STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ANTRIM

PEOPLE OF THE STATE MICHIGAN,

Plaintiff,

v

SHAWN MICHAEL FIX, BRIAN PAUL HIGGINS, ERIC MOLITOR, MICHAEL JOHN NULL and WILLIAM GRANT NULL,

Defendants.

File Nos: 22-5165-FH
22-5166-FH
22-5167-FH
22-5168-FH
22-5169-FH

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MOTION TO INTERVENE AND OBJECTION TO PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS, BRIEF IN SUPPORT & PROOF OF SERVICE

Proposed Intervenor, Eric L. VanDussen, respectfully seeks to intervene in this action for the limited purpose of objecting to the PEOPLE 'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS, which was filed in these cases on January 25, 2023.

Because the People seek a protective order that would be overbroad, vague and would unlawfully restrict Proposed Intervenor's constitutionally-protected rights to gather news for public dissemination, Proposed Intervenor respectfully requests that he be permitted to intervene and participate in oral arguments regarding the People's motion. In support of this request, Proposed Intervenor states as follows:

1. There is tremendous public interest in these judicial proceedings, which are addressing serious allegations filed against five defendants who were allegedly involved in a plot to kidnap Michigan Governor Gretchen Whitmer.

2. Proposed Intervenor is a person engaged in news gathering and reporting, he is a member of the Michigan Press Association, and he is "Media," as defined within Michigan Supreme Court Administrative Order 1989-1(b).

3. MCR 6.201(E) outlines this procedure that courts in Michigan must follow prior to entering a protective order in a criminal case:

> On motion and a showing of good cause, the court may enter an appropriate protective order. In considering whether good cause exists, the court shall consider the parties' interests in a fair trial; the risk to any person of harm, undue annoyance, intimidation, embarrassment, or threats; the risk that evidence will be fabricated; and the need for secrecy regarding the identity of informants or other law enforcement matters. On motion, with notice to the other party, the court may permit the showing of good cause for a protective order to be made in camera. If the court grants a protective order, it must seal and preserve the record of the hearing for review in the event of an appeal.

4. The PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS was filed on January 25, 2023, and it asserts, in pertinent part, that "[d]isclosure of discovery materials to reporters and other individuals risks unnecessarily tainting the pool of

prospective jurors, jeopardizing every defendant's right to a fair and impartial trial." Said motion requests this Court to:

> […] enter a protective order **prohibiting the disclosure** of discovery materials, provided by either party, to anyone other than the parties in this case, the attorneys and their employees in this case, the United States' Attorney's Office, and law enforcement officers in this case. [emphasis added]

5. The term "disclose" is defined as "to make known or public."[1]

6. In *Dep't of Health & Human Servs v Genesee Circuit Judge*, 318 Mich App 395, 408-410; 899 NW2d 57 (2016), the Michigan Court of Appeals (COA) considered whether the Michigan Attorney General's Office had obtained unlawful protective orders during the investigation of the Flint Water Crisis, and the COA ultimately held:

> … none of the prerequisites for obtaining a protective order set forth in MCR 6.201(E) were fulfilled. No motions were filed, no showing of good cause was made, and no record was created. Therefore, we wholly reject the suggestion that MCR 6.201(E) supplied Judge Neithercut with authority to issue these protective orders.
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> * * *
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> In addition to our finding that the circuit court lacked legal authority to issue the protective orders, we hold that the broad scope of the orders constituted an abuse of Judge Neithercut's discretion. We have no evidence that the circuit court exercised any discretion before issuing the protective orders. "[T]he failure to exercise discretion when called on to do so constitutes an abdication and hence an abuse of discretion." *410 *People v. Stafford*, 434 Mich. 125, 134 n. 4, 450 N.W.2d 559 (1990).

7. The People's argument that they are concerned about protecting the defendants' right to a fair and impartial trail is disingenuous, as their own media office has recently issued a blatantly misleading press release on December 7, 2022, with the headline "Wolverine

[1] See MERRIAM-WEBSTER'S DICTIONARY, at: https://www.merriam-webster.com/dictionary/disclose

Watchmen Bound Over in Antrim County,"[2] which the People absolutely know is untrue.[3]

8. Proposed Intervenor filmed the defendants' preliminary examination, which was held from August 29 through September 1, 2022, and multiple defense attorneys argued that the government cherry-picked evidence and introduced certain exhibits without proper context.

