**No. S25C1386**

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**IN THE SUPREME COURT OF GEORGIA**

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PEABODY ENERGY CORPORATION,

*Petitioner*,

vs.

STRATA PRODUCTS WORLDWIDE, LLC, et al.,

*Respondents*.

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APPEAL FROM THE COURT OF APPEALS OF GEORGIA
CASE NO. A25A0550

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# BRIEF OF *AMICI CURIAE* ATLANTA JOURNAL-CONSTITUTION, GEORGIA PRESS ASSOCIATION, GEORGIA FIRST AMENDMENT FOUNDATION, GEORGIA ASSOCIATION OF BROADCASTERS, INC., GRAY LOCAL MEDIA, INC., AND GANNETT CO., INC. IN SUPPORT OF PETITIONER

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# TABLE OF CONTENTS

# TABLE OF AUTHORITES

**Cases**

**Statutes**



**Other Authorities**

## IDENTITY & INTERESTS OF AMICI CURIAE

*Amici Curiae* have a collective interest in safeguarding the First Amendment rights of all speakers by defending Georgia's historic protections for true and substantially true statements.

The **Atlanta Journal-Constitution ("AJC")** is the primary print and online news source for the metropolitan Atlanta area and the state of Georgia. It focuses its reporting staff on local matters and closely monitors state and local governments, the local economy, entertainment, and sports. It has fiercely defended open government in Georgia for decades and has a strong interest in ensuring accurate news reporting is protected under Georgia law.

The **Georgia Press Association (GPA)** is a non-profit association whose members are 139 daily and weekly Georgia newspapers. An important mission of the GPA is to protect, promote, foster, and advance the freedom of speech and of the press in Georgia. One way in which this is accomplished is by advocating for the Georgia established privileges and protections for information disseminated to the public. While GPA is an organization of newspapers, its advocacy is intended to benefit all Georgians who are served by the publication of information and opinions.

The **Georgia First Amendment Foundation (GFAF)** is a nonpartisan nonprofit organization that for more than 30 years has been providing advocacy in support of open government and freedoms of speech and press. This includes work

at the state General Assembly, in county and city offices across Georgia, and in the courts. GFAF appears as *amicus* in cases such as this one where core First Amendment interests are at stake. *See, e.g.*, Br. *Amici Curiae* GFAF, *et al*. Supp. Appellee, *Oskouei v. Matthews*, 321 Ga. 1 (2025); Br. *Amicus Curiae* GFAF, *et al*. Supp. Appellant, *ACLU v. Zeh*, 312 Ga. 647 (2021).

The **Georgia Association of Broadcasters, Inc. ("GAB")** is a Georgia corporation and trade association representing the interests of Georgia broadcasters. GAB's members include television and radio stations throughout the State of Georgia. The GAB believes that the limitations on speech and press freedoms presented by the Court of Appeals Order in this case impact all news media publishers and broadcasters and warrant review by this Court.

**Gannett Co., Inc.** is the largest local news media company in the United States. Its more than 200 local daily brands in 43 states — together with the iconic USA TODAY — reach an estimated digital audience of 140 million each month. In Georgia, Gannett subsidiaries own the Athens Banner-Herald, The Augusta Chronicle, and the Savannah Morning News.

**Gray Local Media, Inc.** is a multimedia company headquartered in Atlanta, Georgia. It is the nation's largest owner of top-rated local television stations in the United States and serves 113 television markets, reaching approximately 36 percent of US television households. It joins amici on behalf of the following wholly-owned

television broadcast stations located in Georgia: WALB(TV), Albany, Georgia; WANF(TV), Atlanta, Georgia; WPGA-TV, Macon, Georgia; WRDW-TV, Augusta, Georgia; WTOC-TV, Savannah, Georgia; and WTVM(TV), Columbus, Georgia.

