

21-800

In the
United States Court of Appeals
For the Second Circuit

STEVEN D. COLEMAN,

Plaintiff-Appellant,

– v. –

MARÍA K. GRAND,

Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
CASE NO. 1:18-CV-05663; THE HONORABLE ERIC N. VITALIANO

MOTION OF MICHAEL BALTER
FOR LEAVE TO FILE AN *AMICUS* BRIEF

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Pursuant to Federal Rule of Appellate Procedure 29(a)(2), *amicus curiae* Michael Balter moves for leave to file the attached amicus brief in support of Defendant-Appellee María Kim Grand and affirmance of the district court. Defendant-Appellee Grand consented to the filing of this amicus brief.

A motion for leave to file an amicus brief “must be accompanied by the proposed brief and state: (A) the movant’s interest; and (B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.” Fed. R. App. Proc. 29(a)(3). *Amicus* Balter’s proposed brief is included as Attachment 1. *Amicus* Balter’s interest, the reasons an *amicus* brief is desirable in this appeal, and an explanation of why the matters asserted in the brief are relevant to the disposition to the case are discussed below.

Amicus Michael Balter is an independent investigative journalist who reports on issues concerning sexual harassment and assault, particularly in academia and the sciences. He and other journalists covering similar issues regularly face the threat of legal action in connection with this reporting. Once already, this threat has materialized into an actual \$18 million defamation suit against Balter. *See* Compl., *Kurin v. Balter*, 7:20-cv-04613 (S.D.N.Y. Jun 16, 2020), ECF No. 1. Litigations like the one against *amicus* Balter are no more than an attempt to silence survivors of sexual assault and harassment and the reporters telling their

stories. Even where a journalist will ultimately prevail on the merits of a libel suit, defending such a suit is expensive and time-consuming.

Based on his experience reporting under the threat of such lawsuits, and because he believes in the importance of continued robust reporting on sexual misconduct by powerful individuals, *amicus* Balter has a special interest in upholding First Amendment press freedoms, particularly as those protections apply to #MeToo reporting.

The positions Plaintiff-Appellant urges in this case would upend the New York legislature's recent amendments to the state's anti-SLAPP statute and have dire practical consequences for journalists who cover #MeToo issues. In the attached brief, *amicus* Balter primarily seeks to address these real-world implications and to urge affirmance of the decision below. First, the brief provides an overview of the critical role journalists play in exposing sexual misconduct by powerful individuals. Next, the brief addresses the legal risks journalists face in covering such stories, the particular harm frivolous lawsuits aimed at silencing survivors and reporters cause to freelance journalists and small publications, and the chilling effect that these suits have on journalists and survivors alike. Finally, the brief argues that robust First Amendment protections – such as those reflected in New York's recent amendments to its anti-SLAPP statute and in the district court's decision – are especially crucial for journalists covering #MeToo-related

stories. In short, the proposed brief provides the Court with a unique perspective on the practical consequences at stake in this case beyond the implications for the parties themselves.

For these reasons, *amicus* Balter respectfully requests leave to file the attached *amicus* brief in support of Defendant-Appellee Grand.

Dated: October 13, 2021

Respectfully submitted,

/s/ Jared K. Carter

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Motion of Michael Balter for Leave to File an Amicus Brief, with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system on October 13, 2021.

All counsel of record in this case are registered CM/ECF users and will be served via the appellate CM/ECF system.

/s/ Jared K. Carter

Jared K. Carter

*Counsel for Amicus Curiae Michael
Balter*

Dated: October 13, 2021

Attachment 1

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Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
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**BRIEF FOR *AMICUS CURIAE* MICHAEL BALTER IN
SUPPORT OF DEFENDANT-APPELLEE AND
AFFIRMANCE OF THE DISTRICT COURT**

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
IDENTITY AND INTEREST OF <i>AMICUS CURIAE</i>	1
SOURCE OF AUTHORITY TO FILE	2
INTRODUCTION	2
ARGUMENT	
I. Journalists play a critical role in exposing sexual misconduct by powerful individuals.....	3
A. Investigative #MeToo journalism has shed light on the previously unchecked sexual misconduct of scores of individuals.....	4
B. Investigative journalism is frequently a catalyst for individuals to speak out publicly for the first time about sexual assault and harassment	6
C. #MeToo reporting drives institutional and cultural change	8
II. Reporting on #MeToo issues is rife with legal risk	9
III. Robust First Amendment protections – such as those reflected in New York’s recent anti-SLAPP amendments and the district court’s decision – are especially crucial for journalists covering #MeToo issues.....	12
A. New York’s previous anti-SLAPP statute failed to provide sufficient protections to reporters covering #MeToo issues and others speaking out about issues of public importance	12
B. The New York legislature significantly expanded anti-SLAPP protections in part to protect those who speak out against sexual harassment, abuse, and assault	14

