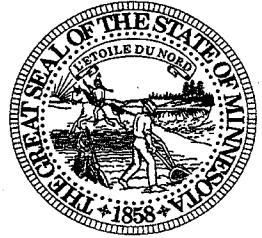


# Office of the Minnesota Secretary of State

## Minnesota Public Benefit Corporation / Annual Benefit Report

Minnesota Statutes, Chapter 304A



Read the instructions before completing this form

Must be filed by March 31

Filing Fee: \$55 for expedited service in-person, \$35 if submitted by mail

The Annual Benefit Report covers the 12 month period ending on December 31 of the previous year.

Notice: Failure to file this form by March 31 of this year will result in the revocation of the corporation's public benefit status without further notice from the Secretary of State, pursuant to Minnesota Statutes, Section 304A.301

1. File Number 1201862200035

2. Corporate Name: (Required) The Forum for Constitutional Rights, GBC

3. The public benefit corporation's board of directors has reviewed and approved this report.

4. In the field below, enter the information required by section 304A.301 subd. 2 or 3 for the period covered by this report, (see instructions for further information): Note: Use additional sheets if needed. (Required)

Please see attached supplement.

5. I, the undersigned, certify that I am the chief executive officer of this public benefit corporation. I further certify that I have signed this document no more than 30 days before the document is delivered to the secretary of state for filing, and that this document is current when signed. I further certify that I have completed all required fields, and that the information in this document is true and correct and in compliance with the applicable chapter of Minnesota Statutes. I understand that by signing this document I am subject to the penalties of perjury as set forth in Section 609.48 as if I had signed this document under oath.

Signature of Public Benefit Corporation's Chief Executive Officer

2/1/23

Date (Must be dated within 30 days before the report is delivered to the Secretary of State for Filing)

### Email Address for Official Notices

Enter an email address to which the Secretary of State can forward official notices required by law and other notices:

Check here to have your email address excluded from requests for bulk data, to the extent allowed by Minnesota law.

List a name and daytime phone number of a person who can be contacted about this form:

Matt Ehling 651-335-2037  
Contact Name Phone Number

Entities that own, lease, or have any financial interest in agricultural land or land capable of being farmed must register with the MN Dept. of Agriculture's Corporate Farm Program.

Does this entity own, lease, or have any financial interest in agricultural land or land capable of being farmed?  
Yes  No

**The Forum For Constitutional Rights, GBC**  
**Information Required by Minn. Stat. § 304A.301, subd 3.**  
**(Supplement to 2022 Annual Benefit Report)**

The Forum For Constitutional Rights, GBC, is a Minnesota general public benefit corporation, organized to provide a general public benefit through its operations.

The Forum For Constitutional Rights, GBC (FCR) was registered by the Minnesota Secretary of State on December 21, 2020. Calendar year 2022 was FCR's third year in business, and second full year of operations.

FCR's articles describe the corporation's general public benefit purpose as follows:

“The Forum For Constitutional Rights, GBC ... shall be a general public benefit corporation organized and operated to pursue a general public benefit, focused on providing public education about constitutional history and constitutional rights, including but not limited to First Amendment rights. Public education activities undertaken by the Corporation may include, but are not limited to, publishing and filing of amicus briefs in court cases pertaining to First Amendment and free speech issues.”

To carry out this purpose, FCR engages in commercial activity in order to generate revenue sufficient to support the following activities:

1. Publishing books, pamphlets, electronic media, or similar, related to U.S. Constitutional history (either state or federal), or related public affairs issues that pertain to constitutional rights, governmental power, or other constitutional matters;
2. Filing amicus (friend-of-the-court) briefs in state and federal litigation that involve state or federal constitutional issues - including free speech issues.

FCR is non-partisan in its focus, and seeks to elevate the discourse about constitutional matters by highlighting the enduring principles that flow from America's constitutional tradition — such as free speech and due process protections. FCR seeks to maintain support for these ideas across the political spectrum, in order to ensure that these foundational concepts remain central to America's civic life.

In its amicus briefing practice, FCR supports plaintiffs irrespective of their political persuasion or other political considerations, and focuses solely on whether plaintiffs are

seeking to protect and secure rights and principles guaranteed by the Constitution of the United States of America, or by the constitutions of the individual states.

### **Third-Party Standard**

Certification: The board of directors of FCR (“Board”) certifies that it has chosen a third-party standard as required by Minn. Stat. § 304A.301 to guide its operations. The third-party standard applies to FCR’s operations described in this report. The chosen third-party standard was derived from the following source:

1. The Constitution of the United States of America, including all amendments ratified and adopted by the people of the United States of America.

Selection of Standard: The Board selected FCR’s third-party standard upon FCR’s organization in 2020, and FCR continued to rely on that standard during the 2022 operating year.

Determination: The Board has determined that the entity that promulgated the third-party standard adopted by FCR (the people of the United States of America) is independent from FCR. The United States Constitution (“USC”) is based on principles promulgated during debates that occurred after the American Revolutionary War, and it - and its amendments - have been ratified and adopted by successive generations of American citizens during the two-plus centuries that have followed. FCR is not, and has not been, a party to the debates over, or ratification of, the USC or any of its amendments.

Application of Standard: The Board certifies that FCR is applying the third-party standard in a manner consistent with the standard’s application in FCR’s prior report. Further detail on the application of the standard is provided in the “narrative of operations” section of this report.

