No. 20-332

IN THE

SUPREME COURT OF THE UNITED STATES

MAGGY HURCHALLA

Petitioner,

v.

LAKE POINT PHASE I, LLC & LAKE POINT PHASE II, LLC,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE FOURTH DISTRICT COURT OF APPEAL OF FLORIDA

BRIEF AMICUS CURIAE FOR THE "PROTECT THE PROTEST" TASK FORCE, THE CATO INSTITUTE, AND THE INSTITUTE FOR JUSTICE

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QUESTIONS PRESENTED

Petitioner Maggie Hurchalla, a Florida environmentalist, was hit with a $4.4 million jury verdict for tortious interference for emailing her county commissioners about a mining project, after which those commissioners found violations on the project. The Florida Fourth District Court of Appeals found this verdict to be sustainable on the basis of a single email that made arguably false statements about the project, although the court did not suggest these statements were defamatory. The court below noted that the Respondent had "alleged" that the email caused the county to breach its agreements regarding the project, but it did not discuss any evidence that supported this allegation. *Amici curiae* believe the questions presented, which is encompassed by the question articulated by Petitioner, is:

> Does the Petition Clause of the First Amendment permit suits for tortious interference based on statements made by citizens to elected officials?

INTERESTS OF AMICI CURIAE

Amici curiae are nonprofit nongovernmental human rights, environmental, civil rights, and free speech organizations that have joined together to express grave concerns about the chilling effect that the judgment in this case will have on citizen engagement with governmental officials. *Amici* include members of the "Protect the Protest" task force ("PTP"), the Cato Institute, and the Institute for Justice. [1]

PTP is a coalition of organizations that believes free speech, freedom of assembly, and peaceful dissent are fundamental pillars of democracy. PTP works to protect the First Amendment rights of public interest advocates against the threat of Strategic Lawsuits Against Public Participation ("SLAPP suits"). A more detailed description of the members of PTP is set forth in Appendix A.

The Cato Institute is a nonpartisan public-policy research foundation established in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Robert A. Levy Center for Constitutional Studies was established in 1989 to help restore the principles of limited constitutional government that are the foundation of liberty. Toward those ends, Cato publishes books and studies, conducts conferences, and produces the annual *Cato Supreme Court Review*.

The Institute for Justice (IJ) is a nonprofit public-interest law firm dedicated to defending the foundations of a free society, including the right of individuals to speak out on matters of

[1] Pursuant to Rule 37.2, *amici* affirm the following: no counsel for a party authored this brief in whole or in part and that no person other than *amici* or their counsel have made any monetary contributions intended to fund the preparation or submission of this brief. Additionally, counsel of record for all parties received notice of *amici*'s intent to file this brief at least ten days before the due date, on September 23, 2020. All parties have consented to the filing of this brief.

public import. IJ frequently litigates First Amendment cases and has previously defended individuals against a SLAPP suit for speaking publicly against a local development project.

Amici have relevant, first-hand knowledge of the consequences of abusive SLAPP lawsuits, which have the purpose and effect of chilling important perspectives on issues of significant public concern. *Amici* are interested in this case in opposition to the use of vexatious litigation to weaponize courts against the free expression of ideas. *Amici* frequently criticize public policy generally and would like to continue to do so without fear from SLAPP suits by those who oppose our positions.

SUMMARY OF ARGUMENT

This Court's intervention is vital to resolve a circuit split and to rein in jury verdicts with no evidentiary basis; if these issues are left unresolved, especially in this case involving a $4.4 million judgment for sending a single email, this will result in significant chilling of First Amendment freedoms. The tortious interference suit that Respondents Lake Point Phase I, LLC, & Lake Point Phase II, LLC (together, "Lake Point") filed against Petitioner Maggie Hurchalla was intended to deploy the courts as a way to bully, intimidate, and retaliate against Ms. Hurchalla, rather than seek legitimate judicial redress. Such a lawsuit is a quintessential SLAPP suit and it should have been dismissed. Allowing the verdict to stand would forever undermine the freedom to speak out on issues that affect the public. The right to petition the government to redress grievances is fundamental and protected under the First Amendment.

