EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE: OPENAI, INC., COPYRIGHT INFRINGEMENT LITIGATION This Document Relates To: 1:23-cv-11195 (SHS) (OTW)	Case No. 1:25-md-3143 (SHS) (OTW)

[PROPOSED] BRIEF OF AMICI CURIAE REBUILD LOCAL NEWS, LOCAL INDEPENDENT ONLINE NEWS PUBLISHERS, THE NEWSGUILD-CWA, NATIONAL ASSOCIATION OF HISPANIC PUBLICATIONS, SOLUTIONS JOURNALISM NETWORK, AAN PUBLISHERS, INSTITUTE FOR RURAL JOURNALISM AND COMMUNITY ISSUES, AND THE SOCIETY OF PROFESSIONAL JOURNALISTS IN SUPPORT OF CLASS PLAINTIFFS' AND NEWS PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

INTERESTS OF THE AMICI 1

SUMMARY OF THE ARGUMENT 4

ARGUMENT 4

A. The Harm Caused by AI Companies Not Respecting Copyrights 5

B. What Is Lost When Local News Sources Disappear 8

CONCLUSION 14

CERTIFICATE OF WORD COUNT COMPLIANCE 16

TABLE OF AUTHORITIES

Statutes

17 U.S.C. § 107(4) ……..……5

Other Authorities

Joseph Ax & Helen Coster, *AI Deepfakes Blur Reality in 2026 US Midterm Campaigns*, U.S. News & World Rep. (Mar. 28, 2026), https://www.usnews.com/news/politics/articles/2026-03-28/ai-deepfakes-blur-reality-in-2026-us-midterm-campaigns. ….. 13

Matthew Baker & Dermot Murphy, *Local News Shortage Leads to $1.1 Billion in Extra Borrowing Costs for Local Governments and Taxpayers*, Rebuild Local News (2026), https://www.rebuildlocalnews.org/local-news-shortage-leads-to-1-1-billion-in-extra-borrowing-costs-for-local-governments-and-taxpayers/. ….. 10

Civic Information Needs Census, *The Proximity Paradox: It's Harder to Stay Informed About Your Neighborhood Than About Another Country*, (Feb. 2026), https://infocensus.org/share/proximity-paradox. ….. 11

Joshua P. Darr, Matthew P. Hitt & Johanna L. Dunaway, *Newspaper Closures Polarize Voting Behavior*, 68 J. Commun. 1007 (2018), https://doi.org/10.1093/joc/jqy051. ….. 11

Erin Davis, *Link Economy Breaks as AI Reshapes Web Traffic*, Axios (Sep. 19, 2026), https://www.axios.com/media-trends-membership/2026/09/19/ai-search-traffic-referrals-news-sites. ….. 6

Sara Fischer, *Exclusive: Small Publishers Hit Hardest by Search Traffic Declines*, Axios (Mar. 17, 2026), https://www.axios.com/2026/03/17/chartbeat-search-traffic-ai-chatbots. ….. 6

Fitch Ratings, *U.S. Digital Advertising Pressured by AI Disruption, Web Traffic Decline* (Sep. 10, 2025), ….. 6

https://www.fitchratings.com/research/corporate-finance/us-digital-advertising-pressured-by-ai-disruption-web-traffic-decline-10-09-2025.

Pengjie Gao, Chang Lee & Dermot Murphy, *Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance*, 135 J. Fin. Econ. 445 (Feb. 2020), https://doi.org/10.1016/j.jfineco.2019.06.003. ….. 10

Jonas Heese, Gerardo Pérez-Cavazos & Caspar David Peter, *When the Local Newspaper Leaves Town: The Effects of Local Newspaper Closures on Corporate Misconduct*, 145 J. Fin. Econ. 445 (2022), https://doi.org/10.1016/j.jfineco.2021.08.015 ….. 10

I. Chomnalez & I. Blachez, *'Pink slime' Is Infecting AI Chatbots Ahead of the Midterms*, Politico Magazine, (Sep. 25, 2026) https://www.politico.com/news/magazine/2026/09/25/midterms-partisan-ai-chatbots-01092138. ….. 12

