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IN THE SUPREME COURT OF THE STATE OF NEVADA

HOWARD SHAPIRO and JENNA SHAPIRO

Appellants/Cross-Respondents.

v.

GLENN WELT, RHODA WELT, LYNN WELT, and MICHELLE WELT,

Respondents/Cross-Appellants.

Supreme Court No. 67363
Dist. Ct. No. A-14-706566-C

MOTION OF *AMICI CURIAE* NEVADA PRESS ASSOCIATION, TRIPADVISOR INC., AND YELP, INC. FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT

HOWARD SHAPIRO and JENNA SHAPIRO

Appellants,

v.

GLENN WELT, RHODA WELT, LYNN WELT, and MICHELLE WELT,

Respondents.

Supreme Court No. 67596
Dist. Ct. No. A-14-706566-C

Pursuant to Nevada Rule of Appellate Procedure 29(h), *amici curiae* Nevada Press Association, Tripadvisor Inc., and Yelp, Inc., respectfully request the Supreme Court of Nevada for leave to participate in oral argument in this case, and be allotted ten minutes of argument time to address the issue of the

1 constitutionality of the Nevada Anti-SLAPP statute, specifically NRS 41.637(4).
 2 NRCP 29(h) states the Court will grant a motion for leave to participate in Oral
 3 Argument for extraordinary reasons.

4 Extraordinary reasons are present. Appellant has challenged the
 5 constitutionality of the Nevada Anti-SLAPP statute. Nevada’s Anti-SLAPP statute
 6 is the nation’s strongest law of this type.¹ Because of this law, all of the citizens
 7 of Nevada enjoy a more robust marketplace of ideas. This marketplace of ideas,
 8 and the free speech rights of our citizens, are in peril if the statute is not adequately
 9 represented.

10 This is not to suggest that counsel for the defense is not adequate, nor even
 11 impressive. However, he is there to defend his client’s interests, and upholding the
 12 constitutionality of the statute is not his primary concern. In fact, if defense
 13 counsel has the opportunity to concede issues that might harm the statute, but
 14 benefit his client, he will be duty bound to choose the latter.

15 The *amici* themselves, beyond the general public, have an interest in
 16 upholding the statute, regardless of the parties’ interests.

17 *Amicus* Nevada Press Association has a vested interest in the protections for
 18 free speech currently afforded because of NRS 41.637(4). This amicus promotes

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 20 ¹ See, e.g., *Nevada’s Anti-SLAPP Law Update*, 24 NEVADA LAWYER 50 (Sept.
 21 2016); *Nevada’s New Anti-SLAPP Law: The Silver State Sets the Gold Standard*,
 21 NEVADA LAWYER 7 (Oct. 2013).

1 the public’s free press rights and the public good that flows from it. Without the
 2 critical protections afforded by the Nevada Anti-SLAPP statute, the Nevada press
 3 would be exposed to a greater number of frivolous lawsuits, undermining their
 4 ability to freely engage in their vital fourth estate function. Due to their interest,
 5 they meet the burden of extraordinary circumstances.

6 *Amici* TripAdvisor Inc. and Yelp Inc. have a vested interest in the result as it
 7 will directly affect their business models and livelihood. The amici’s businesses
 8 are far more robust because of the existence of Anti-SLAPP statutes. These
 9 companies provide a platform for consumer reviews.

10 In discussing consumer reviews, the esteemed judge Jennifer Dorsey of the
 11 District of Nevada wrote a passage that summarizes the importance of consumer
 12 reviews:

13 Consumer reporting plays a vital role in ensuring that a
 14 company's desire to maximize profit, if abused, will not
 15 go unnoticed; and online fora for the exchange of those
 ideas play an increasingly large role in informing
 consumers about the choices that make sense for them.

16 *Neumont Univ., LLC v. Little Bizzy, LLC*, 2014 U.S. Dist. LEXIS 69168, *33 (D.
 17 Nev. May 20, 2014).

18 While consumer reviews of a local business may not seem to many to carry
 19 the great weight of lofty debate on important political ideas, this micro-
 20 marketplace of ideas is just as important as any other. In fact, the economic market

1 cannot function without the marketplace of ideas remaining intact. *See Abrams v.*
 2 *United States*, 250 U.S. 616, 630 (U.S. 1919) (Holmes, J. Dissenting) (“the
 3 ultimate good desired is better reached by free trade in ideas – that the best test of
 4 truth is the power of the thought to get itself accepted in the competition of the
 5 market”). This free market of ideas and information fails when one party attempts
 6 to use the power of the courts to try and scare a speaker into silence. The Nevada
 7 Anti-SLAPP statute promotes this important constitutional principle, and acts as
 8 lubricant in the machine of the marketplace of ideas.

9 Accordingly, *amici* respectfully request that the Court grant leave to
 10 participate in oral arguments through counsel and allow for ten minutes to address
 11 the constitutionality of the Nevada Anti-SLAPP statute. The *amici* ask that this
 12 time is added to, not deducted from, the collective time entitled to the Petitioner
 13 and the Movant.

14 *Amici curiae* reached out to counsel for Appellants and Respondents in order
 15 to ascertain their position on this Motion. Counsel for the Welts stated that they do
 16 not object to the relief requested herein. Counsel for the Shapiros did not respond
 17 to *amici’s* request for their position.

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CONCLUSION

For the foregoing reasons, *amici curiae* Nevada Press Association, Tripadvisor Inc., and Yelp, Inc. respectfully request that the Court grant this request for leave to participate in oral argument.

Dated this 8th day of November 2016.

Respectfully Submitted,

/s/ Marc J. Randazza

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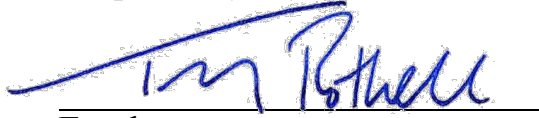
Attorney for Amici Curiae

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this foregoing document was electronically filed and served upon counsel for each of the parties to this appeal through the Supreme Court of Nevada’s electronic filing system on this 8th day of November, 2016.

Respectfully Submitted,



Employee,
Randazza Legal Group, PLLC