiae brief in support of Appellee in the above matter, and in support would show the following:

Identity and Interest of the Amici Curiae

1. The First Amendment Foundation is a 501(c)(3) tax-exempt, non-profit organization established in 1984 by other non-profits – the Florida Press Association, the Florida Society of News Editors and the Florida Association of Broadcasters – to ensure government openness and transparency. The Foundation was created to advocate the public interest in free speech, free press and open government and to providing training and legal advocacy. The

Foundation has filed numerous amicus briefs in the Florida courts relating to Florida's Public Records Act and access to judicial proceedings. The Foundation provides education and training, monitors open records and meetings laws, and assists citizens and journalists in obtaining access to government.

2. The Associated Press ("AP") is a news cooperative organized under the Not-for-Profit Corporation Law of New York, and owned by its 1,500 U.S. newspaper members. The AP's members and subscribers include the nation's newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 300 locations in more than 100 countries. On any given day, AP's content can reach more than half of the world's population.

3. The Bradenton Herald, Inc. publishes *The Bradenton Herald*, a daily newspaper of general circulation serving Manatee County since 1922.

4. The Florida Center for Investigative Reporting ("FCIR"), founded in 2010, is a nonprofit, digital and bilingual investigative journalism organization working to expose corruption, waste and miscarriages of justice. FCIR produces investigative journalism in collaboration with its partners, including traditional and ethnic news media. FCIR is a statewide network that delivers reports on multiple platforms, including print, radio, television and online. FCIR is a member of the Investigative News Network, a coalition of nonprofit news organizations dedicated to in-depth, investigative journalism in the public interest.

5. The Florida Press Association is a Section 501(c)(6) trade association incorporated in Tallahassee, Florida. It represents daily and weekly newspapers in Florida on a variety of issues, including those affecting the First Amendment rights of its member newspapers and rights of access to records and proceedings.

6. Florida Society of News Editors is a membership organization that seeks to advance the cause of responsible journalism through educating the public about relevant stories and publications around the state.

7. Halifax Media Group, LLC (d/b/a *The Daytona Beach News-Journal*, *The Gainesville Sun*, *Ocala Star Banner*, and *The Ledger*) owns 35 newspaper publications and affiliated websites. *The Daytona Beach News-Journal* is a newspaper of general circulation that has served Volusia and Flagler counties since 1883; *The Gainesville Sun* is a newspaper of general circulation that has served Alachua and surrounding counties for decades; *The Ledger* is an award-winning newspaper of general circulation that has served Polk and surrounding counties since 1924; and the *Ocala Star Banner* is a newspaper of general circulation based in Ocala, Florida that serves Marion and surrounding counties.

8. Miami Herald Media Company publishes the *Miami Herald*, a daily newspaper of general circulation in South Florida. It has won 20 Pulitzer Prizes for its reporting.

9. Morris Communications Corporation (d/b/a *The Florida Times-Union*) is a diverse media organization with interests in newspaper, magazines, radio and specialized print publications. Specifically, *The Florida Times-Union* is a general circulation newspaper located in Jacksonville, Florida and serving Duval and surrounding counties.

10. Orlando Sentinel Communications, LLC, publishes the *Orlando Sentinel*, a daily newspaper located in Central Florida that circulates throughout the State.

11. Palm Beach Newspapers, LLC, a division of Cox Media Group, owns and operates *The Palm Beach Post* and *The Palm Beach Daily News*, newspapers and affiliated websites serving Palm Beach County and the Treasure Coast.

12. Scripps Media, Inc. (d/b/a *Naples Daily News, Stuart News, St. Lucie News Tribune, Jupiter Courier, Indian River Press Journal, TC Palm, Sebastian Sun, Vero Beach Newsweekly*, WFTS-TV and WPTV-TV) is a diverse media concern with interests in newspaper publishing, broadcast television stations, national lifestyle cable networks, electronic commerce, interactive media, and licensing and syndication. Scripps operates daily and community newspapers in more than a dozen markets across the country, broadcast TV stations, cable and satellite television programming networks, a television retailing network and online search and comparison shopping services.

13. Sun-Sentinel Company, LLC is the publisher of the *Sun-Sentinel*, a Pulitzer Prize-winning daily newspaper located in South Florida that circulates throughout the State.

14. The Tampa Media Group, Inc. (d/b/a *The Tampa Tribune, Brandon News, Carrollwood News, Central Tampa News, Hernando Today, Highlands Today, Northeast News, Northwest News, Pasco Tribune, St. Petersburg Tribune, Plant City Courier, South Shore News, South Tampa News, The Sun, and Suncoast News*), owns several newspaper publications and affiliated websites in the Tampa Bay region.

13. The protection of access to public records serves fundamental constitutional values. *Amici* regularly investigate and report to the public on government activity. To fully realize their constitutionally protected watchdog role, *Amici* frequently rely on open records laws across the country to observe and scrutinize the conduct of public officials and activities. To that end, they have an ongoing stake in ensuring such laws remain robust and are not abused by government entities seeking to hide their actions from public review and scrutiny.

14. It is respectfully submitted that the proposed analysis by *Amici* of the important questions raised by this appeal may assist this Court in resolving the issues presented. *Amici*

believe that the Court would benefit from an amicus curiae brief that addresses the competing interests between the right of citizens to governmental transparency and governmental agencies that delegate economic development functions to another body.

15. *Amici* seek leave to file an amicus brief under such schedule and circumstances as the Court may allow as provided in Rule 9.370, Fla. R. App.P.

16. The undersigned's office has consulted with each of the attorneys for the parties to this proceeding and is authorized to represent that there is no opposition to the proposed filing of an amicus brief.

WHEREFORE, *Amici* respectfully request leave to submit a brief under such circumstances and schedule as the Court permits.

Respectfully submitted,

/s/ Andrea Flynn Mogensen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 5, 2014, a copy of the foregoing was filed with the Clerk of Court via the e-Portal, and served via e-mail on the following:

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