## INTRODUCTION

In March 2023, a fire broke out in an underground coal mine owned by Peabody Energy Corporation ("Peabody"). A spray foam, referred to as void fill material, that is used to fill cracks and stabilize the roof of the mine was burning. Peabody issued a press release stating, "Peabody today confirmed a fire that began earlier today at Shoal Creek Mine involving void fill material utilized to stabilize the roof structure of the mine . . . The incident remains subject to further investigation." This was the only reference to void fill material in the press release. Strata Products Worldwide LLC ("Strata Products"), the manufacturer of the void fill material, was not named in the press release. But Strata Products sued for defamation, claiming the statement falsely implied that its product had caused the fire. Peabody argued, among other things, truth and substantial truth.

While there is competing evidence as to whether the void fill material self-ignited or mine activity generated sparks that started the fire, no one disputes that the foam was burning and therefore that the fire unequivocally did involve the void fill material. Even if, *arguendo*, Peabody's statement could be misinterpreted to suggest that the foam caused the fire, the press release made clear that fault had not

been determined by disclosing that the incident was still being investigated. Thus, the press release was an absolutely true, non-misleading statement. To allow Strata's defamation claim to proceed on these facts flies in the face of more than 150 years of clearly established law that truth is a perfect defense to asserted defamation. It is deeply chilling to all speakers if publishing a true, non-misleading statement can open the door to costly litigation and potential liability, as the Court of Appeals found in this case. For these reasons alone, this Court should grant review and reverse.

This Court should additionally grant review because of the further harm to free speech that the Court of Appeals inflicted with its erroneous dissection of the "substantial truth" doctrine. The lower court *sua sponte* suggested that this defense, prodigiously applied by Georgia courts, should be newly limited to only certain types of defamation cases: those involving media defendants and/or those involving application of the constitutional "actual malice" standard (i.e., knowing falsity or reckless disregard thereof). The Court of Appeals thereby introduced a chilling uncertainty into Georgia defamation law that previously did not exist.

Up to now, there has been no special caveat on which speakers are protected under "substantial truth." Rather, Georgia courts have applied this defense in a broad range of cases, including those involving non-media defendants as well as reputational-harm suits that did not involve the constitutional "actual malice" standard. This is because the doctrine of "substantial truth" did not arise from the

"actual malice" standard, as the Court of Appeals misunderstands. Rather, as *Masson v. New Yorker Magazine*, 501 U.S. 496, 416-17 (1991) explains, the "substantial truth" doctrine developed under state common law and both pre-existed and informed the "actual malice" standard, not the other way around. Moreover, the Court of Appeals' overly restrictive view that the "substantial truth" defense should be limited to media defendants would create a new press exceptionalism whereby members of the media would receive greater protection than other speakers. To be sure, in certain circumstances, the press enjoy protection not applicable to other speakers – *e.g.*, protection in certain situations from forced disclosure of confidential sources, or from seizure of unpublished newsgathering material. However, the Court of Appeals' suggestion that there be a two-tier system for application of the "substantial truth" defense would be a novel exception to the general rule that, for purposes of defamation law, the press enjoy the same free-speech safeguards as everyone else.

The Court of Appeals' cramped interpretation of "substantial truth" deters the free exchange of information, including on matters of public concern, by making this vital defense unavailable to non-media speakers (e.g., regular citizens, public officials, non-profits, religious groups, etc.), by raising doubt about whether new media speakers can rely on the "substantial truth" defense (e.g., citizen journalists, bloggers, youtubers, social media influencers), and by removing the defense for

speakers making substantially true statements about private figures. To correct these harms and preserve free speech and a free press in Georgia, this Court should immediately grant review.

## ARGUMENT

### I. There is No Safe Harbor for Free Speech and a Free Press if Publication of a True, Non-Misleading Statement Can Support a Defamation Claim.