9. Agents employed by the Michigan's Department of Attorney General voluntarily and intentionally disclosed into the public domain approximately 100 exhibits that were displayed in open court and admitted as evidence during said preliminary examination.

10. Decades ago, in *Craig v Harney*, 331 US 367, 374 (1947), the United States Supreme Court succinctly held:

> "**What transpires in the court room is public property."**
> [emphasis added]

11. The People are attempting to obtain a protective order from this court to hide public property (approximately 100 preliminary examination exhibits) that were already publicly disclosed in open court proceedings.

12. The protective order the People are seeking would additionally restrain at least one willing speaker, Defendant Eric Molitor, from making known newsworthy information to Proposed Intervenor.

13. As a recipient of Eric Molitor's speech, Intervenor has established standing to intervene in this matter. See: *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 756, 96 S.Ct. 1817, 48 L.Ed.2d 346 (1976).

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[2] See: https://www.michigan.gov/ag/news/press-releases/2022/12/07/wolverine-watchmen-bound-over-in-antrim-county

[3] See: https://medium.com/@ericlvandussen/wolverine-watchmen-stigma-is-bullshit-its-unfair-it-s-lies-says-antrim-county-defendant-8aa7405e4658

14. On January 8, 2023, Proposed Intervenor video recorded an interview with Defendant Eric Molitor[4] and the following is a partial transcript of said interview:

VanDussen: During your preliminary examination, your attorney, Bill Barnett, he argued that certain audio clips - that of, containing your voice that were secretly recorded, I'm assuming by [confidential informant] Dan - that the government cherry-picked those from hours and hours of recordings and your words - and your words were taken out of context. So, you just talked about it a little bit, but what context do you believe was missing from the audio recordings?

Molitor: All right. So the context being that I did not know what the ride was. I did not know that I just hopped in a vehicle with two guys who were going to go plan to kidnap a fucking governor. So to say that I did. Right. So you asked for – like what they said about me that's not true. That's just number one. And I had to give you some background on it. So I'm sorry for talking so much, but it does matter.

VanDussen: That's fine.

Molitor: Um, so yeah. So that's one of the lies. But that's - that's why I'm telling you this stuff is because I didn't know what the ride was about. So how could I even say: "No, I'm not done with that. Dude – like, stay the fuck away from me. I'm not going to send you my address." I didn't even have the opportunity to do that for myself. The first thing that I did hear when I got in the truck was Adam [Fox] said something about we're going to blow up – something about blowing up the bitch's boat, or something like that. I have heard so many dark jokes about the boat because her husband asked if he could put his boat in the marina, because he's the governor's husband. Okay. And people, so many people - I, I have a dark sense of humor. A lot of us guys do have a dark sense of humor in these circles. So, I just thought he was making a fucking joke. Who the hell sits down with somebody you don't know and says something like that, if it was serious? But he laughed about it.

* * *

VanDussen: With the exhibits that you have right there in front of you, those have exhibit stickers on them, and they were obviously admitted during your preliminary examination.

Molitor: Yes.

[4] See video clip of Molitor interview at: https://vimeo.com/791730258 (last accessed on 01/22/2023)

VanDussen: So there's a distinction between the evidence that was actually admitted during your preliminary examination and all the other, two terabytes of information - that's what I've been told.

Molitor: Yep.

VanDussen: That each of the attorneys received from either the Department of Justice or, and or the Attorney General's office in response to discovery demands. And you're aware that there was a protective order issued by 86TH District Court Judge Stepka at the initiation of your case, that your attorney stipulated to? You're aware of that?

Molitor: That he stipulated to while I was in jail. Yes. He said that he signed it on my behalf and then he asked me about it. Yes.

VanDussen: But, I guess what I'm getting at is that, you know, that your attorney made an argument at the preliminary examination that there's this cherry-picking of evidence. And would you - what is your feeling about that protective order that prohibits you from being - having the ability to provide me, a journalist, with all of the - the entire recordings - like a five hour recording where they take a clip that's 15 seconds out of, for instance.