C. The lower court’s decision reflects the robust First Amendment
protections embodied by New York’s revised anti-SLAPP law and
critical to #MeToo journalism15

CONCLUSION.....15

CERTIFICATE OF COMPLIANCE.....17

CERTIFICATE OF SERVICE18

TABLE OF AUTHORITIES

Page

Cases:

Fairfax v. CBS Corp.,
2 F.4th 286 (4th Cir. 2021).....10

Rules, Laws and Statutes:

Federal Rule of Appellate Procedure 29(a)(2).....2
N.Y. Civ. Rights § 70-a14
N.Y. Civ. Rights § 76-a14, 15

IDENTITY AND INTEREST OF *AMICUS CURIAE*

Amicus curiae Michael Balter is an independent investigative journalist who reports on issues concerning sexual harassment and assault, particularly in academia and the sciences. *Amicus* Balter regularly faces the threat of legal action in connection with this reporting. Once already, this threat has materialized into an actual \$18 million defamation suit against Balter. *See* Compl., *Kurin v. Balter*, 7:20-cv-04613 (S.D.N.Y. Jun 16, 2020), ECF No. 1.

Litigations like the one against *amicus* Balter are no more than an attempt to silence #MeToo survivors and reporters telling their stories. Even where a journalist will ultimately prevail on the merits of a libel suit, defending such a suit is expensive and time-consuming. Based on his experience reporting under the threat of such lawsuits, and because he believes in the importance of continued robust reporting on sexual misconduct by powerful individuals, *amicus* Balter has a special interest in upholding First Amendment press freedoms, particularly as those protections apply to #MeToo reporting. The positions Plaintiff-Appellant urges in this case would upend the New York legislature's recent amendments to the state's anti-SLAPP statute and have dire practical consequences for journalists who cover #MeToo issues. In this brief, *amicus* Balter primarily seeks to address these real-world implications and to urge affirmance of the decision below.

SOURCE OF AUTHORITY TO FILE

Amicus Balter has moved for leave to file this brief in the accompanying motion pursuant to Federal Rule of Appellate Procedure 29(a)(2).

INTRODUCTION¹

Amicus curiae Michael Balter and many fellow journalists have devoted substantial time and energy to rigorous reporting on alleged sexual misconduct by individuals in positions of power, including Hollywood directors, scientists, celebrity chefs, doctors, and others. This reporting has played a critical role in sparking a worldwide social reckoning, holding countless bad actors accountable, and advancing public discourse around complex issues such as power and consent.

All too often, survivors of sexual assault and harassment and the journalists who cover their stories land in the legal crosshairs of the powerful individuals accused of misconduct. The First Amendment to the United States Constitution and New York's newly amended anti-SLAPP statute provide critical protections for journalists in these situations. The lower court's opinion in this case reflects several of these protections: namely, the actual malice standard for issues of public importance and the law of opinion based on disclosed facts. Overturning the lower

¹ No party's counsel authored this brief, in whole or in part. No party's counsel contributed money intended to fund the preparation or submission of this brief. Further, no person other than counsel for *amicus curiae* contributed money intended to fund preparation or submission of this brief.

court would upend these protections, magnifying the legal risks journalists covering #MeToo issues already face. It would also aggravate the chilling effect that already deters many survivors of sexual assault and harassment from speaking out and journalists from covering their stories. The district court must be affirmed.

ARGUMENT

I. Journalists play a critical role in exposing sexual misconduct by powerful individuals.

For years, investigative journalists have been instrumental in exposing sexual assault and harassment by individuals in positions of power. This is particularly true of the last four years, during which the #MeToo movement skyrocketed to global prominence as scores of high-profile individuals across industries were publicly accused of sexual misconduct. *See* Riley Griffin, Hannah Recht, & Jeff Green, *#MeToo: One Year Later*, Bloomberg (Oct. 5, 2018), <https://perma.cc/SGV8-7FN6> (in a “conservative accounting,” tallying over 400 “prominent people across industries . . . publicly accused of sexual misconduct” from October 2017 to October 2018). Members of the press who have taken on this reporting range from independent freelancers operating on a financial shoestring to journalists employed by large institutions such as *The New York Times*. These journalists have had an outsized impact in bringing to public account powerful men who abused positions of trust and authority. Several examples help illustrate the role of investigative journalism in bringing these stories to light.