The Fourth District Court of Appeals of Florida's ruling perpetuates and deepens existing judicial confusion over whether or not "actual malice" creates an exception to this Court's line of Petition Clause cases, which have developed into the *Noerr-Pennington* doctrine. Leaving this issue to further percolate in the lower courts, without clarification from this Court, will have

predictable, serious, and chilling effects on what should be protected speech. Although this Court has previously ruled that the Petition Clause does not immunize petitioning activity from defamation liability, the lower courts are split on whether *Noerr-Pennington* immunity applies to tortious interference claims. The Eighth Circuit is currently split from the Fifth and Ninth Circuits on whether *Noerr-Pennington* protections apply to tortious interference liability; this Court must resolve the split or risk chilling protected speech across the country for lack of clarity on whether certain speech will be protected as it should.

SLAPP suits pose particular dangers not only to the individuals and organizations they target, but also to our society, to human rights, and to the rule of law. SLAPPs pose an existential threat to civil society, free speech, and democracy. Without protection from SLAPPs, ordinary citizens and public interest advocates may stay silent rather than run the risk of being punished for speaking out against the powerful.

Amici urge this Court to grant Ms. Hurchalla's petition for certiorari. Without clarity on whether the *Noerr-Pennington* doctrine protects petitioners from tortious interference liability, and if damages can be levied without regard to actual harm shown, such retaliatory lawsuits will eviscerate the right to petition the government afforded by the First Amendment.

ARGUMENT

I. THE NOERR-PENNINGTON DOCTRINE PROTECTS AGAINST LIABILITY FOR TORTIOUS INTERFERENCE.

a. The opinion below diverges from the clear trend of applying the Noerr-Pennington doctrine to immunize petitioning activity from tortious interference liability.

The Fourth District Court of Appeals of Florida held that Ms. Hurchalla's petitioning activity was done with "actual malice," and thus she was liable for tortious interference and not protected by *Noerr-Pennington*. This decision is at odds with the understanding of *Noerr-*

Pennington in the great majority of courts, which have almost unanimously determined that the doctrine applies against tortious interference claims. This Court's intervention is imperative to clarify this doctrine and ensure that First Amendment rights remain in place across all states.

Under this Court's *Noerr-Pennington* line of antitrust/business torts cases, the Petition Clause provides a sweeping protective immunity for communications to influence public officials regardless of intent or purpose – even if improper means, deception, or dishonesty are used – if the communications are aimed at procuring favorable government action. In this case, it is clear that Ms. Hurchalla was "petitioning" for the purpose of seeking redress from the government. Therefore, Ms. Hurchalla's actions should be protected under the *Noerr-Pennington* doctrine. Even if the courts below found that Ms. Hurchalla was acting improperly, which she was not, her speech was protected by the Petition Clause.

The *Noerr-Pennington* doctrine, as established in *Eastern Rail. Pres. Conf. v. Noerr Motor FRGT., Inc.,* 81 S. Ct. 523 (1961), protects individuals from liability when they petition or otherwise attempt to influence the government. This doctrine is designed to clarify the protections provided in the First Amendment "right to petition the government." Crucially, and relevant to Ms. Hurchalla's situation and unrecognized by the lower courts, the *Noerr-Pennington* doctrine is one of the few protections for political activity against sanctions primarily initiated by private citizens or corporations, rather than the state. Such protection is justified by the notion that the state participates in private censorship by permitting the legal system to be used as a tool to suppress political speech. The right of the people to inform their representatives in government of their desires with respect to the passage or enforcement of laws cannot

properly be made to depend upon their intent in doing so; indeed, the *Noerr-Pennington* doctrine unequivocally states that it does not.[2]

Numerous federal Courts of Appeals have ruled that *Noerr-Pennington* provides immunity against tortious interference claims. *See, e.g.*, *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343, 1349-50 (Fed. Cir. 2014); *Theme Promotions, Inc. v. News Am. Mktg.* FSI, 546 F.3d 991, 1006-07 (9th Cir. 2008); *Video Int'l Prod., Inc. v. Warner-Amex Cable Commc'ns, Inc.*, 858 F.2d 1075, 1084 (5th Cir. 1988); *Cheminor Drugs, Ltd. v. Ethyl Corp.*, 168 F.3d 119, 128 (3d Cir. 1999) (finding "no persuasive reason why" tortious interference claims, "based on the same petitioning activity as [ ]federal claims, would not be barred by the *Noerr-Pennington* doctrine"); *see also Pers. Dep't, Inc. v. Prof'l Staff Leasing Corp.*, 297 Fed. App'x 773, 778 (10th Cir. 2008) ("Imposing tortious interference liability pursuant to state law could very well impinge a defendant's First Amendment rights to petition the government for redress."); *Campbell v. PMI Food Equip. Group, Inc.*, 509 F.3d 776, 790 (6th Cir. 2007) (noting that the defendant's *Noerr-Pennington* defense "might well have merit in light of the cases applying *Noerr-Pennington*'s protection to state common law claims sounding in tortious interference"); *IGEN Int'l, Inc. v. Roche Diagnostics GmbH*, 335 F.3d 303, 310 (4th Cir. 2003) (noting that *Noerr-Pennington* "has now universally been applied to business torts"). The same is true of state courts. *See, e.g.*, *Anderson Dev. Co. v. Tobias*, 116 P.3d 323, 332 (Utah 2005) (finding *Noerr-Pennington* immunized "petitions to the City Council [that] were genuinely designed to achieve . . . the denial of [a] zoning application," even if they made misrepresentations, against tortious interference claims); *Zeller v. Consolini*, 758 A.2d 376, 380