Molitor: I would give it to you. I would give - if it was up to me, you would have it. Oh, my gosh, dude.

VanDussen: So the two terabytes, you would give me?

Molitor: Yes. If it was up to me, I have a flat - a little thumb drive thing and I got this fucking computer thing that the [Michigan] Attorney General's handed over. I'm like, what the fuck? I mean, you asking about all this stuff, dude, I can show you stacks of paper. I got all of it. Stacks of papers, and this is what I'm dwindled down to it. I'm not even into all of it. All that is everybody else. Everybody else went to meetings. Everybody else helped with planning. Everybody else talked. Everybody else. Everybody else did shit. What the – name one meeting that I was a part of where I knew what was going on and said, "yeah." Dude, I was not at any - any of these. Even the FTX training in Luther. Nobody talked about anything in front of me.

15. The People are essentially requesting this Court to issue a gag order, which would violate Proposed Intervenor's First Amendment right to gather information to report the news,

because they would explicitly prohibit information possessed by willing speakers from being "disclosed" to anyone, including Proposed Intervenor.

16. The People's vague request is seeking a protective order from this Court that would be overbroad and unlawfully restrict Proposed Intervenor's constitutionally-protected, First Amendment rights to gather and report news from Defendant Eric Molitor, and others.

17. "[W]ithout some protection for seeking out the news, freedom of the press could be eviscerated," *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972), and "[t]he protected right to publish the news would be of little value in the absence of sources from which to obtain it." *CBS, Inc. v. Young*, 522 F.2d 234, 238 (6th Cir. 1975).

18. In *People v. Sledge*, 312 Mich. App. 516-537, 879 N.W.2d 884 (2015), the Court found that a vague and overbroad gag order constituted an unconstitutional prior restraint on the freedom of speech and the freedom of the press guaranteed by the First Amendment:

> The United States and Michigan Constitutions guarantee freedom of speech and freedom of the press. U.S. Const. Am. I; Const. 1963, art. 1, § 5. The ability to gather news is entitled to at least some First Amendment protection. *Branzburg v. Hayes*, 408 U.S. 665, 681, 92 S.Ct. 2646, 33 L.Ed.2d 626 (1972). The United States Supreme Court has recognized the important role that the press plays in the administration of justice:
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> > A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field. Its function in this regard is documented by an impressive record of service over several centuries. The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes **891 to extensive public scrutiny and criticism. [*Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 559–560, 96 S.Ct. 2791, 49 L.Ed.2d 683 (1976) (quotation marks / citation omitted).]
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> * * *

> […] Prior restraints constitute "the most serious and the least tolerable infringement on First Amendment rights." *Nebraska Press*, 427 U.S. at 559, 96 S.Ct. 2791. "If it can be said that a threat of criminal or civil sanctions after publication 'chills' speech, prior restraint 'freezes' it at least for the time." *Id*. The damage of a prior restraint is especially great when the prior restraint prevents the media from publishing news stories and commentary on current events. *Id*. Thus, a prior restraint on speech is subject to the closest scrutiny, and there is a heavy presumption that a prior restraint on speech is unconstitutional. See *CBS*, 522 F.2d at 238. "To justify imposition of a prior restraint, the activity restrained must pose a clear and present danger, or a serious or imminent threat to a protected competing interest." *Id*. "The restraint must be narrowly drawn *529 and cannot be upheld if reasonable alternatives are available having a lesser impact on First Amendment freedoms." *Id*.
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> The gag order also fails under the strict scrutiny standard to overcome the heavy presumption of unconstitutionality *531 attached to all prior restraints. See *CBS*, 522 F.2d at 238. The trial court reasoned in its opinion and order denying the Free Press's motion to vacate the gag order that the possible prejudice to each defendant's Sixth Amendment right to a **894 fair trial justified the order. A defendant in a criminal case has the right to a fair trial by a panel of impartial jurors. *Nebraska Press Ass'n*, 427 U.S. at 551, 96 S.Ct. 2791. However, "[t]he authors of the Bill of Rights did not undertake to assign priorities as between First Amendment and Sixth Amendment rights, ranking one as superior to the other." Id. at 561, 96 S.Ct. 2791. A prior restraint on a First Amendment right will be upheld only if there is a clear showing that the exercise of the First Amendment right will interfere with the right to a fair trial. See *CBS*, 522 F.2d at 241. In order to determine whether the right to a fair trial justified the prior restraint, a court
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> > must examine the evidence before the trial judge when the order was entered to determine (a) the nature and extent of pretrial news coverage; (b) whether other measures would be likely to mitigate the effects of unrestrained pretrial publicity; and (c) how effectively a restraining order would operate to prevent the threatened danger. The precise terms of the restraining order are also important. [*Nebraska Press*, 427 U.S. at 562, 96 S.Ct. 2791.]