A. Investigative #MeToo journalism has shed light on the previously unchecked sexual misconduct of scores of individuals.

Investigative journalism has long played a critical role in exposing wrongdoing by the powerful. In recent years, investigative journalists have increasingly focused on individuals accused of sexual misconduct, as well as the institutions that enable these individuals. To cite just a few prominent examples:

- In 2016, investigative journalists at *IndyStar* broke a story in which two former gymnasts accused doctor Larry Nassar of sexual abuse. Tim Evans, Mark Alesia, & Marisa Kwiatkowski, *Former USA Gymnastics Doctor Accused of Abuse*, *IndyStar* (Sept. 12, 2016), <https://perma.cc/E4R5-H2BV>. This story, along with related reporting by *IndyStar*, led to over 150 survivors alleging sexual abuse against Nassar, Nassar's arrest (and 175-year prison sentence), and the resignation of USA Gymnastics' longtime president. *Id.*; *IndyStar Wins Top Investigative Reporting Award*, *IndyStar* (Apr. 4, 2017), <https://perma.cc/DM48-MD9P>.
- The following year, journalists at *The New York Times* and *The New Yorker* published a series of "explosive, impactful" articles exposing sexual misconduct by powerful individuals in the entertainment industry, the most prominent being Harvey Weinstein. *The 2018 Pulitzer Prize Winner in Public Service*, *The Pulitzer Prizes*, <https://perma.cc/Y6A5-F5YJ>. This Pulitzer Prize-winning reporting has been widely credited with jumpstarting

the contemporary #MeToo movement. Most importantly, it brought Weinstein and others “to account for long-suppressed allegations of coercion, brutality and victim silencing. . . .” *Id.*

- In late 2017, investigative journalists at *The Washington Post* broke a story about then-Senate candidate Roy Moore’s alleged sexual misconduct toward teenage girls while he was an assistant district attorney in the late 1970s. *See The 2018 Pulitzer Prize Winner in Investigative Reporting, The Pulitzer Prizes*, <https://perma.cc/5RXW-BPKU>. Staff of *The Washington Post* received a Pulitzer for their reporting, and Moore lost his Senate race. *Id.*

#MeToo reporting is certainly not confined to large media outlets: freelance and independent journalists, along with small media organizations, frequently cover #MeToo stories as well, despite facing a unique set of considerations and challenges in this reporting. As freelancers and journalists at small publications report on these particularly complex and time-consuming stories, they must do so without the editorial and legal resources available to larger publications prior to publication, and without the guarantee of fulsome legal representation in the event of a lawsuit after publication.

Despite these challenges, freelance reporters and journalists at small publications have reported extensively on #MeToo issues. For example, since 2015, *amicus curiae* and independent journalist Michael Balter has shifted his

reporting from primarily science journalism to mostly investigative reporting about sexual misconduct in academia and the sciences. Michael Balter, *I Now Publish #MeToo Stories on My Blog, for Free. Here's Why.*, Colum. Journalism Rev. (Sept. 4, 2019), <https://perma.cc/7R6Z-D2DB>. And since mid-2018, Balter has primarily published his #MeToo reporting via his personal blog rather than in major publications. *Id.* There, he has reported on allegations involving dozens of professors, scientists, and others accused of sexual misconduct and related bad behavior. See Michael Balter, *A #STEMToo Rogue's Gallery of Sexual Harassers, Predators, and Bullies in the Sciences*, Balter's Blog (Dec. 14, 2018), <https://perma.cc/S3LZ-RPHT>. In Balter's words, #MeToo reporting by independent journalists is important because, "for every [Harvey] Weinstein, there are a hundred less powerful figures – academics among them – who are getting away with similar behavior simply because they don't attract the same level of scrutiny." Balter, *I Now Publish #MeToo Stories on My Blog, for Free. Here's Why.*, *supra*. Balter, and many other independent journalists, seek to report on abuses of power, regardless of the public prominence of the alleged perpetrators.

B. Investigative journalism is frequently a catalyst for individuals to speak out publicly for the first time about sexual assault and harassment.