[2] This same principle can also be seen in the criminal context. In *United States v. Popa*, 187 F.3d 672 (D.C. Cir. 1999), for instance, the D.C. Circuit dismissed a telephone harassment charge on the grounds that the harassed party was the U.S. Attorney and the harasser interspersed political points in between foul language.

(Conn. Ct. App. 2000) (applying *Noerr-Pennington* to claims of tortious interference and vexatious litigation); *Harrah's Vicksburg Corp. v. Pennebaker*, 812 So. 2d 163, 171 (Miss. 2001) (applying *Noerr-Pennington* to "tortious interference and civil conspiracy" claims); *Titan Am. v. Riverton Inv. Corp.*, 569 S.E.2d 57, 62 (Va. 2002) (applying *Noerr-Pennington* against "tortious interference with business expectancy and conspiracy" claims).

Against this clear trend, the opinion below finds little company. *Amici* have located only one decision, from the D.C. Circuit, finding that a tortious interference claim may be sustained on the basis of "deliberately false representations" made in the course of petitioning activity. *Whelan v. Abell*, 48 F.3d 1247, 1253 (D.C. Cir. 1995).

While the law is clear that the Petition Clause does not protect against *defamation* liability for deliberately false statements, *see McDonald v. Smith*, 472 U.S. 479, 485 (1985), the same reasoning does not necessarily apply to tortious interference. In *In re IBP Confidential Business Documents Litigation*, 755 F.2d 1300 (8th Cir. 1985), for example—decided shortly before *McDonald*—the Eighth Circuit considered whether *Noerr-Pennington* should immunize against defamation. The court accepted that "certain efforts to influence the government do not give rise to liability for tortious interference with business," *id.* at 1312, but then found that there were "activities which do not qualify for protection even if undertaken in a genuine attempt to influence governmental policy." *Id.* at 1313. Among these activities are "defamatory statements," such that "even where federal courts have dismissed other claims on *Noerr-Pennington* grounds, they have declined to hold pendent state law defamation claims precluded by *Noerr-Pennington*." *Id.*

In this case, the court below did not determine that Ms. Hurchalla's statements were defamatory—only that they were made with "actual malice." The claim was not for defamation;

Respondent did not allege that it was directly harmed by the publication of defamatory statements. Instead, it alleged that its *contractual relationship* with the county suffered – a claim that is, at its heart, about Ms. Hurchalla's influence on governmental decision-making, not defamation. That is exactly the kind of claim that *Noerr-Pennington* has been repeatedly held to foreclose. The difference between this case and *McDonald* is that here, Ms. Hurchalla is being held liable for the actions taken by governmental officials, allegedly due to her petitioning activity—not for the direct effects of defamatory statements made in the course of petitioning.

Applying the *Noerr-Pennington* doctrine to the right of individual activists petitioning the government ensures that the right to petition is protected. Without this protection, under the approach embraced by the lower court here, every individual who seeks to protect their home or community from adverse government action will need to meticulously verify their every utterance in advance. Ordinary citizens, like Ms. Hurchalla, will be terrified of petitioning their representatives, lest they expose themselves to disingenuous lawsuits and potentially enormous damages awards.

This Court has recognized that "[p]etitions to the government assume an added dimension when they seek to advance political, social, or other ideas of interest to the community as a whole." *Borough of Duryea, Pa. v. Guarnieri*, 564 U.S. 379, 395 (2011). Justice Kennedy noted that, although this Court's opinion in *McDonald* has sometimes been interpreted to mean that the right to petition can extend no further than the right to speak, *McDonald* held only that speech contained within a petition is subject to the same standards for defamation and libel as speech outside a petition. *Id*. at 389. Justice Kennedy specified that "[t]here may arise cases where the special concerns of the Petition Clause would provide a sound basis for a distinct

analysis; and if that is so, the rules and principles that define the two rights might differ in emphasis and formulation." *Id.* Ms. Hurchalla's case is one such instance.

