

IN THE SUPREME COURT OF TEXAS

PAUL CHABOT,

Petitioner,

v.

FREDERICK FRAZIER,

Respondent.

**BRIEF OF *AMICI CURIAE* THE FREEDOM OF INFORMATION
FOUNDATION OF TEXAS, TEXAS ASSOCIATION OF
BROADCASTERS, TEXAS PRESS ASSOCIATION, THE ELECTRONIC
FRONTIER FOUNDATION, THE FOUNDATION FOR INDIVIDUAL
RIGHTS AND EXPRESSION, THE INSTITUTE FOR FREE SPEECH, THE
NATIONAL COALITION AGAINST CENSORSHIP, AND THE
REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS IN
SUPPORT OF PETITION FOR REVIEW**

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INTRODUCTION

This case presents an opportunity for this Court to reaffirm that speech on matters of public concern—namely, political speech about public officials and their criminal conduct—is protected in Texas. By allowing Frederick Frazier, a former Dallas Police Department officer and Texas House of Representative candidate, to pursue a defamation claim against Paul Chabot, a political opponent, the Court of Appeals found the opposite. In turn, the court narrowed critical First Amendment protections for the public and the press on core political speech and undermined the Texas Citizens Participation Act.

Among the court’s many errors, it failed to apply settled principles of substantial truth and actual malice, flipping well-established constitutional safeguards on their head. Contrary to binding law and this Court’s recent decision in *Polk Cnty. Publ’g Co. v. Coleman*, 685 S.W.3d 71 (Tex. 2024), the Court of Appeals did not evaluate the “gist” of Chabot’s statements from the perspective of a reasonable reader and whether it is more damaging to Frazier’s reputation in the mind of an average reader than a truthful statement. Moreover, the court neglected this Court’s guidance that a statement is substantially true, even if it “errs in the details.”

The Court of Appeals also did not apply the established principle that courts must assess a defamation defendant’s *subjective* beliefs *at the time* of publication to

determine fault. Worse, the court found that Chabot’s continued speech after receiving a cease-and-desist letter “alone” establishes a prima facie case of actual malice. This is not the law.

The Court of Appeals’ unprecedented applications of substantial truth and actual malice threaten the rights of Texans to criticize and comment on public officials and engage in core political speech. The opinion subjects speakers to defamation liability for minor inaccuracies and failing to comply with vague retraction demands (while the requestor withholds relevant information), which weakens speech protections, discourages dissent, and encourages more defamation lawsuits. By reviewing this case, the Court can correct the mistakes of the Court of Appeals and restore fundamental speech protections at the heart of the First Amendment.

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INTEREST OF AMICI CURIAE

The Freedom of Information Foundation of Texas (“FOIFT”) is a non-profit organization that strives to ensure that the public’s business is conducted in public and to protect the liberties of free speech and press guaranteed by the First Amendment. To further these goals, FOIFT hosts educational seminars, organizes a hotline with voluntary attorneys to explain open government laws, and submits amicus briefs in cases raising important issues regarding open government and freedom of speech and the press.

The Texas Association of Broadcasters (“TAB”) is a non-profit trade association established more than 70 years ago to represent the interests of Texas’ 1,200+ free, over-the-air radio and television stations. TAB works to promote and protect a favorable economic and regulatory climate for broadcasting and to educate members and the public at large about the opportunities available and advances possible through the efforts of free, over-the-air broadcast operations.

The Texas Press Association (“TPA”) is a non-profit trade association organized more than 145 years ago to serve as the voice of the Texas newspaper industry. TPA currently represents 352 paid-circulation newspapers published in Texas. The association promotes the welfare of Texas newspapers, encourages higher standards of journalism, and plays an important role in protecting the public’s right to know as an advocate of First Amendment liberties.

The Electronic Frontier Foundation (“EFF”) is a non-profit civil liberties organization with more than 33,000 active members that has worked for 35 years to ensure that technology supports freedom, justice, and innovation for all people of the world. EFF is dedicated to protecting online users’ free expression and privacy rights and has fought for both in courts and legislatures across the country. EFF frequently shares its expertise in amicus briefs, including before this court in *Kinney v. Barnes*, 443 S.W.2d 87 (2014).

The Foundation for Individual Rights and Expression (“FIRE”) is a nonpartisan nonprofit organization that defends the rights of all Americans to free speech and free thought—the essential qualities of liberty. Since 1999, FIRE has successfully defended these rights through public advocacy, strategic litigation, and participation as amicus curiae in cases that implicate First Amendment freedoms.