Investigative reporters have frequently been able to encourage survivors of sexual assault and harassment to speak publicly for the first time—either directly

as part of a story, or as an indirect result of the reporting. For example, Rachel Denhollander, the first woman to accuse Larry Nassar of sexual abuse on the record, told *IndyStar* that its earlier investigation into USA Gymnastics “inspired her to speak out.” Evans, Alesia, & Kwiatkowski, *supra*. Five years later, seven-time Olympic medalist Simone Biles testified before a Senate committee that she “didn’t understand the magnitude of what all was happening [regarding her own abuse by Nassar] until [*IndyStar*] published its article in the fall of 2016” detailing allegations against him. *Dereliction of Duty: Examining the Inspector General’s Report on the FBI’s Handling of the Larry Nassar Investigation Before the S. Judiciary Comm.*, 117th Cong. 2 (2021) (statement of Simone Biles).

Journalists are able to provide a platform through which accusers can speak out with enhanced credibility and to a greater audience than they would have if speaking as individuals. In a similar vein, journalists may uncover corroborating evidence and witnesses to further bolster an accuser’s confidence. Roy Moore accuser Leigh Corfman told *The Washington Post* that she had not come forward previously in part due to “concern[] that her background – three divorces and a messy financial history – might undermine her credibility.” Stephanie McCrummen, Beth Reinhard, & Alice Crites, *Woman Says Roy Moore Initiated Sexual Encounter When She Was 14, He Was 32*, *The Washington Post* (Nov. 9, 2017), <https://perma.cc/Q432-G7HV>. Ultimately, she agreed to go on the record.

Victims sometimes are motivated to speak out when they know they are part of a larger story or set of accusers. In reporting on alleged sexual harassment at Vice, *The New York Times* noted that, as “word spread within the media industry that *The Times* was reporting on Vice, more than a dozen women and men contacted *The Times* with accounts that they said were humiliating and emotionally traumatic,” including “[s]everal [who] broke confidentiality agreements to speak on the record.” Emily Steel, *At Vice, Cutting-Edge Media and Allegations of Old-School Sexual Harassment*, *The New York Times* (Dec. 23, 2017), <https://perma.cc/E7WR-DBZ3>. As these examples help illustrate, reporters’ skill in rapport-building, institutional credibility, and “strength in numbers” all contribute to journalism serving as a catalyst for survivors to speak out.

C. #MeToo reporting drives institutional and cultural change.

Investigative reporting on #MeToo issues does not exist in a vacuum; it has significant real-world impact. At Larry Nassar’s sentencing, the prosecuting attorney credited *IndyStar* directly: “What finally started this reckoning and ended this decades-long cycle of abuse was investigative reporting. Without [the *IndyStar* stories] – he would still be practicing medicine, treating athletes and abusing kids.” Dwight Adams, *What Prosecutor Said About IndyStar’s Reporting in Larry Nassar Case*, *IndyStar* (Jan. 24, 2018), <https://perma.cc/2PZJ-N7SD>. Following reporting by *The New York Times* and *The New Yorker*, Harvey

Weinstein was sentenced to 23 years in prison. *See* Jan Ransom, *Harvey Weinstein's Stunning Downfall: 23 Years in Prison*, *The New York Times* (Mar. 11, 2020), <https://perma.cc/Z7BW-6YLT>. Writing about R. Kelly's recent criminal convictions, *The Atlantic* credited "years of activism and journalism" concerning Kelly. Spencer Kornhaber, *What Finally Brought R. Kelly Down*, *The Atlantic* (Sept. 28, 2021), <https://perma.cc/L5SE-6E8D>.

But the reach of #MeToo extends far beyond criminal convictions. A multitude of alleged bad actors have been fired or have resigned in connection with #MeToo allegations—both those reported via journalists and through other channels. *See* Griffin, Recht, & Green, *supra*. More broadly, #MeToo reporting, alongside the tidal wave of individuals speaking out via Twitter and elsewhere about their own experiences, has helped to spur organizational and cultural changes to increase accountability, transparency, and equity across industries.

II. Reporting on #MeToo issues is rife with legal risk.

Journalists, news outlets, and accusers such as Defendant-Appellee in this appeal routinely face litigation from individuals accused of misconduct seeking to silence their critics. These suits not only place a tremendous personal and professional hardship on their targets, but also serve (as they are intended) to discourage others from speaking out. While these suits frequently target accusers, plaintiffs also pursue journalists and outlets reporting these stories. For example,

former Virginia Lieutenant Governor Justin Fairfax filed a \$400 million defamation suit against CBS in 2019 for airing interviews of women who accused Fairfax of sexual assault. *See Fairfax v. CBS Corp.*, 2 F.4th 286 (4th Cir. 2021).

