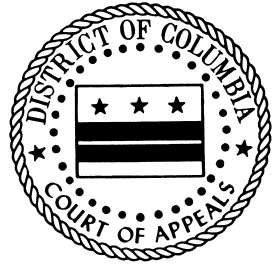


DISTRICT OF COLUMBIA
COURT OF APPEALS



Clerk of the Court
Received 02/13/2019 03:19 PM

COMPETITIVE ENTERPRISE INSTITUTE,
et al.,

Appellants,

v.

MICHAEL E. MANN,

Appellee.

No. 14-CV-101

NATIONAL REVIEW, INC.,

Appellants,

v.

MICHAEL E. MANN,

Appellee.

No. 14-CV-126

NOTICE OF FILING

PLEASE TAKE NOTICE that, by their undersigned attorneys, *amici curiae* have submitted the attached letter to the Clerk of the Court this same day.

Dated: February 13, 2019

Respectfully submitted,
BALLARD SPAHR LLP

By: /s/ Seth D. Berlin

Seth D. Berlin (D.C. Bar No. 433611)

Mara J. Gassmann (D.C. Bar No. 1014532)

BALLARD SPAHR LLP

1909 K Street, NW, 12th Floor

Tel: (202) 508-1122

Fax: (202) 661-2299

Washington, DC 20006-1157

berlins@ballardspahr.com

gassmanm@ballardspahr.com

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February 2019, I caused a true and correct copy of the foregoing Notice of Filing to be served through the Court's electronic filing system on all counsel registered for e-filing, and via first-class mail upon:

Michael A. Carvin
Anthony J. Dick
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3939
macarvin@jonesday.com

Counsel for Appellant National Review, Inc.

Andrew M. Grossman
David B. Rivkin, Jr.
Mark I. Bailen
Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 861-1697
agrossman@bakerlaw.com

*Counsel for Appellants Competitive
Enterprise Institute and Rand Simberg*

John B. Williams
Williams Lopatto PLLC
1707 L St., N.W., Suite 550
Washington, D.C. 20036
(202) 296-1665
jbwilliams@williamslopatto.com

Peter J. Fontaine
Cozen O'Connor
1650 Market St., Suite 2800
Philadelphia, PA 19103
(215) 665-2723
pfontaine@cozen.com

Counsel for Appellee

/s/ Seth D. Berlin

Seth D. Berlin (D.C. Bar No. 433611)

1909 K Street, NW
12th Floor
Washington, DC 20006-1157
TEL 202.661.2200
FAX 202.661.2299
www.ballardspahr.com

Seth D. Berlin
Tel: 202.508.1122
Mara J. Gassmann
Tel: 202.508.1104
Fax: 202.661.2299
berlins@ballardspahr.com
gassmanmM@ballardspahr.com

February 13, 2019

Clerk
District of Columbia Court of Appeals
430 E Street, NW, Room 115
Washington, DC 20001

**Re: *Competitive Enterprise Institute, et al. v. Mann,*
National Review, Inc. v. Mann,
Nos. 14-CV-101 & 14-CV-126 (consolidated)**

Dear Clerk:

Together with attorneys from the Reporters Committee for the Freedom of the Press, we represent a group of twenty-four organizations, listed in the attached appendix, all of which joined an *amicus* brief in support of appellants during the initial round of briefing before the panel that decided this appeal. We understand that appellants then sought rehearing, that the panel issued an amended opinion, and that appellants have now sought rehearing *en banc*.

Because many of the *amici* we represent do not typically file *amicus* submissions at the petition stage, we did not submit an *amicus* brief in support of appellants' rehearing petitions. However, we want to advise the Court that we believe rehearing *en banc* is indeed warranted. Although we believe the panel correctly held that the denial of a special motion to dismiss under the District of Columbia's Anti-SLAPP Act is immediately appealable, we believe that the panel's decision on the merits of plaintiff's defamation claim, including as amended by the Court, may have unintended and undesirable consequences in future cases implicating the exercise of *amici*'s right to freedom of speech and of the press. If rehearing *en banc* is granted, we would plan to file a merits *amicus* brief articulating those concerns in greater detail and would also be available to take part in argument at the rehearing stage, should our participation prove helpful to the Court in addressing the ruling's broader impact.

Should you or the Court have any questions, please do not hesitate to contact me. Thank you for your consideration.

Respectfully submitted,

/s/ Seth D. Berlin

Seth D. Berlin
Mara J. Gassmann

cc: All Counsel of Record

APPENDIX

List of *Amici Curiae*

The Reporters Committee for Freedom of the Press
American Civil Liberties Union of the District of Columbia
American Society of News Editors
Association of Alternative Newsmedia
First Amendment Coalition
First Look Media Works, Inc.
Fox News Network LLC
Gannett Co., Inc.
Investigative Reporting Workshop at American University
Las Vegas Review-Journal, Inc.
The National Press Club
National Press Photographers Association
NBCUniversal Media, LLC
News Media Alliance
Online News Association
Radio Television Digital News Association
Reveal from The Center for Investigative Reporting
The Seattle Times Company
Society of Professional Journalists
TIME magazine
Tribune Publishing Company
Tully Center for Free Speech
MDE City Paper Holdings, LLC d/b/a Washington City Paper
The Washington Post