To that end, FIRE has a keen interest in ensuring individuals and entities do not abuse the courts through lawsuits intended to silence speech on matters of public concern. These lawsuits are commonly called SLAPPs, short for “Strategic Lawsuits Against Public Participation.” FIRE often defends speakers against SLAPPs, *e.g.*, *Trump v. Selzer*, No. 4:24-cv-00449-RGE-WPK (S.D. Iowa); *Mastriano v. Gregory*, No. 5:24-cv00567-J (W.D. Okla.), and advocates as amicus curiae in cases involving the application of anti-SLAPP statutes like the Texas Citizens Participation Act. *E.g.*, *U.S. News & World Report, L.P. v. Chiu*, No. 24-2928 (9th Cir.), ECF No. 16.1,

brief of amicus curiae; *Salaam v. Trump*, 2:24-cv-05560-WB (E.D. Pa.), ECF No. 30-1, brief of amici curiae. Because anti-SLAPP statutes provide important protections for expressive freedoms, amicus FIRE strongly advocates against undermining those protections.

The Institute for Free Speech is a nonpartisan, nonprofit organization dedicated to the protection of the First Amendment rights of speech, assembly, petition, and press. Along with scholarly and educational work, the Institute represents individuals and civil society organizations in litigation securing their First Amendment liberties. The Institute opposes the filing of nuisance litigation intended to dissuade people from debating issues of public concern, and advocates for legal reforms intended to limit such frivolous litigation.

The National Coalition Against Censorship (“NCAC”) is an alliance of more than 50 national non-profit literary, artistic, religious, educational, professional, labor, and civil liberties groups. NCAC was founded in 1974 in response to the United States Supreme Court’s landmark decision *Miller v. California*, 413 U.S. 15 (1973), which narrowed First Amendment protections for sexual expression and opened the door to obscenity prosecutions. The organization’s purpose is to protect freedom of thought, inquiry, and expression and to oppose censorship in all its forms. NCAC engages in direct advocacy and education to support free expression rights of authors, readers, publishers, booksellers, teachers,

librarians, artists, students, and others. NCAC has long recognized—and opposed— attempts to censor or limit access to speech, including great works of literature and art, under the guise of labeling it as obscene, pornographic, or sexually explicit. It therefore has a longstanding interest in assuring the continuance of robust First Amendment protections for all. The positions advocated in this brief do not necessarily reflect the views of NCAC’s member organizations.

The Reporters Committee for Freedom of the Press (“RCFP”) is an unincorporated nonprofit association. The Reporters Committee was founded by leading journalists and media lawyers in 1970 when the nation’s news media faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

Because of their shared commitment to principles of freedom of speech and the press, amici write to encourage the Court to grant review and explain why requiring a high bar to show falsity and actual malice is vital to ensure that the public and press can freely discuss important issues and serve as a check on power. Under the Court of Appeals’ flawed reasoning, basic speech freedoms would be chilled, and the public would be prevented from holding the government accountable without an increased risk of defamation liability.

No fees or costs were paid in connection with the preparation of this brief.

TEX. R. APP. P. 11(c).

SUMMARY OF THE ARGUMENT

The Court of Appeals committed many errors that require correction. This Amicus Brief focuses on two of the most egregious ones that, if not corrected, will have profound effects on speech and press freedoms and political debate in Texas.

First, the Court of Appeals misapplied the substantial truth doctrine by failing to assess whether the “gist” of Chabot’s statements, taken as a whole and in context, was substantially true and whether the statements were more damaging to Frazier’s reputation than a truthful account. The court’s approach conflicts with this Court’s decision in *Coleman* and decades of precedent. If allowed to stand, the ruling would chill robust debate on public issues by imposing liability for minor inaccuracies and flood the courts with defamation cases.

Second, the Court of Appeals distorted the actual malice standard by treating knowledge of Frazier’s denials and receipt of a cease-and-desist letter as evidence of actual malice, despite Frazier withholding material information, and ignoring Chabot’s subjective state of mind at the time of publication. This contravenes settled law, grants public officials veto power over criticism, and invites abusive SLAPP suits. The actual malice inquiry must be based on whether the defendant entertained serious doubts about the truth *when* publishing—not on post-publication events or failure to retract.