These tactical lawsuits cause particular harm to freelance and independent journalists, since these journalists invariably lack the resources to defend themselves. The same is true for small media publications, which could face financial ruin from a single suit. To the extent such journalists publish their work independently – like *amicus* Michael Balter – they often have trouble obtaining libel insurance due to the nature of their reporting; as a result, they could be left responsible for enormous attorney’s fees defending even obviously frivolous suits (or have to defend themselves *pro se*). *See* Laura Spinney, *How News Publications Put Their Legal Risk on Freelancers*, Colum. Journalism Rev. (Apr. 28, 2021), <https://perma.cc/5AUM-GDDQ>. And to the extent freelancers publish their work through established publications, such publications commonly require indemnification agreements and liability waivers, meaning freelancers could be on the hook for both their own *and* the publication’s legal fees. *Id.*

Larger news outlets may be able to pour extra resources into a #MeToo story both prior to and following publication. For example, when *BuzzFeed News* reporters investigating sexual misconduct claims against Tony Robbins found themselves in the legal crosshairs of Robbins’ lawyers, they devised “creative

approaches” such as sworn statements from their sources to stave off the threatened lawsuits. See Erik Crouch & Avi Asher-Schapiro, *Legal Threats Prompt Journalists to Take Creative Approaches to Investigative Stories*, Comm. to Protect Journalists, <https://perma.cc/7GSD-7LCY>. But many small outlets and freelancers do not have this option, as these approaches require a level of legal expertise and resources not readily available to freelancers and small publications. See *Untold Stories: A Survey of Freelance Investigative Reporters*, Freelance Investigative Reporters and Editors, 18 (2015), <https://perma.cc/8KA8-N4WQ> (addressing resource issue among freelancers). Instead, they must face the Hobson’s Choice between abandoning work they view as important and potentially risking their livelihood for a single story.

Similarly, for small publications, the risk associated with attorney’s fees from even a single lawsuit could be existential in magnitude. This means that many #MeToo stories never get published. In a 2019 article, Jon Ralston, founder and CEO of *The Nevada Independent*, explained his decision not to publish a “meticulously reported” piece about sexual misconduct allegations due to the threat of litigation over the piece. Jon Ralston, *Why We Didn’t Publish*, *The Nevada Independent* (Jan. 9, 2019), <https://perma.cc/B2G3-CCJW>. The piece reported on alleged sexual misconduct by executives at *The Las Vegas Review-Journal*, Nevada’s largest news organization. Ralston describes the piece’s

content and depth of reporting as “stunn[ing],” and the story as an important one for the local community. Despite this, and despite assurances from *The Nevada Independent’s* lawyers that the publication would ultimately prevail on the merits should it be sued over the piece, Ralston decided not to publish it. The risk was simply too great for a “startup nonprofit on a tight budget.” Attorney’s fees alone could bankrupt the organization. Ultimately, *Columbia Journalism Review* published this piece, but most stories killed this way never see the light of day.

III. Robust First Amendment protections – such as those reflected in New York’s recent anti-SLAPP amendments and the district court’s decision – are especially crucial for journalists covering #MeToo issues.

Given journalists’ essential role in exposing sexual misconduct by powerful individuals and the legal risks journalists face in this work, robust First Amendment protections are critical to protect against meritless libel suits targeting these journalists. Such protections are reflected in New York’s recently amended anti-SLAPP statute and in the district court’s decision. Affirmance of the district court is crucial to ensuring journalists covering #MeToo issues can carry out their reporting without fear of retaliatory suits crippling their livelihoods.

A. New York’s previous anti-SLAPP statute failed to provide sufficient protections to reporters covering #MeToo issues and others speaking out about issues of public importance.

