

In the
Supreme Court of the United States



ALAN GRAYSON,

PETITIONER,

v.

NO LABELS, INC. ET AL.,

RESPONDENTS.

On Petition for Writ of Certiorari to the
United States Court of Appeals for Eleventh Circuit

**MOTION FOR LEAVE TO FILE
AND BRIEF OF AMICUS CURIAE
PROFESSOR DAVID A. LOGAN
IN SUPPORT OF PETITIONER**

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April 24, 2023

**MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF**

This motion for leave to file is made pursuant to Supreme Court Rules 33.1, 34 and 37. The nature of the movant's interest is to provide a scholarly perspective on the Petition for Writ of Certiorari. In this case, the Court should grant certiorari because the egregious conduct of the Defendants—mounting a campaign of false information that is timed for the eve of an election, when there is no meaningful opportunity for counter-speech—should support a jury verdict for the Plaintiff, even if the applicable standard is Actual Malice. This Court also should grant certiorari to resolve the question of whether or not the array of constitutional protections derived from *New York Times v. Sullivan*, 376 U.S. 254 (1964), and subsequent decisions should be extended to non-media defendants. *Amicus curiae* Professor David A. Logan has written extensively on these subjects, e.g., David A. Logan, *Rescuing our Democracy by Rethinking New York Times v. Sullivan*, 81 OHIO STATE L. J. 772, 784-93 (2020) (*Rescuing Our Democracy*), cited in *Berisha v. Lawson*, No. 20-1063, *cert. denied*, 594 U.S. ___ (2021) (Gorsuch, J.).

Counsel of record for the Respondents were notified on Tuesday, April 18, 2023, that Prof. Logan intended to submit the enclosed brief.¹ Counsel for the Respondents has not responded to this notification. Petitioner has consented. Therefore, pursuant to

¹ Due to a personal health issue, Prof. Logan was not able to determine whether or not he could submit the brief before that date. When he determined that he could, counsel for the Respondents was notified immediately.

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Supreme Court Rule 37.2(b), Prof. Logan respectfully moves this Court for leave to file the accompanying brief of *amicus curiae* in support of Petitioner. This motion is filed within 30 days after a response was called for by the Court.²

Prof. Logan is a Professor of Law at Roger Williams University School of Law in Bristol, Rhode Island, and served as Dean of the School of Law from 2003 to 2014. Previously, his academic appointment was at the Wake Forest University School of Law, from 1981 to 2003. He has been a visiting scholar at nine other Schools of Law. He has served for 42 years as a law professor.

Professor Logan's publications, primarily focusing on the intersection of tort law and the First Amendment, have appeared in major journals, including the MICHIGAN LAW REVIEW, the IOWA LAW REVIEW, and the VIRGINIA LAW REVIEW. His piece, *Rescuing our Democracy by Revisiting New York Times v. Sullivan*, published in the OHIO STATE LAW JOURNAL in late 2020, was cited sixteen times by Supreme Court Justice Neil Gorsuch in his 2021 opinion in *Berisha v. Lawson*.

Professor Logan has served as an Advisor to the American Law Institute's RESTATEMENT (THIRD) OF TORTS, most recently on the ALI's Defamation and Privacy Law Project; he has also served the American Bar Association and the Association of American Law Schools in various leadership capacities.

² The Court requested a response on March 23, 2023 and gave a deadline of April 24, 2023.

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Professor Logan is a frequent commentator on legal issues, having appeared on television (Fox News, NBC Evening News, CBS Morning News, the O'Reilly Factor, and Nightline), radio (BBC Radio, Voice of Russia, Morning Edition, All Things Considered, On Point, and Marketplace) and many print media outlets (including the WALL STREET JOURNAL, NEW YORK TIMES, WASHINGTON POST, and the ECONOMIST).

Prof. Logan is thus uniquely positioned to assist the Court in determining whether to grant *certiorari* to the petition at bar. Therefore, Prof. Logan seeks leave to file the attached brief of *amicus curiae* urging the Court to grant the petition.

Respectfully submitted,

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