ARGUMENT

I. The Court of Appeals’ misapplication of the substantial truth doctrine should be corrected to preserve free speech principles.

A. The Court of Appeals erroneously failed to determine the “gist” of the statements and whether it is more damaging to Frazier’s reputation in the mind of an average reader than a truthful statement.

In considering falsity, the Court of Appeals erred by failing to apply long-established substantial truth doctrine. Courts must consider whether a publication’s “gist,” as understood by a reasonable reader within its context as a whole, is true¹ and whether the “gist” is more damaging to a plaintiff’s reputation in the mind of an average reader than truthful statements would have been.² *Polk Cnty. Publ’g Co. v. Coleman*, 685 S.W.3d 71, 76-80 (Tex. 2024). Moreover, an allegedly defamatory statement is substantially true, even if it “err[s] in the details.” *Id.* at 76.³

¹ See also *Dallas Morning News, Inc. v. Hall*, 579 S.W.3d 370, 381 (Tex. 2019) (a plaintiff has the burden of proving that the “gist” of a report is not substantially true); *New Times, Inc. v. Isaacks*, 146 S.W.3d 144, 157 (Tex. 2004) (in determining the “gist,” courts ask how a “hypothetical reasonable reader” would understand the article, not how any particular reader actually understood it).

² See also *KBMT Operating Co., LLC v. Toledo*, 492 S.W.3d 710, 714 (Tex. 2016) (“The test for whether a report . . . is substantially true is whether the broadcast taken as a whole is more damaging to the plaintiff’s reputation than a truthful broadcast would have been.”); *McIlvain v. Jacobs*, 794 S.W.2d 14, 16 (Tex. 1990) (substantial truth test “involves consideration of whether the alleged defamatory statement was more damaging to [the plaintiff’s] reputation, in the mind of the average listener, than a truthful statement would have been”).

³ See also *Dallas Morning News, Inc. v. Tatum*, 554 S.W.3d 614, 629 (Tex. 2018) (“A broadcast with specific statements that err in the details but that correctly convey

The Court of Appeals considered *none* of these principles. *Chabot v. Frazier*, No. 05-24-01272-CV, 2025 WL 2164002 (Tex. App.—Dallas July 30, 2025). If it had, it would have determined that Chabot’s statements about Frazier’s criminal proceedings and discharge from the Dallas PD are substantially true.

A reasonable reader would have understood that the “gist” of Chabot’s statements on his website and signs—that Frazier pleaded “no contest” to “two misdemeanor charges of attempting to impersonate a public servant,” entered a “guilty plea to Class C Misdemeanor criminal mischief,” and “had been convicted”—is that Frazier engaged in criminal conduct. *Chabot*, 2025 WL 2164002, at *2. That Frazier engaged in criminal conduct is no more damaging to Frazier’s reputation than the truth—that Frazier pleaded guilty to a Class C Misdemeanor Criminal Mischief for removing Chabot’s campaign sign, was indicted on two counts of third-degree felony for impersonating a public servant and entered a plea of “nolo contendere” for attempting to impersonate a public servant. *Id.* at *1; CR 104–05, 129–31, 138–39. Minor differences that do not further damage the reputation of a plaintiff do not lead to liability.⁴

the gist of a story is substantially true.”); *Turner v. KTRK Television, Inc.*, 38 S.W.3d 103, 115 (Tex. 2000) (the substantial truth doctrine “precludes liability for a publication that correctly conveys a story’s ‘gist’ or ‘sting’ although erring in the details”).

⁴ See *Turner*, 38 S.W. 3d at 123 (finding substantial truth even though the broadcast incorrectly stated that an insurance scam totaled \$6.5 million when it only totaled

The Court of Appeals found falsity based on statements that Frazier was “convicted,” but neither defamation nor criminal law acknowledge a meaningful difference between a conviction and a guilty plea. The distinction between the plaintiff being “convicted” and “pleading guilty” is “immaterial.” *Molthan v. Meredith Corp.*, No. 17-CV-00380, 2018 WL 2387235, at *2 (M.D. Tenn. May 25, 2018) (granting motion to dismiss defamation claim); *see also Carpenter v. Drechsler*, No. CIV. A. 89-0066-H, 1991 WL 332766, at *6, n.6 (W.D. Va. May 7, 1991), *aff’d*, 19 F.3d 1428 (4th Cir. 1994) (statement that the plaintiff was a “convicted felon” was substantially true, even though he only pled guilty). In criminal law, a guilty plea “is itself a conviction.” *Moore v. Estelle*, 526 F.2d 690, 696 (5th Cir. 1976); *see also United States v. Williams*, 642 F.2d 136, 139 (5th Cir. 1981) (“Once convicted, whether as a result of a plea of guilty, nolo contendere, or