As set forth in Peabody's Petition for Review, the March 2023 mine fire involved void fill material – this is not disputed. Indeed, the void fill material was the only thing burning. Cert. Petition at 4-5 (citing V3-359, V3-360, V2-150). Peabody's press statement made clear that no assignment of fault had been made by stating that the fire was still under investigation. V2-150. Peabody's statement was therefore perfectly true and not misleading.

Strata Products argues that saying a fire "involve[ed] 'something' usually conveys the 'something' caused the fire to begin" and points to news articles about fires that, either in the headline or the text, use the word "involving" when discussing the fire source. Cert. Opp. at 20. Those articles are not analogous to Peabody's statement as they did not simply use the word "involving." Those articles, unlike Peabody's statement, combined "involving" with express attributions of fault for the fire. *See* Julia Scammahorn, *Electrical fire* ***involving*** *space heater damages home*, KCTV (Nov. 22, 2023), https://tinyurl.com/y6p5bvye ("Fire officials are pointing to a **space heater as the culprit** of a fire in Lee's Summit."); Marcella Corona, *Reno*

*firefighters* ***blame 'carelessly discarded' cigarette*** *for balcony fire*, RENO GAZETTE JOURNAL (Apr. 19, 2016), https://tinyurl.com/4xyfxnwz ("Firefighters **blamed a cigarette for a balcony fire** that sparked over the weekend…'In the last month alone, we have had four fires **involving** cigarettes,' Fire Marshal Tray Palmer said in a statement."). The word "involving" in those articles is interpreted in the context of the entire article which includes discussion of the origin of the respective fires. "Involving" therefore takes on a different meaning than in Peabody's statement, which mentions "void fill material" only once, does not discuss or attribute fault, and notes that the fire is still under investigation. *See Cmty. Newspaper Holdings, Inc. v. King*, 299 Ga. App. 267, 270 (2009) ("A publication claimed to be defamatory must be read and construed in the sense in which the readers to whom it is addressed would ordinarily understand it. So the whole item, including [head]lines, should be read and construed together, and its meaning and signification thus determined.") (quoting *Constitution Publishing Co. v. Andrews,* 50 Ga. App. 116, 117 (1934)).

To the extent that the statement could be read to imply a possibility that the void fill material *may* have caused the fire, that was likewise a true statement given the competing evidence as to causation. COA Order at 3-6. And, again, the statement

disclosed that the matter was still under investigation, making clear that no definitive conclusion had been reached.[1]

It is deeply chilling to news organizations if straightforward reporting of true facts such as reflected in Peabody's press statement can be the basis for a defamation claim. This leaves the media no safe harbor for informing the public about unflattering realities involving persons or entities with the resources to assert a claim for reputational harm. Freedom to make true statements is fundamental to the press continuing to serve as "a vital source of public information. The newspapers, magazines, and other journals of the country, it is safe to say, have shed and continue to shed, more light on the public and business affairs of the nation than any other instrumentality of publicity[.]" *Grosjean v. American Press Co.*, 297 U.S. 233, 250 (1936). But if, as the Court of Appeals found in this case, a true statement can support a claim for defamation or libel, many matters of public concern involving negative truths about an identifiable company or person will go unreported. *See United States*

[1] Though not presented as an issue for review, Peabody's statement does not mention Strata Products and is therefore not even "of and concerning" the plaintiff given the number of void fill manufacturers in the field. For example, a Google search for "manufacturers void fill material mining," finds Strata is the sixth result preceded by AMIX Systems, Geostabilization International, Mainmark, Aerix Industries, and HMI Company, and followed by Tradecc, Groundworks, F. Willich GmbH + Co. KG, and Euclid Chemical. *See Collins v. Creative Loafing Savannah, Inc.*, 264 Ga. App. 675, 678 (2003) ("[T[he allegedly defamatory words must refer to some ascertained or ascertainable person, and that person must be plaintiff.").

*v. Alvarez*, 567 U.S. 709, 733 (2012) (Breyer, J., concurring) ("the threat of [ ] prosecution for making a false statement can inhibit the speaker from making true statements").