Nicola Mastrorocco & Arianna Ornaghi, *Who Watches the Watchmen? Local News and Police Behavior in the United States*, 17 Am. Econ. J.: Econ. Pol'y 285 (May 2025), https://doi.org/10.1257/pol.20230356. ….. 9

Ted Matherly & Brad N. Greenwood, *No News Is Bad News: The Internet, Corruption, and the Decline of the Fourth Estate*, 48 MIS Q. 699 (June 1, 2024), https://doi.org/10.25300/MISQ/2023/17869. ….. 9

Zach Metzger & John Volk, Medill Local News Initiative, *The State of Local News: 2026 Report* (2026), https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2026/. ….. 7

Daniel J. Moskowitz, *Local News, Information, and the Nationalization of U.S. Elections*, 115 Am. Pol. Sci. Rev. 114 (Feb. 2021), https://doi.org/10.1017/S0003055420000829. ….. 11

Kat Rowlands, *Why We're Asking for Your Email (And Why It Matters)*, Local News Matters, https://localnewsmatters.org/why-were-asking-for-your-email-and-why-it-matters/ (last visited Oct. 29, 2026). ….. 8

McKenzie Sadeghi, NewsGuard, *AI False Claims Monitor One Year Progress Report* (Sep. 4, 2025), https://www.newsguardtech.com/wp-content/uploads/2025/09/August-2025-One-Year-Progress-Report-3.pdf. ….. 12

INTERESTS OF THE *AMICI*

Rebuild Local News is a nonpartisan nonprofit that develops public policies to respond to the local news crisis. The Rebuild Local News Coalition includes 55 local news organizations that together represent 3,000 local news outlets and 15,000 journalists. Members include large and small publishers including for-profits and nonprofits; labor and publishers; digital, broadcast, and print; ethnic media and rural weeklies; legacies and startups. The group is especially attentive to the needs and aspirations of small and medium-sized local publishers.

Founded in 2012, Local Independent Online News Publishers is a nonprofit professional association committed to strengthening the local news industry by helping independent publishers build more sustainable businesses. The association has more than 450 members in 48 states, including 32 in New York (such as East End Beacon, Chalkbeat, and the Haitian Times).

The NewsGuild-CWA (the "Guild") is the largest union of journalists and media workers in North America, representing about 27,000 workers at 540 workplaces, including 21,000 media workers at 330 workplaces. These include newsrooms like The Atlantic, The New Yorker, The Marshall Project and ProPublica and local news outlets like the Miami Herald, the Idaho Statesman, Amsterdam News and New York Daily News. The Guild's members include reporters, columnists, copy editors, photojournalists, videographers, graphic designers, editorial cartoonists, and others. The Guild also represents workers in advertising, circulation, business offices, publishing house employees, language interpreters and translators, social justice workers, and the staff of nonprofit organizations. It is a sector of the Communications Workers of America, which is an affiliate of the AFL-CIO.

The National Association of Hispanic Publications, Inc. is a nonpartisan trade advocacy organization representing the leading Spanish language publications serving 41 markets in 39

states, the District of Columbia and Puerto Rico, with a combined circulation of over 23 million publications – from La Prensa De Houston to La Noticia Charlotte to El Diario in New York.

The Solutions Journalism Network ("SJN") is a nonprofit, nonpartisan organization focused on advancing rigorous reporting about how people are trying to solve problems and what we can learn from their successes and failures. By adding rigorous coverage of solutions, journalists can tell the whole story. SJN has trained more than 120,000 journalists in solutions journalism techniques including those at the New York's City Reporter, Amsterdam News, Haitian Times, Chronogram, and the Poughkeepsie Journal.

AAN Publishers ("AAN") is a 501(c)(6) organization representing over 110 news media organizations throughout North America. AAN is a big tent with a wide variety of publishers that all share certain attributes: an intense focus on local news, culture and the arts; an emphasis on point-of-view reporting and narrative journalism; respect for individual freedoms and social differences; and an eagerness to report on issues and communities that many mainstream media outlets ignore. AAN has members all over the country from the Baltimore Beat to the Santa Barbara Independent and the Chicago Reader to the San Antonio Current.