Last year, the New York legislature passed a law amending the state’s anti-SLAPP statute and, by extension, significantly expanding statutory protections

for individuals who speak out against sexual misconduct and other issues of public importance. Robust anti-SLAPP statutes are critical to protecting those who speak out about sexual assault and harassment. *See, e.g.,* Andrea Johnson, Ramya Sekaran, & Sasha Gombar, *2020 Progress Update: MeToo Workplace Reforms in the States*, National Women’s Law Center, 12 (Sept. 21, 2020), <https://perma.cc/C8K6-ZRTN> (noting “states have strengthened their anti-SLAPP and related laws to provide greater protection to those who speak up about sexual harassment and assault”). Prior to the 2020 amendments to New York’s anti-SLAPP law, however, New York’s existing anti-SLAPP statute was – as put by the amendments’ sponsors – “woefully inadequate.” Brad Hoylman & Helene Weinstein, *Essay: New Bill Takes on Frivolous Lawsuits that Attempt to Silence Free Speech*, *The Journal News*, (July 16, 2020), <https://perma.cc/6M7W-9T2V>. New York had a “broken system” that allowed journalists and survivors of sexual abuse to “be[] dragged through the courts on retaliatory legal challenges solely intended to silence them.” Press Release, New York State Legislature, Senate and Assembly Majorities Advance Anti-SLAPP Legislation to Protect Free Speech (July 22, 2020), <https://perma.cc/S8VN-JG7Z>.

Before the 2020 amendments, the statute’s scope was limited: the speech-protective “actual malice” standard applied only in “action[s] involving public petition and participation,” defined narrowly as “action[s] . . . brought by a public

applicant or permittee.” N.Y. Civ. Rights § 76-a (McKinney 1993). Under this version of the law, journalists reporting on #MeToo issues were not protected. Also, the award of attorney’s fees was discretionary, meaning a prevailing defendant in a SLAPP suit could still face crippling attorney’s fees. *Id.* § 70-a.

B. The New York legislature significantly expanded anti-SLAPP protections in part to protect those who speak out against sexual harassment, abuse, and assault.

New York’s amended anti-SLAPP statute, effective November 2020, mitigates the legal risks journalists and survivors face in speaking out about survivors’ experiences with sexual misconduct. In fact, a former staffer for Senator Hoylman observed that “[o]ne of the arguments in support of strengthening New York’s anti-SLAPP law was helping survivors of rape and sexual assault defeat bogus defamation suits by their abusers.” @BurtonPhillips, Twitter (June 31, 2021, 9:25 PM), <https://perma.cc/35RY-T4X6>. The amended statute extends anti-SLAPP protections to all speech and conduct centered on issues of public interest, defined broadly to reach “any subject other than a purely private matter.” N.Y. Civ. Rights § 76-a (McKinney 2021). Now, when an issue of public interest is involved, plaintiffs can only prevail if they prove the statements at issue were made with actual malice—that is, with knowledge of their falsity or reckless disregard for their truth. *See id.* The amended statute also provides for attorney’s fees for prevailing anti-SLAPP defendants. *Id.* § 70-a.

C. The lower court's decision reflects the robust First Amendment protections embodied by New York's revised anti-SLAPP law and critical to #MeToo journalism.

In this case, the lower court's decision effectuates the intent of New York's legislature to protect those speaking out against sexual misconduct and other issues of public importance. It also provides journalists covering #MeToo issues with the breathing room necessary to share survivors' accounts and facilitate public discussion about complex issues surrounding the #MeToo movement: namely, the actual malice standard for issues of public importance and the law of opinion based on disclosed facts. Journalists seeking to give a voice to survivors of sexual harassment and assault should be encouraged in this reporting, not punished and deterred. Reversing the district court's decision will only accomplish the latter. Affirming the lower court is critical to protecting the First Amendment rights of #MeToo survivors and journalists telling their stories going forward.

CONCLUSION

For these reasons, *amicus curiae* Michael Balter requests the Court to affirm the district court's decision awarding summary judgment on Coleman's claims to Defendant-Appellee Grand.

Dated: October 13, 2021

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The Clinic is housed within Cornell Law School and Cornell University. Nothing in this brief should be construed to represent the official positions of these institutions.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
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AND TYPE STYLE REQUIREMENTS**

1. I certify that this brief complies with the type-volume limitation of Fed.R.App.P.32(a)(7)(B) because:

This brief contains 3,274 words, excluding the parts of the brief exempted by Fed.R.App.32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed.R.App.P.32(a)(5) and the type style requirements of Fed.R.App.P32(a)(6) because:

This brief has been prepared in Proportionally-Space typeface using Microsoft Word, in Times New Roman, Font Size 14.

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Brief for *Amicus Curiae* Michael Balter in Support of Defendant-Appellee and Affirmance of the District Court, with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system on October 13, 2021.

All counsel of record in this case are registered CM/ECF users and will be served via the appellate CM/ECF system.

/s/ Jared K. Carter

Jared K. Carter

*Counsel for Amicus Curiae Michael
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Dated: October 13, 2021