

Trump Bans *Associated Press* from White House After It Refuses to Call Gulf of Mexico “Gulf of America”

The *Associated Press* (*AP*) has become a target in Donald Trump’s assault on the First Amendment and battle against the “biased” media. On the first day of Trump’s second presidential term, he signed an Executive Order, “Restoring Names that Honor American Greatness,” which purported to rename the Gulf of Mexico the “Gulf of America.” On Jan. 23, 2025, the *AP* released style guidance to address the executive order and declined to adopt the name change. That decision led to retaliation by the Trump administration which has restricted the *AP*’s ability to access and report on the President’s activities. On Feb. 21, 2025, the *AP* sued the White House Chief and Deputy Chief of Staff and White House Press Secretary in their official capacities in the United States District Court for the District of Columbia for violations of the First and Fifth Amendments. The ongoing litigation has led to various court rulings and updates to the White House’s press policy, but the *AP* has remained excluded from critical access because it has not followed the President’s decree about what language the news agency should use.

Trump’s executive order is available here: <https://www.whitehouse.gov/presidential-actions/2025/01/restoring-names-that-honor-american-greatness/>. The *AP* style guide announcement is available here: <https://www.ap.org/the-definitive-source/announcements/ap-style-guidance-on-gulf-of-mexico-mount-mckinley/>. The lawsuit filed by *AP* is *Associated Press v. Budowich*, No. 1:25-cv-00532 (D.D.C. filed Feb. 21, 2025). For previous *Bulletin* coverage of Trump’s attacks on journalism and the media see “Journalists Face Potential Threats in President-elect Trump’s Second Term” in the Fall 2024 issue of the *Silha Bulletin* and additional stories listed at the end of this article. For *Bulletin* coverage of Trump’s other infringement on the first amendment rights of those with whom he disagrees, see “Trump Administration Threatens Free Expression on Campus and in the Student Press with Immigration Crackdown Targeting Dissident Speakers” on page 21 of this issue of the *Silha Bulletin*. As a note, the *Bulletin* follows the *AP* style guide and therefore will refer to the Gulf of Mexico as such.

In early January 2025, then-President-Elect Trump signaled his desire to change the Gulf of Mexico’s name. At a press conference, he stated: “[W]e do most of the work there. And it’s ours. We’re going to be changing — sort of the opposite of Biden, where he’s closing everything up, essentially getting rid of 50 to 60 trillion

dollars worth of assets — we’re going to be changing the name of the Gulf of Mexico to the ‘Gulf of America.’ . . . What a beautiful name. And it’s appropriate.” Trump’s remarks are available here: <https://www.youtube.com/watch?v=qrVpQYU5IM8>.

Trump’s January 20 “Restoring Names” Executive Order contained the following statement of purpose: “It is in the national interest to promote the extraordinary heritage of our Nation and ensure future generations of American citizens celebrate the legacy of our American heroes. The naming of our national treasures, including breathtaking natural wonders and historic works of art, should honor the contributions of visionary and patriotic Americans in our Nation’s rich past.” It further declared that, “[t]he area formerly known as the Gulf of Mexico has long been an integral asset to our once burgeoning Nation and has remained an indelible part of America.” The order went on to announce that “[t]he Gulf will continue to play a pivotal role in shaping America’s future and the global economy, and in recognition of this flourishing economic resource and its critical importance to our Nation’s economy and its people, I am directing that it officially be renamed the Gulf of America.”

The order led to immediate controversy and discrepancies in how different entities decided to handle the announcement. Mexican President Claudia Sheinbaum stated: “For us it is still the Gulf of Mexico, and for the entire world it is still the Gulf of Mexico.” Google and Apple Maps adopted the name change once the U.S. Geographic Names Information System (GNIS) updated in early February. Republican Gov. Ron DeSantis of Florida has signed two bills requiring “Gulf of America” to be used in state laws and textbooks, and other gulf states, such as Louisiana, have adopted similar measures. Some legislators have criticized such bills as expensive and empty political gestures. In one debate, Alabama state Rep. Barbara Drummond (D–Mobile) said, “It’s time for us to stop doing foolish things, and start doing things that will move us forward.” Another Alabama state Rep. Kenyatte Hassell (D–Montgomery) asked, “[a]re we going to change the name back to the Gulf of Mexico if we get another president in another four years?” Since the original executive order, President Trump has announced February 9 as “Gulf of America” day. Additional coverage of these developments is available here: <https://apnews.com/article/>