The Institute for Rural Journalism and Community Issues (the "Institute") helps sustain journalism in rural communities, through information, expertise, training, outreach and other programs. The Institute helps non-metropolitan journalists define the public agenda for their communities and grasp the local impact of broader issues, including interpreting rural issues for metro news media, conducts seminars, and publishes research and good examples of rural journalism.[1]

[1] No party or its counsel authored this brief in whole or in part or contributed money toward the preparation or submission of this brief.

The Society of Professional Journalists ("SPJ") is the nation's most broad-based journalism membership organization, dedicated to encouraging the free practice of journalism and upholding high ethical standards. Founded in 1909 as Sigma Delta Chi, SPJ champions journalists by recognizing outstanding achievement, protecting press freedom, promoting ethics and preparing new generations of professionals. With more than 4,000 active members nationwide, SPJ has local chapters across the country.

SUMMARY OF THE ARGUMENT

At first glance, it may seem like the outcome of this case impacts only the biggest media companies and the biggest technology companies. But in the view of the *amici*, the fate of community media – the outlets that cover local schools, county government, and neighborhood parks – hinges upon this case.

Community media are a critical, but often overlooked, component of the American news sector.

ARGUMENT

Amici first want to acknowledge that artificial intelligence ("AI") can help newsrooms do better journalism for their communities, if it is used in a responsible way.

But it is also clear that the benefits of those tools will amount to one step forward and many steps back if the economic models of local news outlets are devastated by the behavior of AI companies. This case will determine whether AI companies' current approach of not compensating news organizations for scraping content will undercut local news outlets' business models and remove the economic incentives for paying journalists to produce truthful information for our communities. The stakes go far beyond the economic health of news organizations. The evaporation of reliable local news causes severe civic, economic, and social harm to communities.

A. The Harm Caused by AI Companies Not Respecting Copyrights

Amici are deeply concerned that the current practices of AI companies will harm an already fragile local news system. AI companies scrape journalism from local news websites, mostly without compensation, both to pretrain their models and to supply up-to-date answers through retrieval-augmented generation ("RAG"). The chatbots used by AI companies aspire to provide complete answers, obviating the need for a reader to visit the websites that financially invested in creating the underlying journalism. *Amici* thoroughly agree with the OpenAI executive who said "[p]ublishers" face an "existential threat" from those products, which "are largely substitutive, period" and "will get more and more substitutive as they get better." News Pls.' Mot. for Summary Judgment at 1, *In re OpenAI, Inc. Copyright Infringement Litigation,* No. 25-md-3143 (Dkt. No. 1587-1) (S.D.N.Y. Sep. 17, 2026).

AI companies in this case, and almost all others, have argued that fair use excuses their scraping of *amici's* copyrighted works for training and ingestion. However, any fair use defense requires scrutiny of such a claim. *Amici* highlight the fourth factor of fair use, which considers "the effect of the use upon the potential market for or value of the copyrighted work." 17 U.S.C. § 107(4). As described below, *amici* believe that interpreting fair use to enable the current AI business model to continue will undermine the local news market in several ways.

First, advertising revenue at local news outlets is usually based on ad impressions or user engagement; when traffic from human visitors declines, so does ad revenue. *See* Fitch Ratings, *U.S. Digital Advertising Pressured by AI Disruption, Web Traffic Decline* (Sep. 10, 2025), https://www.fitchratings.com/research/corporate-finance/us-digital-advertising-pressured-by-ai-disruption-web-traffic-decline-10-09-2025. Axios found that "[t]raffic to news sites is plummeting in the U.S. as tech giants shift users from search and social sites to AI interfaces."