Even if news entities may ultimately prevail in defending against defamation suits that are based on reporting true facts, the cost and resource drain of having to litigate diminishes their ability to otherwise do their job of investigating and reporting on matters of public concern. For smaller outlets, the cost could well be fatal. *See* RonNell Anderson Jones, *Defamation, Disinformation, and the Press Function*, 3 J. FREE SPEECH L. 103, 117 (2023) ("The cost of defending a libel suit can easily wipe out a local news organization.").[2] Thus it is essential that where, as here, a defamation claim is lodged over a non-misleading and true statement, the defendant speaker receive the relief of early dismissal under O.C.G.A. § 9-11-

[2] *See, e.g.*, Katie Balevic, *A judge dismissed a Wisconsin politician's defamation suit against a newspaper, but the legal fees may still shutter the paper*, BUSINESS INSIDER (Aug. 20, 2023, 4:23 PM), https://www.businessinsider.com/dismissed-defamation-suit-wi-politician-may-shutter-local-newspaper-2023-8; *Little Saigon News Files for Bankruptcy Following Defamation Dispute*, AMERICAN BANKRUPTCY INSTITUTE (last visited Aug. 10, 2025), https://www.abi.org/feed-item/little-saigon-news-files-for-bankruptcy-following-defamation-dispute; Meagan Flynn, *A Small-Town Iowa Newspaper Brought Down a Cop. His Failed Lawsuit Has Now Put the Paper in Financial Peril*, WASH. POST (Oct. 10, 2019, 6:41 AM), https://perma.cc/CB8C-LY5H (local newspaper forced to reduce its publication schedule and engage in fundraising after being sued for defamation for accurately reporting about a police officer).

12(b)(6) (failure to state a claim) or, for statements on matters of public concern such as Peabody's, under Georgia's Anti-SLAPP Statute, O.C.G.A. § 9-11-11.1(b)(1).

## II. The Court of Appeals Erred in Positing That "Substantial Truth" Applies Only to Media Defendants or Only in First Amendment "Actual Malice" Cases.

Georgia common law reflects that substantially true statements of fact, as a matter of law, fail to support a claim for defamation or libel. *See Dellinger-Allen v. O'Brien*, 355 Ga. App. 811, 817 (2020); *Lucas v. Cranshaw*, 289 Ga. App. 510, 512-13 (2008); *Simpson v. Times-Journal, Inc.*, 170 Ga. App. 175, 175-76 (1984). Yet the Court of Appeals novelly suggests that the "substantial truth" doctrine should be significantly limited to apply only to media law defendants and/or defamation cases governed by the constitutional "actual malice" standard. *See* Order at 14-21.

The Court of Appeals cites only one Georgia authority -- *Retail Credit Co. v. Russell*, 234 Ga. 765 (1975) -- to justify its contention that a "substantial truth" defense may not be universally available to defamation defendants in Georgia. In *Retail Credit*, the Court declined to opine broadly on the applicability of the defense, holding only that the specific statements challenged in the case before it were not substantially true. *Id*. at 775. In the intervening 50 years, no Georgia court, save for the herein challenged Court of Appeals Order, has cited *Retail Corp.* to suggest that "substantial truth" is not a generally applicable defense. To the contrary, in the half-century since *Retail Corp.*, courts in this state have routinely considered -- and

applied, if factually supported – the "substantial truth" defense in whatever context it has been raised. It is therefore imperative that this Court grant review to correct the lower court's distortion of the defense's availability.