AP Banned, continued on page 3



- 1 **Trump Bans Associated Press from White House After It Refuses to Call Gulf of Mexico “Gulf of America”**
[Cover Story](#)
- 7 **Trump Sues CBS Over 60 Minutes Story, Threatens CBS Parent Company’s Merger With Skydance**
[Trump and the Media](#)
- 10 **Trump Sues Des Moines Register, Continuing Attack on Media Outlets That Publish Unfavorable Coverage**
[Trump and the Media](#)
- 16 **Media Organizations Threatened With Regulation By New FCC Chair Brendan Carr; Funding for Public Broadcasting Also in Jeopardy**
[Media Regulation](#)
- 19 **Jeff Bezos Announces New Washington Post Editorial Policy in Support of “Personal Liberties and Free Markets,” Raising Journalistic Independence Concerns**
[Journalistic Independence](#)
- 21 **Trump Administration Threatens Free Expression on Campus and in the Student Press with Immigration Crackdown Targeting Dissident Speakers**
[Endangered Journalists](#)
- 24 **Stanford Drops Disciplinary Action Against Student Journalist Dilan Gohill; District Attorney Declines to Press Charges**
[Endangered Journalists](#)
- 25 **Trump Shuttters U.S. News Agencies**
[Trump and the Media](#)
- 30 **Supreme Court Upholds TikTok Ban, But Trump Comes to App's Rescue**
[Free Speech](#)
- 33 **CNN Found Liable in Defamation Case; Reaches Settlement**
[Defamation](#)
- 37 **Trump Settles Defamation Suit With ABC**
[Defamation](#)
- 39 **Former New York Mayor Rudy Guiliani Settles With Georgia Election Workers He Defamed**
[Defamation](#)
- 42 **Mississippi Judge Vacates Order That Newspaper Remove Its Editorial**
[Prior Restraint](#)
- 44 **Trump Administration Quashes Consent Decree Between Minneapolis and DOJ That Would Have Protected Press**
[Endangered Journalists](#)
- 46 **2025 Silha Spring Ethics Forum Examines the Ethics of Undercover Investigative Reporting**
[Silha Center Events](#)

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AP Banned, continued from page 1

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The AP decided not to adopt the change. In an update published on Jan. 23, 2025, the AP wrote: “Trump’s order only carries authority within the United States. Mexico, as well as other countries and international bodies, do not have to recognize the name change. The Gulf of Mexico has carried that name for more than 400 years. The Associated Press will refer to it by its original name while acknowledging the new name Trump has chosen. As a global news agency that disseminates news around the world, the AP must ensure that place names and geography are easily recognizable to all audiences.”

On Feb. 11, 2025, the White House informed the AP that it would be barred from parts of the White House and would no longer be a member of the press pool until it referred to the Gulf of Mexico as the “Gulf of America.” The AP reported that two

COVER STORY

reporters were barred from White House events on February 11. Julie Pace, the AP’s senior vice president and executive editor, issued a statement saying, “[i]t is alarming that the Trump administration would punish AP for its independent journalism. Limiting our access to the Oval Office based on the content of AP’s speech not only severely impedes the public’s access to independent news, it plainly violates the First Amendment.” The AP’s coverage of the initial ban is available here: <https://apnews.com/article/trump-ap-journalism-first-amendment-8a83d8b506053249598e807f8e91e1ae>.

The ban, as well as questions about how the AP should respond, raised questions about the free press and journalism ethics. Silha Center Director and Professor of Media Ethics and Law Jane Kirtley weighed in in February, stating to the Voice of America (VOA) that “it could be considered unethical for news outlets to comply with such orders from a president.” Kirtley said, “I think there is an argument that the ethical thing to do for a news organization is to resist that. In order to maintain their independence, they sometimes need to fight back against overreaching by the government.” The VOA article and Kirtley’s comments are available here: <https://www.voanews.com/a/debate-over-white-house-media-access/7993114.html>.