### **Narrative of Operations**

Pursuit of public benefit: 2022 was FCR’s second full calendar year of operations, and the corporation undertook four key initiatives related to its public benefit purpose:

1. Filing amicus briefs in Minnesota and federal court cases;
2. Tracking and prioritizing ongoing constitutional law-related litigation for future amicus participation;
3. Publishing its first manuscript offering under FCR’s dba of 1A Publishing;

#### 4. Conducting research for future 1A Publishing manuscript offerings.

All publishing and legal activities undertaken by FCR were related to the pursuit of FCR's general public benefit purpose, as further described herein.

Achievement of public benefit: FCR's activities achieved and/or supported its public benefit purpose in the following ways:

1(a). Consistent with its mission to file amicus briefs in significant constitutional law cases, FCR filed a friend-of-the-court brief in the ongoing *Drake Snell v. Tim Walz* Chapter 12 emergency powers case. The *Snell* case was appealed to the Minnesota Supreme Court, which accepted review of a single issue — whether the Minnesota Court of Appeals was correct in dismissing the case as moot.

*Snell v. Walz* challenged the ability of the Governor of Minnesota to implement a mask mandate via Chapter 12 executive order, since the mask mandate conflicted with an existing state statute that barred the use of face coverings in many circumstances. At the appellate level, the *Snell* case was mooted by the Minnesota Court of Appeals, which held that since the Chapter 12 emergency order at issue had expired by the time the case reached the court, the case was moot.

The Minnesota Supreme Court agreed to take up mootness issues, including the question of whether Minnesota courts should adopt federal guidance on the “voluntary cessation” exception to mootness. Voluntary cessation is a federal doctrine that maintains that if a government entity has voluntarily ceased challenged conduct prior to the completion of judicial review, such a cessation does not moot the underlying case.

FCR filed a friend-of-the-court brief in the *Snell* case asking the Minnesota Supreme Court to adopt the voluntary cessation doctrine used in federal courts, and to remand the case back for further proceedings.

The Board has determined that FCR's participation in amicus briefing in this case is consistent with FCR's mission, and aligns with the third-party standard that guides FCR's work, as the adoption of the “voluntary cessation” doctrine will have many applications in litigation involving government conduct and constitutional rights.

1(b). FCR also filed an amici brief (along with the Foundation For Individual Rights and Expression) in support of a petition for U.S. Supreme Court review filed by the Arkansas Times newspaper (*Arkansas Times v. Mark Waldrip*). The Arkansas Times case arose in response to an Arkansas statute that prohibited state contractors from

engaging in “boycotts of Israel” — including both the “refusal to deal” component of the boycott, as well as “other actions” intended to limit commercial relations with Israel. The Arkansas Times (which engaged in some state contract work related to advertising) argued that the “other actions” barred by the statute included speech and associative activities protected by the First Amendment, and recognized by the U.S. Supreme Court’s *Claiborne Hardware* precedent. (*Claiborne Hardware* is a previous U.S. Supreme Court decision that protected expressive activity connected to an NAACP racial justice boycott).

A three-judge panel of the Eighth Circuit Court of Appeals found for the Arkansas Times, but an *en banc* panel of the Eighth Circuit subsequently found for the State of Arkansas. The newspaper then sought U.S. Supreme Court review, and FCR/FIRE filed in support of its *certiorari* petition.

The FCR/FIRE brief examines the *Arkansas Times v. Mark Waldrip* case in the context of ongoing campaigns by both sides of the political spectrum to enlist government actors to suppress or compel certain types of speech, despite the First Amendment’s prohibitions on such governmental actions.

The Board has determined that FCR’s pursuit of amicus participation in this case (which involves First Amendment constitutional claims) is consistent with FCR’s mission, and aligns with the third-party standard that guides FCR’s work.

2. FCR spent considerable time during 2022 researching and tracking other cases to support with amicus briefing. FCR identified three additional cases, including two speech-related cases and one “takings” case. As of the close of 2022, all three of those cases appear poised for further proceedings in which amicus briefing will be possible. FCR expects to participate at least two of these cases in 2023.

The Board has determined that FCR’s pursuit of amicus participation in these cases (which involve First and Fifth Amendment constitutional claims) is consistent with FCR’s mission, and aligns with the third-party standard that guides FCR’s work.

3 and 4. Consistent with its mission to engage in publishing activities that pertain to constitutional history, constitutional rights, or governmental power, FCR published its first manuscript made available under FCR’s dba of “1A Publishing.” This manuscript centers on interviews with the late M. Gene Wheaton, a principal (and whistleblower) involved in the Iran-Contra affair of the 1980s. The manuscript documents Mr. Wheaton’s early involvement in Iran-Contra, and his later critique of that program, and its impact on constitutional and governmental norms.

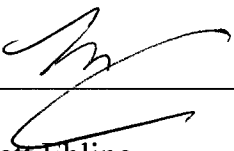
FCR also began work on two other manuscripts to be released by 1A Publishing — including a historical overview of important federal constitutional law cases, and an examination of a specific high-security U.S. military facility, and the impact of its secrecy protocols on governmental processes.

The Board has determined that FCR’s pursuit of publishing projects that pertain to constitutional rights, constitutional history, and governmental power is consistent with FCR’s mission, and aligns with the third-party standard that guides FCR’s work.

Circumstances that hindered efforts: During 2022, FCR encountered no circumstances that hindered efforts toward achieving its public purpose.

Certification of Approval: As required by Minn. Stat. § 304A.301, the Board certifies that it has reviewed and approved this report.

Signed,



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Matt Ehling  
Chair, Board of Directors  
The Forum For Constitutional Rights

January 24, 2023