**A. "Substantial truth" is not limited to media defendants.**

In proposing that the "substantial truth" defense be limited to media defendants, the Court of Appeals focuses on cases involving the fair report privilege, which – though definitionally available to any speaker – is often invoked by members of the press. *See* Order at 14-17, 21. Undercutting its own limiting proposal, the Court of Appeals goes on to acknowledge that Georgia common law applies "substantial truth" beyond the fair report context. *See id*. at 16-17 (noting that "decisions by this Court have arguably applied this ["substantial truth"] line of reasoning outside the context of the privilege for fair and honest reports of court, legislative, or judicial proceedings and instead, to the analysis of whether a statement by a media defendant was false.") (citing *Lucas v. Cranshaw*, 289 Ga. App. 510, 512-13 (2008)). *See also Bryant v. Cox Enters., Inc.*, 311 Ga. App. 230, 239, (2011) (holding, in a case that did not involve the fair report privilege, that "because the articles in their entirety were substantially true at the time they were published—even though the investigators' suspicions were ultimately deemed unfounded—they cannot form the basis of a defamation action against the Media Defendants").

While *Lucas* and *Bryant* both happened to be cases against newspapers, a closer look at Georgia common law shows that courts do not limit the "substantial truth" defense to only media defendants. *See, e.g.*, *Dellinger-Allen v. O'Brien*, 355 Ga. App. 811, 817 (2020) (holding that statements by non-media defendant were substantially true and therefore not actionable as libel); *Executive Excellence v. Martin Bros. Investments*, 309 Ga. App. 279, 284-85 (2011) (holding that statement by non-media defendant was substantially true and thus not actionable); *Vito v. Inman*, 286 Ga. App. 646, 648 (2007) (affirming summary judgment for non-media defendant on ground that challenged statements were substantially true). *See also Out of Nowhere v. Nolan Transportation Grp., LLC,* No. 1:23-CV-00041-VMC, 2025 WL 28012, at *9 (N.D. Ga. Jan. 3, 2025) (under Georgia common law, applying "substantial truth" doctrine to non-media defendant and holding that challenged statements were not "substantially false" and therefore not actionable defamation); *800 Mktg. Sols., Inc. v. GMAC Ins. Mgmt. Corp.*, No. 3:06-CV-038 (CDL), 2008 WL 2777140, at *4-6 (M.D. Ga. July 14, 2008) (under Georgia common law, applying "substantial truth" doctrine to non-media defendant and finding no actionable libel because the plaintiff "failed to establish the literal falsity of [defendant]'s statement").

Far from painting with "too broad a brush," as the Court of Appeals suggests is the case, applying the "substantial truth" defense to non-media defendants aligns

with First Amendment doctrine holding that the press enjoy co-extensive but not greater protections relative to other speakers in the defamation context. *See Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 773 (1985) (White, J. concurring) ("[T]he First Amendment gives no more protection to the press in defamation suits than it does to others exercising their freedom of speech."); *id*. at 783-84 (Brennan, J. dissenting) ("[A]t least six [m]embers of this Court . . . agree today that, in the context of defamation law, the rights of the institutional media are no greater and no less than those enjoyed by other individuals or organizations engaged in the same activities.").

The Court of Appeals' proposal to reserve the "substantial truth" defense for only media defendants would create an unprecedented and arbitrary two-tier system under which non-media speakers would be rigidly held to the higher standard of absolute or perfect truth, while members of the media speaking on the very same matter would only need to insure that "the substance, the gist, [or] the sting" was accurate. *Masson*, 501 U.S. at 517 (quotations omitted). This would fly in the face of Georgia's common law on "substantial truth," which -- as the cases cited above show -- does not distinguish between media and non-media. It would also run afoul of the First Amendment which does not pick winners and losers based on the identity of the speaker. *See First Nat. Bank of Bos. v. Bellotti*, 435 U.S. 765, 776–77 (1978) ("The inherent worth of the speech in terms of its capacity for informing the public

does not depend upon the identity of its source, whether corporation, association, union, or individual."). Review by this Court is necessary to correct the Court of Appeals' misguided conception of which defendants may invoke "substantial truth."