On Feb. 13, 2025, the White House prevented an AP journalist from covering a news conference between President Trump and India’s Prime Minister Narendra Modi. Pace stated that this marked “the third day AP reporters have been barred from covering the president — first as a member of the pool, and now from a formal press conference — an incredible disservice to the billions of people who rely on The Associated Press for nonpartisan news.” Eugene Daniels, president of the White House Correspondents’ Association, also issued a statement which said: “The White House is seeking to curtail the press freedoms enshrined in our Constitution, and has admitted publicly they are restricting access to events to punish a news outlet for not advancing the government’s preferred language. Prohibiting journalists from access because of their editorial decisions is viewpoint discrimination.” The AP’s coverage is available here: <https://apnews.com/article/ap-white-house-gulf-name-dispute-media-864f2fbb5cfaeede009d7cea5788515b>.

On Feb. 14, 2025, the White House announced that the AP would be indefinitely banned from access to certain White

House spaces until the news agency adopted Trump’s preferred language. Taylor Budowich, the White House Deputy Chief of Staff posted on X: “The Associated Press continues to ignore the lawful geographic name change of the Gulf of America. This decision is not just divisive, but it also exposes the Associated Press’ commitment to misinformation. While their right to irresponsible and dishonest reporting is protected by the First Amendment, it does not ensure their privilege of unfettered access to limited spaces, like the Oval Office and Air Force One. Going forward, that space will now be opened up to the many thousands of reporters who have been barred from covering these intimate areas of the administration. AP journalists and photographers will retain their credentials to the White House complex.” White House Press Secretary Karoline Leavitt also stated that it is a “privilege to cover the White House,” and further, that certain media organizations would be excluded

“[I]t is alarming that the Trump administration would punish AP for its independent journalism. Limiting our access to the Oval Office based on the content of AP’s speech not only severely impedes the public’s access to independent news, it plainly violates the First Amendment.”

— Julie Pace
Associated Press senior vice president

“[i]f we feel there are lies being pushed by outlets in this room.” Leavitt added, “it is a fact that the body of water off the coast of Louisiana is called the Gulf of America. And I’m not sure why news outlets don’t want to call it that.” The X post announcing the indefinite ban is available here: <https://x.com/Taylor47/status/1890453490398326919>. Coverage from *The Hill*, including quotes from Leavitt and Budowich, is available here: <https://thehill.com/homenews/5145928-white-house-ap-oval-office-air-force-one/>. Further coverage from NPR is available here: <https://www.npr.org/2025/02/11/nx-s1-5293524/ap-gulf-of-mexico-white-house-oval-office>.

On Feb. 18, 2025, Trump commented for the first time on the ban. He announced, “We’re going to keep [the AP] out until such time as they agree that it’s the Gulf of America. We’re very proud of this country, and we want it to be the Gulf of America.” He went on to remark “The Associated Press just refuses to go with what the law is.” By “law” Trump seemed to suggest that his executive order legally prohibits referring to the Gulf of Mexico as anything other than the “Gulf of America,” which is inaccurate. That same day, an AP spokesperson issued a statement saying “this is about the government telling the public and press what words to use and retaliating if they do not follow government orders. The White House has restricted AP’s coverage of presidential events because of how we refer to a location.” The AP’s coverage on these developments is available here: <https://apnews.com/article/trump-ap-white-house-press-corps-pool-91535a6384d681fee1cd7e384ea6c627>.

On Feb. 21, 2025, the AP sued the Trump administration in the United States District Court for the District of Columbia.