Erin Davis, *Link Economy Breaks as AI Reshapes Web Traffic*, Axios (Sep. 19, 2026), https://www.axios.com/media-trends-membership/2026/09/19/ai-search-traffic-referrals-news-sites. A study by Chartbeat found that smaller publishers were hit hardest, with a 60% decline for small publishers (with 1,000–10,000 daily page views) versus 47% for medium-sized (10,000–100,000 daily page views) and 22% for large publishers. *See* Sara Fischer, *Exclusive: Small Publishers Hit Hardest by Search Traffic Declines*, Axios (Mar. 17, 2026), https://www.axios.com/2026/03/17/chartbeat-search-traffic-ai-chatbots. According to the 2026 State of Local News Report produced by the Medill School of Journalism at Northwestern University, the web traffic of the top 100 newspapers has declined nearly 50% since OpenAI released ChatGPT in 2022: "As more web services, including traditional search engines, move toward the 'answer machine' model of AI chatbots, audiences are increasingly presented with summaries of local news content and have less incentive to actually visit the news sites," the Medill report stated. Zach Metzger & John Volk, Medill Local News Initiative, *The State of Local News: 2026 Report* (2026), https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2026/.

Second, the availability of news outlets' information for free through AI results makes it less likely that consumers will purchase a subscription or become a paying member. As search referrals decline, the number of potential subscribers declines. The calculus for the consumer also changes to: Why pay or donate if you can get the information (from an AI chatbot) for free?

Third, the ability of news organizations to demonstrate their value to the community is undermined. Local news, whether it is commercial or nonprofit, can only succeed if it provides important information *and* if residents are aware of the source of that information. AI agents will often confidently dispense knowledge without highlighting the entities that spent money, and the

individuals who spent time, to generate that information. Indeed, with rising concerns about "fake news," our readers often look to the source of the news to determine its veracity.

This matters especially in the case of nonprofit local news organizations, which need to convince local residents or foundations that the news organizations are doing important work with significant impact. For example, the Bay Area News Foundation, a 501(c)(3) nonprofit news organization serving Northern California, estimated that it costs an average of $500 to produce every news story. To help recoup those costs, nonprofit news organizations set up email-registration walls to solicit human readers. As the Foundation explained:

> If real human readers aren't visiting the site, they're also not signing up for our newsletters. And they're also not donating the tax-deductible donations that we rely on most to compensate the reporters, cover the cost of running the website, and pay for all the other things we need like insurance, technology and travel. AI companies are extracting value from local journalism, while small newsrooms pay the price.

Kat Rowlands, *Why We're Asking for Your Email (And Why It Matters)*, Local News Matters, https://localnewsmatters.org/why-were-asking-for-your-email-and-why-it-matters/ (last visited Oct. 29, 2026). AI undermines this business model: "Instead of listing sources, AI bots are bombarding our site and scraping it for information, summarizing our information without giving us credit, payment or anything else of value…" *Id*.

B. What Is Lost When Local News Sources Disappear

Crucially, the damage of the local news collapse is not just, or even primarily, to the publishers or the journalists. The civic and economic health of communities and of democracy rests on residents having reliable information of the kind traditionally gathered by local journalists, an essential civic function for which social media and AI have been inferior substitutes. Community coverage includes a wide range of topics and services – the new curriculum at the high school, plans for a sewage treatment plant, an obituary about the inspiring ice cream shop

owner, a hard-headed analysis of the county budget, reviews of the community theater's latest production, basketball highlights, new homelessness initiatives from houses of worship, crimes large and small, and video of local candidate debates. It includes watchdog reporting, holding officials accountable; utilitarian information, helping residents navigate their communities; and human interest coverage, enabling neighbors to know each other and their community. All three of these types of news help communities function and thrive.