There was no clear showing that the exercise of First Amendment rights would interfere with defendants' right to a fair trial. Instead, the trial court did not make any findings of fact or conclusions of law when it entered the gag order. The court failed to consider the nature and extent of the pretrial news

> coverage, whether the gag order would prevent the danger to defendants' right to a fair trial, whether there were any willing speakers in this case, and whether there were any effective alternatives to the gag order. Thus, *532 the trial court failed to justify the prior restraint when it issued the gag order. See *Nebraska Press*, 427 U.S. at 562, 96 S.Ct. 2791; *In re Application of the New York Times Co.*, 878 F.2d 67, 68 (C.A.2, 1989) […] (citations omitted)

19. The protective order the People are seeking from this Court is distinctly similar to the type of gag order that was found to be unconstitutional in *People v. Sledge.*

20. Additionally, the protective order that the People are seeking would not address practical considerations regarding discovery materials that are already publicly available under the Michigan Freedom of Information Act, MCL 15.231, et seq. ("FOIA").

21. Further, the protective order that the People are seeking would not address all the discovery materials that have already been made publicly available through other means, such as the other court proceedings and the three trials that were already held in federal court and Jackson Co. Circuit Court regarding alleged co-conspirators of the Gov. Whitmer kidnaping plot.

22. Proposed Intervenor is currently suing Michigan Attorney General Dana Nessel, in the Court of Claims under the FOIA,[5] after he was denied access to all exhibit lists and exhibits that AG Nessel's agents successfully had admitted as evidence by Judge Stepka during the preliminary examination in the above-captioned cases.

23. If Judge Stepka's previously issued protective orders in these cases had not on-their-face prevented him from doing so, Proposed Intervenor would likely have already obtained all of the preliminary examination exhibits directly from Defendant Eric Molitor.

WHEREFORE, for these reasons, and those provided in the brief below, Proposed

[5] See: https://www.documentcloud.org/app?q=%2Bproject%3Aeric-l-vandussen-v-mi-ag-210765%20 (last accessed on 01/22/2023)

Intervenor respectfully requests that this Honorable Court:

A. Allow the Proposed Intervenor to intervene in this matter and participate in oral arguments, for the limited purpose of objecting to the PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS;

B. Schedule the People's Motion for a hearing as soon as practicable; and

C. Issue an Order Denying the PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS;

D. Grant such other and further relief as may be deemed just and equitable.

Date: January 26, 2023 Respectfully submitted,

/s/ Eric L. VanDussen

* * *

BRIEF IN SUPPORT OF MOTION TO INTERVENE AND OBJECTION TO PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS

Proposed Intervenor reincorporates the statements of facts and legal arguments made within the preceding motion and further states:

I. LAW AND ARGUMENT

The U.S. Supreme Court has recognized that a "prior restraint" includes all "judicial orders forbidding certain communications when issued in advance of the time that such communications are to occur," *Alexander v. U.S.*, 509 U.S. 544, 550 (1993), and has repeatedly and unequivocally held that court orders prohibiting speech are prior restraints. See, e.g., *Nebraska Press Ass 'n v. Stuart*, 427 U.S. 539, 556-559 (1976); *Org. for a Better Austin v. Keefe*, 402 U.S. 415, 418-419 (1971).