\$1.7 million); *Rogers v. Dallas Morning News, Inc.*, 889 S.W.2d 467, 471 (Tex. App.—Dallas 1994, writ denied) (articles about misuse of charitable funds were substantially true despite incorrectly stating that the charity spent 10% of donations on actual services rather than 43%); *Simmons v. Ware*, 920 S.W.2d 438 (Tex. App.—Amarillo 1996, no writ) (letter stating that the plaintiff was “drinking a toast to the castration” of a District Attorney at a party was substantially true even though the plaintiff did not make or join the toast but admitted being at the party when the toast was made).

of not guilty (followed by trial), convictions stand on the same footing, unless there be a specific statute creating a difference.”).⁵

Regardless, any minor inaccuracies in Chabot’s statements, especially errors involving the law, do not render them false. *See AOL, Inc. v. Malouf*, No. 05-13-01637-CV, 2015 WL 1535669, at *4–5 (Tex. App.—Dallas Apr. 2, 2015, no pet.) (trial court erred by denying TCPA motion because the “gist” that the plaintiff was charged in a *criminal* proceeding with defrauding taxpayers is not more harmful than the truth that the plaintiff was charged in *civil* proceedings with defrauding taxpayers).⁶ Chabot, a non-lawyer, should not face liability because Frazier alleges that he made minor legal errors. *See Coleman*, 685 S.W.3d at 78 (“[E]rrors of law by those reporting on the law are not automatically actionable as defamation. If it were otherwise, the ‘freedom ... of the press’ would be hard-pressed indeed.”).

⁵ *See also Ex parte Williams*, 703 S.W.2d 674, 682 (Tex. Crim. App. 1986) (en banc) (“The entry of a valid plea of guilty has the effect of admitting all material facts alleged in the formal criminal charge.”).

⁶ *See also Basic Capital Mgmt., Inc. v. Dow Jones & Co.*, 96 S.W.3d 475, 481–82 (Tex. App.—Austin 2002, no pet.) (newspaper article stating that investment firm had been involved in money laundering was substantially true when only two employees had been charged with fraud and conspiracy, not money laundering, and company was only mentioned in indictment, but not charged); *Associated Press v. Cook*, 17 S.W.3d 447, 456 (Tex. App.—Houston [1st Dist.] 2000, no pet.) (statement of belief that plaintiff committed perjury was substantially true even though plaintiff was never indicted because evidence showed that plaintiff misstated the contents of telephone records while under oath).

Similarly, Chabot’s statements on his website and signs that Frazier received a dishonorable discharge are substantially true. Frazier admits that he received a dishonorable discharge in December 2023 because he elected to retire while under investigation. *Chabot*, 2025 WL 2164002, at *1 (the DPD listed his discharge as “dishonorably discharged” on the F-5 Separation of Licensee Form). The dishonorable discharge changed to a general discharge *only after* Frazier appealed the status of his discharge to the Texas Commission on Law Enforcement, a fact that Frazier withheld from Chabot when he sent his retraction demand. *Id.* The fact that Frazier’s discharge status subsequently changed does not mean that he was not dishonorably discharged. Even if Chabot may have “erred in the details,” his statements remain substantially true. *See McIlvain*, 794 S.W.2d at 16 (despite several minor mischaracterizations, the court held, as a matter of law, the report was substantially true and affirmed dismissal).

B. The substantial truth doctrine encourages a robust speech environment and ensures that speech has the “breathing space” needed to survive.

The Court of Appeals’ decision should be reversed to ensure that debate on public issues remains “uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270, 272 (1964). The court’s incorrect interpretation of substantial truth risks preventing speech in the first instance and subjecting those that do speak to the burdens and costs of defending a defamation suit. Imposing

liability for critical, even if erring in minor details, comments on official conduct would effectively resurrect “the obsolete doctrine that the governed must not criticize their governors.” *Id.* at 271–72.