II. LAKE POINT'S BUSINESS TORT SUIT IS A QUINTISSENTIAL SLAPP.

a. Amici have substantial experience with SLAPPs.

Amici PTP has substantial experience representing individuals and groups who have been "SLAPPed." As members of the Protect the Protest task force, *amici* have not only successfully defended citizens and groups from bullying SLAPPs, but also have advocated for Anti-SLAPP laws, and educated activists and lawyers nationally and internationally on how to avoid and defend against SLAPPs. In 2019, PTP successfully defended nine residents of the town of Weed, California, who spoke out at a public meeting against a corporation that claimed it owned the rights to the town's main source of spring-fed drinking water. With *amici*'s assistance, the suit was successfully unmasked as a SLAPP and dismissed. The nine citizens had nothing to do with the property dispute (or quiet title action); the corporation named them as defendants simply for spite and intimidation.

PTP has also been actively involved in defending activists from the oil, logging, and energy industry's attempts to use RICO-based SLAPPs to attack and silence people and groups who are attempting to protect land, water, and Indigenous Rights.[3] PTP helped community activists in Alabama defend themselves from a defamation SLAPP brought by a landfill operator after they opposed the dumping of hazardous coal ash in a landfill in their town.

SLAPPs are not limited to environmental activism. PTP has provided legal defense to nonprofit organizations, activists, community organizers, media organizations, and journalists in

[3] *How a Corporate Assault on Greenpeace is Spreading* BLOOMBERG BUSINESSWEEK, https://www.bloomberg.com/news/articles/2017-08-28/how-a-corporate-assault-on-greenpeace-is-spreading (last visited July 9, 2020).

SLAPP cases around the country. Cato has filed amicus briefs in appellate cases concerning SLAPPs. In *Tah v. Global Witness Publishing, Inc.*, a 2019 District of Columbia case concerning a SLAPP suit brought against an organization reporting public corruption, Cato filed an *amicus* brief in support of federal application of D.C.'s anti-SLAPP law. The Institute for Justice has also defended individuals in SLAPP suits, including a successful defense of journalist Carla Main in a 2008 defamation suit filed by a real estate developer after she published a book criticizing the developer's abuse of eminent domain.

Amicus PTP also actively engages in SLAPP policy discussions and have advocated for the adoption of Anti-SLAPP laws at the federal level, as well as the state level. Recently PTP assisted with the drafting of Anti-SLAPP laws or amendments to laws in Texas, Kentucky, Virginia, and Colorado.[4]

Over the past several years, through their work defending against SLAPPs and educating the legal community about SLAPPs, *amici* have seen SLAPPs proliferate in the U.S. and around the world. It is clear that advocates, organizers, or private citizens speaking out on any political issue, typically on behalf of the less-popular or less-powerful, is at risk of facing a SLAPP.

Public political dissent and science-based dialogue has never been more crucial and, through the power of the internet, has become even more accessible to all. SLAPPs pose particular dangers, not just to individuals, but to our society, human rights, and the rule of law. SLAPPs target advocates, community leaders, journalists, professors, whistleblowers, and everyday people who exercise their constitutional rights. Their true purpose is to silence criticism

[4] Joe Mullin, *Critical Free Speech Protections Are Under Attack in Texas*, ELECTRONIC FRONTIER FOUNDATION (March 14, 2019), https://www.eff.org/deeplinks/2019/03/critical-free-speech-protections-are-under-attack-texas (last visited June 28, 2020); *Factsheet: Kentucky's Anti-SLAPP Legislation*, Protect The Protest, http://www.protecttheprotest.org/wp-content/uploads/2020/02/Kentucky-SLAPP-Factsheet.pdf (last visited June 28, 2020).

and inhibit dissent. Although the majority of SLAPPs are eventually dismissed, a SLAPP does not need to result in a judgment on the merits to have its intended effect. A meritless lawsuit can take years to resolve, draining a defendant's resources, reputation, and morale. And that is precisely the point.

b. SLAPPs frequently masquerade as business torts.