### B. "Substantial truth" is not limited to constitutional "actual malice" cases.

Relying on *Masson v. New Yorker Magazine*, 501 U.S. 496 (1991), the Court of Appeals next states that the "substantial truth" doctrine might appropriately be limited to cases where a defamation plaintiff is required to show "actual malice" under the First Amendment – *i.e.*, that the speaker knew the challenged statement was false or else acted with reckless disregard as to its falsity. *See* Order at 17-21. In so proposing, the Court of Appeals fundamentally misreads *Masson*, which explains that "actual malice" is derivative of the independently existing "substantial truth" doctrine, not the other way around. *Masson* explains:

> The common law of libel . . . overlooks minor inaccuracies and concentrates upon substantial truth. As in other jurisdictions, California law permits the defense of substantial truth and would absolve a defendant even if she cannot "justify every word of the alleged defamatory matter; it is sufficient if the substance of the charge be proved true, irrespective of slight inaccuracy in the details." 5 B. Witkin, SUMMARY OF CALIFORNIA LAW § 495 (9th ed. 1988) (citing cases). . . Minor inaccuracies do not amount to falsity so long as "the substance, the gist, the sting, of the libelous charge be justified." *Heuer v. Kee,* 15 Cal.App.2d 710, 714, 59 P.2d 1063, 1064 (1936) . . . Put another way, the statement is not considered false unless it "would have a different effect on the mind of the reader from that which the pleaded truth would have produced." R. Sack, LIBEL, SLANDER, AND RELATED PROBLEMS 138 (1980); *see*, *e.g., Wehling v. Columbia Broadcasting System,* 721 F.2d 506, 509 (CA5 1983); *see generally* R. Smolla, LAW

> OF DEFAMATION § 5.08 (1991). **Our definition of actual malice relies upon this historical understanding.**

501 U.S. 516-17 (emphasis added). Thus, *Masson* makes clear that the common law defense of "substantial truth" informs, rather than arises from, First Amendment "actual malice." *See* C. Thomas Dienes & Lee Levine, *Implied Label, Defamatory Meaning, and State of Mind: The Promise of* New York Times Co. v. Sullivan, 78 IOWA L. REV. 237, 271 (1993) ("According to Justice Kennedy [in *Masson*], the common law doctrine of 'substantial truth' must inform judicial application of the actual malice standard."); *id*. at 281-82 ("[T]he Court's analysis in *Masson* . . . looks to the common law-specifically the doctrine of substantial truth-to inform the constitutional inquiry. . . [The common-law understanding that] minor inaccuracies do not amount to falsity . . . is now rooted firmly in the First Amendment as well."). In short, the "substantial truth" defense came first; the constitutional "actual malice" standard then borrowed from and incorporated it. The Court of Appeals erroneously flips this history on its head when it claims that only if "actual malice" applies, should "substantial truth" then be invoked.

Further highlighting the Court of Appeals' misreading of *Masson* is the fact that prior to *Masson*, a 1991 decision, Georgia courts were applying the "substantial truth" defense untethered to the "actual malice" standard. *See Bird v. Weis Broadcasting Corp.*, 193 Ga. App. 657, 657 (1989) (affirming trial court's judgment for defendant where challenged statements were "substantially true"; requisite

degree of fault was negligence, not "actual malice"); *Simpson v. Times-Journal, Inc.*, 170 Ga. App. 175, 175-76 (1984) (affirming summary judgment in favor of defendant on grounds that challenged statement was "substantially true" without reference to "actual malice" standard).

And as the Court of Appeals concedes, Georgia courts continued to apply "substantial truth" independent of the "actual malice" standard after *Masson* as well. Order at 19-20. *See, e.g.*, *Dellinger-Allen v. O'Brien*, 355 Ga. App. 811, 817 (2020) (holding that statements concerning private-figure plaintiff – so no "actual malice" requirement -- were substantially true and therefore not actionable as libel); *Executive Excellence v. Martin Bros. Investments*, 309 Ga. App. 279, 284-85 (2011) (holding that statement was substantially true and thus not actionable; no reference to the "actual malice" standard). In sum, neither *Masson*, nor Georgia's common law, support that the "substantial truth" defense should be cabined to "actual malice" cases. This Court must grant review to set the doctrinal record straight.