Because false statements are “inevitable in free debate,” they “must be protected if the freedoms of expression are to have the ‘breathing space’ that they need to survive.” *Id.* (“Errors of fact . . . are inevitable”); *Philadelphia Newspapers v. Hepps*, 475 U.S. 767, 772 (1986) (“Freedoms of expression require ‘breathing space.’”) (citation omitted). If minor factual errors will lead to litigation, protected speech will be curtailed in an attempt to “‘steer wider of the unlawful zone’ of unprotected speech.” *Dallas Morning News, Inc. v. Tatum*, 554 S.W.3d 614, 632 (Tex. 2018) (quoting *Time, Inc. v. Hill*, 385 U.S. 374, 389 (1967)). Indeed, “would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so.” *Sullivan*, 376 U.S. at 279. As a result, valuable speech is “taken from the field of free debate.” *Id.* at 272.

Rejecting the Court of Appeals’ reasoning ensures that defamation law does not exert a “chilling effect” on First Amendment activities. *Tatum*, 554 S.W.3d at 632. By clarifying the contours of the substantial truth doctrine, this Court can protect the “freedom to speak one’s mind,” which is “essential to the common quest

for truth and the vitality of society as a whole.” *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 51 (1988).

II. The Court of Appeals’ misapplication of the actual malice standard should be corrected to preserve free speech principles.

In considering actual malice, the Court of Appeals erred by ignoring Chabot’s state of mind at the time of publication, instead relying on Chabot’s failure to retract after receiving a cease-and-desist letter to find fault. The U.S. Supreme Court addressed both of these issues in *New York Times v. Sullivan*, holding that actual malice is determined by the state of the mind of the speaker “at the time of the publication” and that “failure to retract upon [the plaintiff’s] demand ... is ... not adequate evidence of malice for constitutional purposes.” 376 U.S. at 286. The Dallas Court of Appeals ruled contrary to the high court on both issues.

A. A defendant’s subjective state of mind at the time of publication must be considered.

The Court of Appeals erred by not considering whether Chabot subjectively knew the statements were false or demonstrated a reckless disregard for the truth at the time of publication. *Isaacks*, 146 S.W.3d at 168 (“The actual malice inquiry focuses on the defendant’s state of mind at the time of publication.”); *Freedom Newspapers of Tex. v. Cantu*, 168 S.W.3d 847, 858 (Tex. 2005) (“actual malice

inquires only into the mental state of the defendant”).⁷

Instead of addressing Chabot’s state of mind, the Court of Appeals cited to one cherry-picked statement from *Bentley v. Bunton*, 94 S.W.3d 561, 591 (Tex. 2002), that “evidence that a failure to investigate was contrary to a speaker’s⁸ usual practice and motivated by a desire to avoid the truth *may* demonstrate the reckless disregard required for actual malice.” *Chabot*, 2025 WL 2164002, at *8. But that principle does not apply here. Frazier presented no evidence that failure to investigate was contrary to Chabot’s “usual practice” or “motivated by a desire to avoid the truth.” Chabot was a candidate for public office, not a journalist, and relied on public records that he was aware of at the time. Meanwhile, the Court of Appeals ignored this Court’s explanation in *Bentley* that “the actual malice standard requires that a defendant have, *subjectively, significant* doubt about the truth of his statements at the time they are made.” 94 S.W.3d at 596 (emphasis added). Applying this principle, the Court of Appeals would have reached a different outcome because Frazier presented no facts showing that Chabot “entertained serious doubts as to the truth of the [statements] at the time [they were] published.” *Hearst Corp. v. Skeen*,

⁷ See also *Seidenstein v. Nat’l Med. Enterprises, Inc.*, 769 F.2d 1100, 1104 (5th Cir. 1985) (actual malice requires “subjective awareness of probable falsity”).

⁸ The speaker was a host of a public access television show.

159 S.W.3d 633, 637 (Tex. 2005).

If the opinion stands, lower courts may likewise fail to consider the state of mind of a defamation defendant at the time of publication when assessing actual malice, which would cripple critical First Amendment protections and severely constrain the ability of the public and press to “effectively expose deception in government.” *New York Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J., concurring). The threat of being sued and having to defend a lawsuit “may be as chilling to the exercise of First Amendment freedoms as fear of the outcome of the lawsuit itself.” *Washington Post Co. v. Keogh*, 365 F.2d 965, 968 (D.C. Cir. 1966). Unless speakers are assured freedom from lawsuits, “they will tend to become self-censors.” *Id.* Indeed, people “who have been outspoken on issues of public importance targeted in [SLAPP] suits or who have witnessed such suits will often choose in the future to stay silent.” *Gordon v. Marrone*, 155 Misc. 2d 726, 736, 590 N.Y.S.2d 649, 656 (N.Y. Sup. Ct. 1992), *aff’d*, 202 A.D.2d 104, 616 N.Y.S.2d 98 (N.Y. App. Div. 1994). “Short of a gun to the head, a greater threat to First Amendment expression can scarcely be imagined.” *Id.*

B. The Court of Appeals erroneously found a prima facie case of actual malice because Chabot failed to retract in response to Frazier’s denials.