Rigorous academic studies have shown over and over that the loss of local news has devastating effects on communities:

- Corruption rises. *See* Ted Matherly & Brad N. Greenwood, *No News Is Bad News: The Internet, Corruption, and the Decline of the Fourth Estate*, 48 MIS Q. 699 (2024), https://doi.org/10.25300/MISQ/2023/17869.
- Police solve fewer violent crimes. *See* Nicola Mastrorocco & Arianna Ornaghi, *Who Watches the Watchmen? Local News and Police Behavior in the United States*, 17 Am. Econ. J.: Econ. Pol'y 285 (May 2025), https://doi.org/10.1257/pol.20230356.
- Polluters are less likely to be penalized. *See* Jonas Heese, Gerardo Pérez-Cavazos & Caspar David Peter, *When the Local Newspaper Leaves Town: The Effects of Local Newspaper Closures on Corporate Misconduct*, 145 J. Fin. Econ. 445 (2022), https://doi.org/10.1016/j.jfineco.2021.08.015.
- Municipal governments pay higher interest rates in areas with no local news; investors figure that without local watchdogs, government will be more wasteful. *See* Pengjie Gao, Chang Lee & Dermot Murphy, *Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance*, 135 J. Fin. Econ. 445 (Feb.

2020), https://doi.org/10.1016/j.jfineco.2019.06.003. The municipal bond effects of losing local news outlets by themselves cost governments $1.1 billion more per year, acting like an invisible tax on local communities. *See* Matthew Baker & Dermot Murphy, *Local News Shortage Leads to $1.1 Billion in Extra Borrowing Costs for Local Governments and Taxpayers*, Rebuild Local News (2026), https://www.rebuildlocalnews.org/local-news-shortage-leads-to-1-1-billion-in-extra-borrowing-costs-for-local-governments-and-taxpayers/.

- Residents are less likely to be informed about local issues than national news. This "proximity paradox," in which it is harder to stay informed about your neighborhood than about another country, means people know far more about the U.S. Senate candidates than the mayor or the high school principal. *See* Civic Information Needs Census, *The Proximity Paradox: It's Harder to Stay Informed About Your Neighborhood Than About Another Country*, (Feb. 2026), https://infocensus.org/share/proximity-paradox. Thus, local democracy becomes information-starved.
- News deserts also exacerbate polarization, according to multiple academic studies. *See, e.g.,* Daniel J. Moskowitz, *Local News, Information, and the Nationalization of U.S. Elections*, 115 Am. Pol. Sci. Rev. 114 (Feb. 2021), https://doi.org/10.1017/S0003055420000829 and Joshua P. Darr, Matthew P. Hitt & Johanna L. Dunaway, *Newspaper Closures Polarize Voting Behavior*, 68 J. Commun. 1007 (2018), https://doi.org/10.1093/joc/jqy051. How? The information vacuum that emerges gets filled by national media (which tend to focus on partisan issue framing) or social media, which incentivize outrage. This has been measured

both in terms of the decline of split-ticket voting and the rise of hostile attitudes measured in public opinion surveys.

- Finally, the lack of reliable local news will also mean more local misinformation. AI chatbots are more likely to err when there is a shortage of information about a topic; most local news ecosystems reflect that kind of information scarcity, so the risk of misinformation is higher. This danger grows as bad-faith actors learn how to influence AI systems. A recent study by NewsGuard showed how political groups used AI to create massive amounts of partisan content to influence the AI agents' depictions of their candidates. *See* I. Chomnalez & I. Blachez (2026, September 25), *'Pink slime' is infecting AI chatbots ahead of the midterms,* Politico Magazine, https://www.politico.com/news/magazine/2026/09/25/midterms-partisan-ai-chatbots-01092138. Another NewsGuard study found that in 2025, the largest AI tools repeat misinformation in about 35 percent of cases when it came to current news. McKenzie Sadeghi, NewsGuard, AI False Claims Monitor One Year Progress Report (Sep. 4, 2025), https://www.newsguardtech.com/wp-content/uploads/2025/09/August-2025-One-Year-Progress-Report-3.pdf.