The protective order sought by the People would directly and preemptively forbid the five defendants and their attorneys from making known to the public certain information about this case to the media that they would otherwise be entitled to make known. The protective orders are unquestionably a prior restraint on Proposed Intervenor's and those other individuals' First Amendment rights.

The right of the news media to intervene in legal actions is well established where, as here, a court order is sought to impede the media's ability to gather and report the news. The protective order the People are seeking implicates Proposed Intervenors' right to access and disseminate news of substantial public interest,

If the People are successful in obtaining an overly broad protective order restricting access to all the discovery materials in these cases, it would prohibit newsworthy information from being disclosed to Proposed Intervenor by a willing speaker. As cited above, "disclose" is defined as "to make known or public."

A willing speaker (Eric Molitor) desires "to make known or public" information that an interested listener (Proposed Intervenor) desires to obtain and disseminate to the public. And, "[t]he protected right to publish the news would be of little value in the absence of sources from which to obtain it." *CBS, Inc. v. Young*, 522 F.2d 234, 238 (6th Cir. 1975).

Proposed Intervenor has standing in this case, as an interested listener, to assert the rights of a willing speaker subject to what are effectually gag orders. See: *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 756-757, 96 S.Ct. 1817, 48 L.Ed.2d 346 (1976), *People v. Sledge*, 312 Mich. App. 516-537, 879 N.W.2d 884 (2015).

Proposed Intervenor recognizes that this Court has important and competing duties both

to ensure the defendants' right to a fair trial and to preserve the public's and the media's right of access to newsworthy speech and information. However, the protective order the People are requesting would be overly broad and vague and it would clearly violate MCR 6.201(E). Proposed Intervenor also asserts that the People's proposed protective order would constitute an impermissible prior restraint on speech and infringe upon his constitutionally protected right to gather and report the news.

"Freedom of speech and of the press are guaranteed by federal and state constitutional provisions." US Const, Ams I, XIV; Const 1963, art 1, § 5; *In re Midland Publishing Co, Inc, v District Court Judge, 75th Judicial Circuit*, 420 Mich. 148, 156; 362 NW2d 580 (1984). The United States Supreme Court has interpreted these guarantees to afford special protection against orders that impose a prior restraint on speech by prohibiting the publication or broadcast of particular information or commentary. *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 556; 96 S Ct 2791, 2801; 49 L.Ed.2d 683 (1976). Because prior restraints on publication constitute the least tolerable infringement of First Amendment rights, the party seeking to justify a prior restraint must overcome a heavy presumption of unconstitutionality. *Id*.

These are the clearly delineated prerequisites for issuing protective orders under MCR 6.201(E): (1) A motion filed seeking a protective order; (2) A showing of good cause to support the issuance of a protective order; and (3) A record made supporting a finding of good cause to issue a protective order.

To justify the entry of a gag order, there must be a "clear showing" that: (a) extrajudicial statements "will interfere with the rights of the parties to a fair trial"; and (b) there are no

alternative measures "having a lesser impact on First Amendment freedoms" that "would be likely to mitigate the effects" of such extrajudicial statements. *Nebraska Press Ass'n*, 427 U.S. at 563. Gag orders prohibiting parties, relatives, friends, and associates from discussing a case "with members of the news media or the public" was "a prior direct restraint upon freedom of expression" and unconstitutionally impaired First Amendment rights of the media, even though the media was "not made a specific target of" the order and was "not directly enjoined from discussing the case." *CBS, Ina*, 522 F.2d at 237-239.

If this Court intends to endorse a protective order in these criminal cases, the parties should be required to follow the proper procedures outlined in MCR 6.201(E) and under *Dep't of Health & Hum. Servs*. That proper procedure would necessitate that a party identify a piece of evidence (or a portion of a piece of evidence) that they believe should be protected from public disclosure and then file a motion with this Court seeking a protective order. Any party seeking a protective order regarding discovery materials should be required to make a showing of good cause to support the issuance of a protective order on the record. MCR 6.201(E); *Dep't of Health & Hum. Servs*., 318 Mich App at 409.