The goal of a SLAPP is to stop citizens or groups from exercising their political right to free speech, to punish them for engaging in such speech, or to deter others from doing the same in the future. SLAPPs accomplish this nefarious goal by masquerading as legitimate lawsuits designed to survive a motion to dismiss for failure to state a claim, thus forcing defendants into expensive and lengthy litigation. SLAPPs usually are camouflaged as torts: defamation, business torts such as interference with business relations, conspiracy or RICO claims, and nuisance.

Over three decades ago, Professor George Pring warned of a new and disturbing trend he had observed: American citizens were being sued simply for "speaking out on political issues." George Pring, *SLAPPs: Strategic Lawsuits against Public Participation*, 7 PACE ENVTL L. REV. 3, 4 (September 1989). Presciently, Pring described SLAPPs as "dispute transformation devices, a use of the court system to empower one side of a political issue, giving it the unilateral ability to transform both the forum and the issue in dispute." *Id.* at 12. Unfortunately, SLAPPs have proliferated since Pring first coined the term SLAPP. Indeed, as reflected by Lake Point's suit, SLAPPs remain a tool deployed by powerful interests to silence those who disagree with them.

SLAPPs strike at a wide variety of traditional American political activities. Historically, people and organizations have been sued for reporting violations of law, writing to government officials, attending public hearings, testifying before government bodies, circulating petitions for signature, lobbying for legislation, campaigning in initiative or referendum elections, filing

agency protests or appeals, or even speaking out on social media. Most troubling to *amici*, however, is the growing trend of powerful corporations and political entities suing those engaging in First Amendment protected protests and boycotts.

c. The business tort suit brought by Lake Point is a quintessential SLAPP.

Lake Point's business tort suit against Ms. Hurchalla was a brazen attempt to silence and punish her for her advocacy on a matter of public interest masquerading as a legitimate lawsuit. When Ms. Hurchalla, a lifelong Florida resident and environmental activist, learned that Respondents were planning on developing a rock mining site in Marin County, she wrote emails to county commissioners expressing her environmental concerns about the project. Eventually the deal fell apart for reasons wholly separate from Ms. Hurchalla's efforts, but Lake Point nonetheless took revenge on her in classic SLAPP style. Every hallmark of a SLAPP suit is present here: Lake Point cast a wide net, dragging in multiple parties, the litigation has dragged on for years, and importantly, the neutral-appearing claim of tortious interference with business relations arises solely out of Ms. Hurchalla's First Amendment protected environmental advocacy—a matter of public interest. Although defamation claims are the most common type of claim brought by SLAPP plaintiffs, business torts are increasing as a popular device for SLAPP bullies. *See* Dwight H. Merriam & Jeffrey A. Benson, *Identifying and Beating a Strategic Lawsuit Against Public Participation,* 3 DUKE ENVTL L & POL'Y REV. 17, 19 (1993). SLAPP suits like the one Lake Point brought against Ms. Hurchalla demonstrate the real dangers posed by these suits; anyone who has the courage to speak out on political issues against the interests of the powerful runs the risk of being subjected to SLAPP harassment via the lengthy and expensive process of defending themselves from a frivolous lawsuit as well as potentially crushing damages.

III. THE LOWER COURT'S DECISION WILL CHILL PROTECTED SPEECH.

This case is a terrible example of why *Noerr-Pennington* immunity must apply to tortious interference claims. Here, a private citizen was hit with over $4 million in damages for sending a single email to her elected officials, based on the theory that those elected officials later made decisions that harmed Respondents. There is little question that such a precedent will substantially deter individuals from speaking out on politically fraught issues. But even if "actual malice" were sufficient to allow tortious interference liability for petitioning conduct, that standard was misapplied here, such that the chilling effect is the same.

By disregarding the uncontroverted evidence of Ms. Hurchalla's good-faith belief that her statements were true, the lower court improperly expanded the basis for tort liability. Central to the "actual malice" standard required to remove statements from the protections of the First Amendment is the speaker's attitude toward the truth or falsity of her statement. There can be actual malice only if the speaker "in fact, entertained serious doubts as to the truth" of her statement "or acted with a high degree of awareness" of probable falsity. *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 510 (1991). If advocates and individual political organizers are vulnerable to liability for merely expressing opinions opposing powerful interests, they are likely to stop such petitioning-based advocacy altogether. The lower court's holding that an individual advocate, *with a good-faith belief in the truth of her statement*, can be financially liable to a multinational corporation for such speech significantly undermines the protections of the First Amendment and creates an alternate reality in which citizens will silence themselves, thinking they must be "experts" before they speak out on matters of import to government. The chilling effect of the lower court's decision cannot be overstated.