## III. The Court of Appeals' Restrictive View of "Substantial Truth" Will Chill Truthful Speech.

The Court of Appeals' narrow conception of "substantial truth," limited only to media defendants and "actual malice" cases, is chilling on truthful speech of both public and private concern. The notion that minor errors or inaccuracies could open a non-media speaker, or a media speaker publishing about a private figure, to liability

stifles the "breathing space" that is essential for First Amendment freedoms to survive. *NAACP v. Button*, 371 U.S. 415, 433 (1963).

In today's information landscape, creating a division between media and non-media necessitates all sorts of unnecessary line-drawing where people get their news, not only from traditional media outlets, but also citizen journalists, bloggers, and community organizers using social media.[3] Prior to the Court of Appeals' Order, all of these speakers could equally rely on the availability of the "substantial truth" defense. But the Court of Appeals' rubric leaves many speakers in doubt as to which category a court might find that they fall into. This uncertainty is a recipe for self-censorship. *See Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 340 (1974) ("[P]unishment of error runs the risk of inducing a cautious and restrictive exercise of the constitutionally guaranteed freedoms of speech and press.").

Limiting the "substantial truth" defense to only constitutional "actual malice" cases is also chilling on large swathes of speakers who wish to talk and write about matters of both public and private concern involving private figures -- where negligence, not "actual malice" will apply.[4] Holding speech about private figures to

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[3] *See Social Media and News Fact Sheet,* PEW RES. CTR. (Sept. 17, 2024), https://www.pewresearch.org/journalism/fact-sheet/social-media-and-news-fact-sheet/ (reporting that over half of U.S. adults at least sometimes get their news from social media).

[4] *See ACLU v. Zeh*, 312 Ga. 647, 650 (2021) ("A plaintiff who is a private figure must establish, as a matter of Georgia law, that the defendant published the allegedly defamatory statements with at least ordinary negligence.").

the premium standard of absolute or perfect truth gives short shrift to the First Amendment, which exists to protect speech on all topics, not just about government and public figures. *See Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 777 (1985) (Brennan, J., dissenting) ("We have also recognized, however, that the First Amendment requires significant protection from defamation law's chill for a range of expression far broader than simply speech about pure political issues."); *Time, Inc. v. Hill,* 385 U.S. 374, 388 (1967) ("The guarantees for free speech and press are not the preserve of political expression or comment upon public affairs, essential as those are to healthy government"). That the Court of Appeals' proposed construction of "substantial truth" would deter and chill speech along these multiple vectors is deeply concerning for all speakers, including the press, and reason for this Court to grant review.

## CONCLUSION

The Court of Appeals has dealt a multi-prong blow to free speech and press rights in Georgia. First, it has ruled that a true, non-misleading statement can subject the speaker to defamation liability. This makes it more of a minefield than ever to report the news and opens up all speakers, no matter how careful they might be, to suit for their true statements. Second, the Court of Appeals has proposed to dramatically limit the "substantial truth" defense with the result that non-media speakers, and any speaker making statements that concern a private

figure, would be held to the rigid standard of perfect, absolute truth. This revisioning of "substantial truth" has no support in either Georgia common law or Supreme Court precedent and would deeply erode and chill freedom of expression in our state. *Amici* therefore urge the Court to grant review to address these misguided, speech and press endangering rulings.

**RULE 20 (7) CERTIFICATION OF WORD-COUNT**

Undersigned counsel certifies that this submission does not exceed the wordcount limit (7,000 words) imposed by Rule 20.

Respectfully submitted this August 18, 2025.

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## CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2025, I served the foregoing

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