As local news declines, it will be less effective at watchdogging scurrilous creations of deepfakes. In one recent campaign advertisement, a candidate mouths the words, "I just voted to keep the government shut down. They say it would hurt farmers, but I wouldn't know. I've only seen a farm on Instagram." Joseph Ax & Helen Coster, *AI Deepfakes Blur Reality in 2026 US Midterm Campaigns*, U.S. News & World Rep. (Mar. 28, 2026), https://www.usnews.com/news/politics/articles/2026-03-28/ai-deepfakes-blur-reality-in-2026-us-

midterm-campaigns. The candidate never actually uttered those words. In national elections, we can count on *The New York Times* or others to smoke these out, but in a town with one (or no) journalists, deepfakes on a hyperlocal level are unlikely to be authoritatively identified or corrected before an election.

If the status quo of AI scraping and ingestion persists, *amici* foresee the likelihood of a relentless downward spiral for all of the local news ecosystems and markets. AI uses the journalism created by local news outlets, without compensation. The local news outlets wither, and investment dries up. That hollowing out of local news, in turn, makes AI agents less accurate, though no less confident.

Can the local news crisis be reversed? Unfortunately, if the current AI system persists, investing in local journalism as a commercial matter would be a fool's game. Put time and energy into creating journalism, earn little money for it, and watch others extract all the financial value, while you fail to recover the costs of newsgathering? It is simply not a plausible business strategy.

Meanwhile, the philanthropic world will face a cruel conundrum. Donors and foundations have responded to the previous decline of local news with great generosity and concern. Although charitable support has not fully filled all the gaps, flowers of innovation have been blooming. Now, many of those gains could be wiped out – and the philanthropic sector would confront an uncomfortable reality: they are devoting their precious dollars to remediate harms caused by the AI companies' unwillingness to compensate news organizations. Philanthropy will, in effect, be subsidizing the AI companies.

Amici clearly disagree with the U.S. Justice Department's statement that ruling in favor of the New York Times would be bad for smaller news outlets. *Amici* argue that the opposite is true. Right now, in a no-holds-barred AI training environment, it is only large media outlets that are

able to make one-off commercial deals with the AI companies. Small outlets mostly do not get the time of day, resulting in our smallest local news proprietors simply donating their time and labor to Silicon Valley.

CONCLUSION

If this Court were to reaffirm strong copyright protection by ruling for the New York Times, then small media would have a much stronger claim for compensation to fund the development of critically important news media. The risk of copyright infringement would create incentives for AI companies to find solutions that fairly support the local news creators. This could include simple, low-friction licensing solutions capable of dispensing fair compensation for the broad range of community news providers, including many small outlets without legal or technical resources. Many advocates have already suggested such structures, although they have not yet delivered support for small local news providers for the simple reason that AI companies can simply take their work for free.

An appropriate licensing, compensation, or subsidy system could help create a virtuous circle: local news would grow stronger and, in turn, feed reliable information to AI systems, which would, in turn, become more accurate and helpful.

Alternatively, the current system – the vicious (not virtuous) version of the circle – will sap the incentives for producing good local journalism. This dynamic threatens not only the individual local news outlets, but the ability of American communities to understand and govern themselves.

Amici urge the Court to reject the fair use defenses for AI scraping and ingestion of our creations.

Dated: October 30, 2026
New York, New York

Respectfully submitted,

PALLAS PARTNERS (US) LLP

By: */s/ Anastasia Cembrovska*

Anastasia Cembrovska
75 Rockefeller Plaza
New York, NY 10019
Telephone: (212) 970-2300
Anastasia.Cembrovska@pallasllp.com

Attorneys for Rebuild Local News, Local Independent Online News Publishers, The NewsGuild-CWA, National Association of Hispanic Publications, Solutions Journalism Network, AAN Publishers, Institute for Rural Journalism and Community Issues, and The Society of Professional Journalists

CERTIFICATE OF WORD COUNT COMPLIANCE

In accordance with Local Civil Rule 7.1(c) and the Court's August 7, 2026 Order (Dkt. 1663, 25-md-3143), I certify that the foregoing *amici curiae* brief contains 3,014 words, including footnotes but exclusive of the caption page, certificates, and signature block. The basis of my knowledge is the word count feature of the word-processing system used to prepare this brief.

s/ Anastasia Cembrovska
Anastasia Cembrovska