The protections of the First Amendment do not require petitioners to be "right" (although here, Ms. Hurchalla *was* right, as explained in the Petition). Even if what Ms. Hurchalla said was not factually correct, citizens should be free to petition their government in the public political arena even if they are wrong, or mistaken in good-faith. It is firmly established that the First Amendment protects good-faith speech, even speech that reflects a "misconception" to "eliminate the risk of undue self-censorship and the suppression of truthful materials." *Bose Corp. v. Consumers Union of U.S., Inc.*, 466 U.S. 485, 466 (1984). In the context of statements made in the public arena, on matters of public interest, the law and courts must protect the public and individual advocates from the transformation of that petitioning into a private litigation liability.

The First Amendment right to petition covers communications to government whether true or false, accurate or incorrect, relevant or unhelpful, and regardless of intent, when that communication is made in good-faith, and seeks to achieve a government result. It is the job of the government to determine the truth or falsity, accuracy or inaccuracy, relevance or unhelpfulness, and motive of people's communications to that government and to act accordingly. It is not appropriate to put the courts in the position of censoring people's communications with their government by creating a fear that, should a powerful private actor take issue with such speech, they may be disproportionately financially liable. This Court cannot permit our legal system to be used as a tool to suppress protected political speech. Nor is it the right of any private group to use the courts to eliminate competing public opinions, that is, to control which citizens can express their views to the government.

CONCLUSION

Amici respectfully urge the Court to grant *certiorari* and reverse the decision below. The Fourth District Court of Appeals's decision is so far outside the accepted application of the *Noerr-Pennington* doctrine, as expressed in a nearly unbroken line of federal and state appellate decision, that summary reversal may be called for here.

Respectfully submitted.

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October 10, 2020

APPENDIX A

SPECIFIC IDENTITIES AND INTERESTS OF AMICUS CURIAE "PROTECT THE PROTEST" TASK FORCE

The following members of "Protect the Protest" task force join in this brief:

The Civil Liberties Defense Center is a nonprofit organization that defends environmental and social justice activists against SLAPP suits and other constitutional attacks in state and federal courts around the country. CLDC is an active participant in the PTP coalition's litigation, advocacy, education and outreach work.

EarthRights International is a nongovernmental, nonprofit organization that litigates cases on behalf of communities around the world affected by human rights and environmental abuses, and also defends the rights of human rights and environmental defenders. EarthRights therefore has an interest that those exercising the right to petition the government to defend human rights and the environment are free to perform this important work without punishment.

The Electronic Frontier Foundation is the leading nonprofit organization defending civil liberties in the digital world. Founded in 1990, EFF champions user privacy, free expression, and innovation through impact litigation, policy analysis, grassroots activism, and technology development. It works to ensure that rights and freedoms are enhanced and protected as our use of technology grows.

The International Corporate Accountability Roundtable ("ICAR") harnesses the collective power of progressive organizations to push governments to create and enforce rules over corporations that promote human rights and reduce inequality. ICAR's membership is composed of 40 human rights, environmental, labor, and development organizations. ICAR serves as a leader and the coordinator of the Protect the Protest Task Force.

The Partnership for Civil Justice Fund is a 501(c)(3) public interest legal organization dedicated to the defense of human and civil rights secured by law, the protection of free speech and dissent, and the elimination of prejudice and discrimination. For 25 years the PCJF has litigated impact cases to vindicate fundamental constitutional rights of public protest and assembly. It has defended the free speech rights of activists and organizations across the country.

PILnet is a nonprofit organization that promotes and supports the practice of pro bono and public interest law. Its mission is to make law work for the poor, vulnerable and unrepresented, which it pursues by providing new tools and strategies to public interest lawyers and developing networks of pro bono lawyers to support them. PILnet is an active participant in the PTP coalition's efforts to protect the ability of public interest lawyers to serve their clients.

Portland Rising Tide promotes community-based solutions to the climate crisis and takes direct action to confront the root causes of climate change. It works to promote people's right to speak out and protest when environmental or social harm occurs. It is deeply concerned by litigation that seeks to silence and prevent communities who are resisting from having a voice.

The Sierra Club is a national nonprofit organization with 67 chapters and more than 800,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth, and to using all lawful means—including protest—to carry out its mission. The Sierra Club and its members have participated in countless environmental protests over our more than 100-year history, and the Sierra Club expects to consider participation in protests from time to time in the future as part of its overall advocacy efforts. The Sierra Club is also concerned about the growing use of meritless litigation to chill lawful environmental protest.