The Court of Appeals held that the timing of Chabot’s statements after Frazier sent him a cease-and-desist letter (without providing additional information) and

filed this lawsuit “alone” established a prima facie case of actual malice. *Chabot*, 2025 WL 2164002, at *8. Not so. Decades of binding cases have held that neither denials nor failure to retract constitutes actual malice.

A speaker’s knowledge of “denials, however vehement” does not constitute actual malice. *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 691 n.37 (1989). Put differently by this Court: “The mere fact that a defamation defendant knows that the public figure has denied harmful allegations or offered an alternative explanation of events is not evidence that the defendant doubted the allegations.” *Huckabee v. Time Warner Entm’t Co. L.P.*, 19 S.W.3d 413, 427 (Tex. 2000); *see also Cantu*, 168 S.W.3d at 858 (adopting same reasoning). This rationale is based on the reality that denials by public officials “are part and parcel of free discussion about public affairs.” *Huckabee*, 19 S.W.3d at 427. Denials have become so common and can be asserted so easily that they “hardly alert” a speaker “to the likelihood of error.” *Id.* (quoting *Harte-Hanks*, 491 U.S. at 692); *see also Edwards v. National Audubon Society, Inc.*, 556 F.2d 113, 121 (2d Cir. 1977) (adopting same reasoning).

The failure to retract upon a plaintiff’s demand does not show actual malice either. *Sullivan*, 376 U.S. at 286 (the “failure to retract” is “not adequate evidence of malice for constitutional purposes”); *see also Kaufman v. Tucker*, No. 08-00-00443-CV, 2002 WL 59610, at *3 (Tex. App.—El Paso Jan. 17, 2002, pet. denied) (finding a lack of actual malice even though the defendant “never retracted any

statement about [plaintiff] and reiterated the statements deeming a radio interview after receiving [plaintiff's] demand for a retraction"); *Blankenship v. NBC Universal, LLC*, 60 F.4th 744, 763 (4th Cir. 2023) (the lack of a retraction “has little to no relevance in the actual malice inquiry”).

If a denial and failure to retract are sufficient to demonstrate actual malice, “then no disputed fact could ever safely be published,” *Lemelson v. Bloomberg LP*, 253 F. Supp. 3d 333, 340–41 (D. Mass. 2017), and the First Amendment “would be undermined.” *Martin Marietta Corp. v. Evening Star Newspaper Co.*, 417 F. Supp. 947, 960 (D.D.C. 1976). Denials and cease-and-desist letters will be weaponized to silence critics, discourage dissenting voices, and punish adversaries—effectively functioning as an end-run around the actual malice standard. And those in power will be emboldened to file more SLAPPs in Texas. These consequences would render the TCPA toothless and cripple the Legislature’s express purpose in passing the TCPA—“to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law.” TCPA § 27.002.⁹

⁹ See also *Hall*, 579 S.W.3d at 376 (“The Texas Citizens Participation Act is a bulwark against retaliatory lawsuits meant to intimidate or silence citizens on matters of public concern.”).

CONCLUSION

This case presents an important opportunity for the Court to reaffirm the constitutional safeguards that protect free and open debate on public issues, including core political speech. The Court of Appeals' decision misapplies the substantial truth doctrine and the actual malice standard, threatening to chill core political speech and undermine the TCPA. By correcting these errors, the Court will ensure that Texas remains a state where robust discussion of public affairs is uninhibited, dissenting voices are protected, and the public can hold officials accountable without fear of liability.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH RULE 9.4(e), (i)

1. This brief complies with the type-volume limitation of Texas Rule of Appellate Procedure 9.4(i)(2)(B) because, according to the Microsoft Word word count function, it contains 4,375 words, excluding the parts of the brief exempted by Texas Rule of Appellate Procedure 9.4(i)(1).
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CERTIFICATE OF SERVICE

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