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PF+C's Robert Cain and Nolan Burkhouse Obtain Significant First Amendment Victory

Representing the Burlington Free Press, Robert Cain and Nolan Burkhouse obtained a significant First Amendment victory in a case that has received nationwide attention. General Motors, Daimler-Chrysler, and the two largest automobile manufacturer associations in the world filed suit in the United States District Court for the District of Vermont seeking a court declaration that Vermont's new automobile emissions regulation is preempted by federal law and is therefore invalid.

Two weeks prior to the start of the trial, the automobile manufacturers filed a Motion seeking to seal large volumes of documents and to close significant portions of the trial from public scrutiny, on the ground that the documents and the related witness testimony involve trade secrets and other "highly confidential information."

A long-time and staunch champion of the press' and public's First Amendment and access to court rights, the Burlington Free Press hired Paul Frank + Collins to keep the trial open. Despite the automobile manufacturers' allegations that the trade secrets and highly confidential information constituted "some of the most highly confidential information" within each manufacturer's private sphere, and despite their contention that the Vermont regulation (and other States' similar regulations) would cost automobile manufacturers in the aggregate upwards of 25 billion dollars, Judge Sessions issued a ruling adopting the Burlington Free Press' position in its entirety—no documents would be sealed and no part of the trial would be closed to the public. After the favorable ruling was obtained, Cain said:

"This is a great victory for the Burlington Free Press and the public at large. We are grateful that Judge Sessions has done more than just give lip service to the public's constitutional right to an open courthouse."