Because the protective order sought by the People would preclude individuals from disclosing speech and information to Proposed Intervenor, the order would constitute a prior restraint. Accordingly, the party seeking the prior restraint has a heavy burden of showing that the imposition of the restraint is justified, as courts can only issue prior restraints in rare and extraordinary circumstances. All criminal prosecutions involve information that is unflattering, potentially prejudicial, and sometimes inflammatory, but "pre-trial publicity—even pervasive, adverse publicity—does not inevitably lead to an unfair trial." See: *In re Nebraska Press Assn. v.*

Stewart, 427 U.S. 539, 558 (1976).

There is no basis to assume that the defendants' right to a fair trial or impartial jury will be prejudiced by media exposure. Significant media interest, by itself, does not create prejudice out of thin air. The publicity surrounding this case is no greater or mor sensational than an average event of similar newsworthiness. Such publicity is not sufficient to justify a prior restraint on the speech of attorneys, trial participants, and media organizations.

Hypothetical prejudice alone has never been sufficient under the First Amendment or the common law to deny the public access to records. If the law were otherwise, no negative information about a criminal defendant would ever be released—a rule that would undoubtedly hurt victims who, like the public, are entitled to information from court proceedings.

As the court explained in *State v. Kozma*, No. 92-15914 CF10E, 1994 WL 397438 (Fla. Cir. Ct. Feb. 4, 1994), in which a criminal defendant's confession was unsealed:

> [E]ven massive pretrial publicity about a case is not enough to show a serious and imminent threat to the administration of justice or to the denial of fair trial rights. The fact that the Statement has been determined to be inadmissible does not alter that conclusion. Even where pretrial publicity includes publication of inadmissible evidence or confessions, a defendant can still receive a fair trial. Id. at *2 (citations omitted).

The purpose of the rights guaranteed by the First Amendment is to encourage open discussion of public issues and to encourage citizens to participate in self-government. See, e.g., *Globe Newspaper Co v. Superior Court*, 457 U.S. 596; 102 S Ct 2613; 73 L.Ed.2d 248 (1982). Consequently, the media has been deemed to have a constitutional right of access to newsworthy information, particularly that within the control of the government, including the judicial branch of the government. *Id*. When the courts limit such access, they limit the press's ability to

disseminate information and the public's concomitant access to that information. The First Amendment protects even speech "which lacks truth, social utility or popularity or which exaggerates or vilifies." *New York Times Co v. Sullivan*, 376 U.S. 254, 270-71; 84 S Ct 710; 11 L.Ed.2d 686 (1964).

CONCLUSION

As with any news story, time is of the essence. The restraints that the People's proposed protective order would place on Defendant Eric Molitor's right to free speech prevents complete and timely reporting to the public on these criminal proceedings and is a continuing and irreparable injury to Proposed Intervenor's constitutional rights to gather news for public dissemination.

The mandatory showing of good cause prerequisite for issuing a protective order set forth in MCR 6.201(E) has not been fulfilled by the People. See: *Dep't of Health & Human Servs v Genesee Circuit Judge*, 318 Mich App 395, 408-410; 899 NW2d 57 (2016).

This Court should grant this Motion to Intervene. Because the protective order the People are seeking would infringe upon Proposed Intervenor's First Amendment rights, including the right to gather news for dissemination to the public, this request to intervene and object is time-sensitive and necessary to prevent continuing irreparable harm to willing speakers' and interested listeners' constitutional rights.

WHEREFORE, for these reasons, and those provided in the motion and those argued in the motion above, Proposed Intervenor respectfully requests that this Honorable Court:

A. Allow the Proposed Intervenor to intervene in this matter and participate in oral arguments, for the limited purpose of objecting to the PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS;

B. Schedule the People's Motion for a hearing as soon as practicable; and

C. Issue an Order Denying the PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS;

D. Grant such other and further relief as may be deemed just and equitable.

Date: January 26, 2023

Respectfully submitted,

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PROOF OF SERVICE

Eric L. VanDussen attests that on this date he did serve by USPS regular mail, with due postage, and by email, a copy of this MOTION TO INTERVENE AND OBJECTION TO PEOPLE'S MOTION FOR PROTECTIVE ORDER OF DISCOVERY MATERIALS upon the following attorneys of record in these cases:

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Date: January 26, 2023 */s/ Eric L. VanDussen*