AP Banned, continued on page 4

AP Banned *continued from page 3*

In the complaint, the AP described the White House Press Pool, from which AP reporters had been excluded, as the group of journalists that accompanies the President “almost everywhere he goes” to ensure the public is kept informed of presidential activities. According to the AP, “the press pool consists of, at minimum, three wire reporters (one each from the AP, Reuters, and Bloomberg), four photographers (one each from the AP, Reuters, AFP, and The New York Times), three network television journalists, a radio correspondent, and at least one print reporter. Membership in the pool is determined at the sole discretion of the White House Correspondents Association (WHCA) and the press corps itself.” The AP noted that as far as they could determine “the White House has never interfered with the WHCA and White House press corps’ prerogative to determine the organizations that make up the White House press pool.” The complaint also stated that if the full press pool cannot attend a particular trip or event due to capacity or other logistic constraints, the WHCA, and not the White House, determines the membership of the smaller pool. The AP alleged that its exclusion from the press pool constituted viewpoint discrimination in violation of the First Amendment, and further, that the Trump administration had also violated the news agency’s Fifth Amendment due process rights. The AP requested a temporary restraining order (TRO) which would block the Trump administration’s ban pending a final decision in the case. *Associated Press v. Budowich*, No. 1:25-cv-00532 (D.D.C. filed Feb. 21, 2025). For more information on the White House Press Pool see this guide from the WHCA: <https://whca.press/covering-the-white-house/resources/guide-to-the-white-house-beat/>.

On Feb. 24, 2025, Judge Trevor N. McFadden denied the AP’s request for a TRO that would prevent the White House from restricting its access to “the Oval Office, Air Force One, and other limited spaces.” Judge McFadden found that the AP had not made the necessary showing of irreparable harm for the preliminary form of TRO relief. However, the AP reported that despite the negative ruling on the TRO, Judge McFadden told the Trump administration attorneys that the case law “is uniformly unhelpful to the White House” and the exclusion “seems pretty clearly viewpoint discrimination.” *Associated Press v. Budowich*, No.

1:25-cv-00532 (D.D.C. Feb. 24, 2025) (order denying temporary restraining order). The AP’s coverage of the TRO denial is available here: <https://www.ap.org/media-center/ap-in-the-news/2025/judge-rejects-immediately-restoring-aps-access-to-white-house-but-urges-government-to-reconsider/>.

In March, the AP filed an amended complaint and again requested a preliminary injunction in an attempt to have its access restored. The amended complaint described further restrictions experienced by its reporters and photographers and the White House’s

“The many news organizations reporting on the White House have varied editorial approaches, but all have the same collective interest in ensuring that no one is excluded based on their constitutionally protected choices.”

— White House Correspondents’ Association letter

takeover of the press pool membership for smaller events. The amended complaint argued that, “[t]he net result is that the AP’s press credentials now provide its journalists less access to the White House than the same press credentials provide to all members of the White House press corps.” The AP’s coverage of the amended complaint is available here: <https://www.ap.org/media-center/ap-in-the-news/2025/ap-again-seeks-end-of-its-white-house-ban-saying-the-trump-administration-is-retaliating-further/>; and here: <https://www.ap.org/media-center/ap-in-the-news/2025/the-associated-press-banned-from-white-house-press-pool-renews-request-to-court-for-reinstatement/>.

The AP has received significant support from other media organizations and groups committed to First Amendment protections. The White House Correspondents’ Association, Reporters Committee for Freedom of the Press, Center for American Rights, and Knight First Amendment Institute at Columbia University all filed *amicus curiae*, or friend of the court, briefs on behalf of the AP. The White House Correspondents’ Association coordinated a letter to the Trump Administration signed by 40 news outlets, including *The New York Times*, NBC, *The Wall Street Journal*, Fox, and Newsmax. The letter stated: “The many news organizations reporting on the White

House have varied editorial approaches, but all have the same collective interest in ensuring that no one is excluded based on their constitutionally protected choices.” *The New York Times* reported on the letter here: <https://www.nytimes.com/2025/02/20/business/media/ap-white-house-ban-cnn-fox.html>.

Professor Kirtley told the *Minnesota Daily*, the University of Minnesota’s independent student newspaper, in March that “[w]hether the nonpartisan, independent media are going to have an opportunity to fully and fairly cover the Trump administration going forward is

a real question. President Trump and his advisors are savvy enough to know that they can’t just unilaterally declare nobody’s allowed to cover this administration. There would be pushback from that, not only by the news organizations themselves but by

their readers, by their viewers and maybe even Congress. But to do it incrementally, drip by drip by drip, you suddenly end up with a situation where you really don’t have a non-affiliated, independent press that is there to provide the public information.” Kirtley’s comments to the *Minnesota Daily* are available here: <https://mndaily.com/292855/opinion/desk-decision-the-free-press-under-pressure/>.

