

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

SANDRA RODRÍGUEZ COTTO;
RAFELLI GONZÁLEZ COTTO,

Plaintiffs,

v.

WANDA VÁZQUEZ GARCED,
Governor of Puerto Rico; INÉS DEL
C. CARRAU-MARTÍNEZ, Interim
Secretary of Department of Justice of
Puerto Rico; PEDRO JANER,
Secretary of Puerto Rico Department of
Public Safety; HENRY ESCALERA,
Puerto Rico Police Commissioner, all
in their official capacities,

Defendants.

Civil Action No.: 3:20-01235-PAD

**REPLY TO DEFENDANTS' OPPOSITION TO MOTION FOR LEAVE TO
FILE BRIEF OF *AMICI CURIAE***

PEN America Center, Inc. ("PEN America" or "PEN") and the University of Georgia School of Law's First Amendment Clinic ("First Amendment Clinic") respectfully submit this Reply to the Defendants' Opposition to their Motion for Leave to File Brief of *Amicus Curiae* in Support of Plaintiffs' Renewed Motion for Preliminary Injunction.

The role of an *amicus curiae* is to “assist the court in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation” of the issues. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 308 F.R.D. 39, 52 (D. Mass.) (internal quotations omitted), *aff’d*, 807 F.3d 472 (1st Cir. 2015). *See also Massachusetts Food Ass’n v. Massachusetts Alcoholic Beverages Control Comm’n*, 197 F.3d 560, 567 (1st Cir. 1999) (“a court is usually delighted to hear additional arguments from able *amici*”).

Here, PEN America and the UGA First Amendment Clinic (collectively “*Amici*”) are both non-partisan organizations committed to preserving free speech and press freedoms, independent of the speaker’s or reporter’s political party affiliation. The First Amendment Clinic defends journalists in their right to report on matters of public concern, *see, e.g., Krass v. Obstacle Racing Media, LLC, et al.*, 19-cv-05785 (N.D. Ga.), and trains law students to serve as litigators and community educators championing free expression, newsgathering, and the creation of a more informed citizenry. PEN America, a membership organization with over 7,500 writers and journalist Members, has a long history of defending press freedom in the United States and around the world, including celebrating the role of journalists and members of the media as well as challenging constitutional threats to their independence and safety. PEN America pursues legal remedies where appropriate on behalf of its Members and where it sees threats to press freedom at the hands of government officials. Where government officials attempt to either use the machinery of government to legislate the contours of press freedom or to take discretionary and unconstitutional actions against the media, PEN America defends the First Amendment rights of its Members, other members of the media, and the public’s rights of access to such reporting. *See PEN America v. Trump*, S.D.N.Y. Civil Action No. 18-cv-9433-

LGS (2018); *see also Alasaad et. al v. Wolf et. al*, 1st Cir., Case No. 20-1077, 20-1081 (2020); *Karem v. Trump*, D.C. Civil Action No. 19-cv-2514 (KBJ) (2019); *In Re: Ex Parte Application of Non-Party Journalist Bryan Carmody for Order Quashing Search Warrant and For Return of Improperly Seized Newsgathering Materials, Or, In the Alternative, to Short Time*, Superior Court for the State of California, County of San Francisco, Search Warrant Nos. Sw43684 and SW43687 (2019).

Amici's interest in the requested enjoinder of Section 6.14 of Puerto Rico's Department of Public Safety Act 66-2020 spans more broadly than that of the ACLU, which represents two individual plaintiff journalists. As Section 6.14 will inevitably chill a much wider swath of public speakers in Puerto Rico -- including myriad journalists, news publishers, and outspoken citizens -- this case involves a general public interest making it suitable for appearance of amici. *See Students for Fair Admissions*, 308 F.R.D. at 52. PEN America and the First Amendment Clinic further have a special interest in protecting the right of the public at large to receive information about conditions during a public emergency from a variety and diversity of sources - - a right that Section 6.14 stifles because of its deterrent effect on the expression and dissemination of news and other speech. The ACLU's renewed motion for a preliminary injunction does not explicate, nor set forth the rich line of case law recognizing the importance of protecting, the public's interest in receiving the speech of others. *Amici's* brief presents this significant point, additionally weighing in favor of the court granting leave for *Amici* to file. *See id.* (amicus status appropriate to insure "complete and plenary presentation" of the issues). Finally, *Amici's* brief provides context for how laws similar to Section 6.14 have been used internationally as a tool for suppressing legitimate reporting and dissent or criticism of the government during times of emergency or disaster. The information demonstrating this pattern

is likewise not part of the ACLU's briefing on their renewed motion. *Amici* submit that such additional information is appropriate to consider when adjudicating the issues raised by this case.

See id.

Wherefore, *Amici* respectfully request that this court grant the Motion for Leave to File the Brief of *Amicus Curiae* in Support of Plaintiffs' Renewed Motion for Preliminary Injunction.

We hereby Certify that this motion is being filed electronically through the CM/ECF system which will notify the parties through their attorneys of record.

Dated: August 18, 2020
San Juan, Puerto Rico

Respectfully submitted,

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