On April 8, 2025, Judge McFadden granted the AP’s request for an injunction based on the amended complaint, ordering the White House to allow the AP full access to presidential events. Judge McFadden noted the limits of his order, explaining that “the Court simply holds that under the First Amendment, if the Government opens its doors to some journalists — be it to the Oval Office, the East Room, or elsewhere — it cannot then shut those doors to other journalists because of their viewpoints.” At the end of the 40-page order, Judge McFadden reiterated that the White House was not required to offer any special privileges to the AP but it could not be treated negatively because of its viewpoint. The order concluded: “The AP seeks restored eligibility for admission to the press pool and limited-access press events, untainted by an impermissible viewpoint-based exclusion. That is all the Court orders today: For the Government to

put the AP on an equal playing field as similarly situated outlets, despite the AP's use of disfavored terminology. The Court does not order the Government to grant the AP permanent access to the Oval Office, the East Room, or any other media event. It does not bestow special treatment upon the AP. Indeed, the AP is not necessarily entitled to the 'first in line every time' permanent press pool access it enjoyed under the WHCA. But it cannot be treated worse than its peer wire services either. The Court merely declares that the AP's exclusion has been contrary to the First Amendment, and it enjoins the Government from continuing down that unlawful path." *Associated Press v. Budowich*, No. 1:25-cv-00532 (D.D.C. Apr. 8, 2025) (order granting preliminary injunction). The AP's coverage of the injunction is available here: <https://apnews.com/article/trump-ap-media-court-white-house-events-access-f346a0efe87c1dec4d6f90e6041abd09>.

Following Judge McFadden's decision, the White House attorney filed an interlocutory appeal to the U.S. Court of Appeals for the District of Columbia. An interlocutory appeal allows litigants to appeal important decisions in their case before a final judgment has been reached. A three-judge panel of the D.C. Circuit heard oral argument on April 17. According to reporting from *Reuters*, a lawyer for the Trump administration argued for almost no limits on the president's power to restrict the press pool, arguing that Trump could lawfully "reconstitute the press pool as his 20 favorite reporters." The case remains pending. The appeals case is *Associated Press v. Budowich*, No. 25-05109 (D.C. Cir. filed Apr 10, 2025). Coverage on the appeal is available here: <https://www.politico.com/news/2025/04/17/associated-press-white-house-access-00297937>; <https://www.reuters.com/business/media-telecom/trump-takes-fight-with-ap-over-white-house-access-us-appeals-court-2025-04-17/>.

On April 15, 2025, the White House announced a policy change to the press pool that eliminated the dedicated slot for wire services that had given the AP, *Reuters*, and *Bloomberg News* access to the pool for decades. Press Secretary Karoline Leavitt released new guidelines for the pool eliminating the wire services slot and instead rotating between additional print media journalists. Leavitt announced that "[t]he White House press secretary shall retain day-to-day discretion to determine composition of the pool. This is necessary to ensure that the president's

message reaches targeted audiences and that outlets with applicable subject-matter expertise are present as events warrant." *The New York Times* covered this change here: <https://www.nytimes.com/2025/04/15/business/media/trump-white-house-newswire-press.html>. Additional coverage is available here: <https://www.pbs.org/newshour/politics/white-house-starting-new-media-policy-sharply-curtailling-wire-service-access> and here: <https://www.reuters.com/business/media-telecom/latest-media-crackdown-white-house-limits-newswire-access-trump-2025-04-16/>.

"[T]he White House is just using a new means to do the same thing: retaliate against news organizations for coverage the White House doesn't like. The WHCA is working to find out what this means in practice but what we do know is that restrictions on White House media coverage only hurt the American people who rely on unfiltered journalism to stay informed and make decisions critical to their lives."

— Eugene Daniels,
WHCA president

Following the change to the press pool policy, the AP sought enforcement of Judge McFadden's April 8 injunction. The AP argued that it was still being excluded in violation of the court order, citing exclusion from the Oval Office event between Trump and Salvadoran President Bukele and the South Lawn event recognizing Ohio State Football's national championship win. The news organization also raised the press pool policy change as an example of the White House's continued, retaliatory exclusion of the AP. *CBS News* reported that WHCA president Daniels weighed in on the press pool change, saying, "the White House is just using a new means to do the same thing: retaliate against news organizations for coverage the White House doesn't like. The WHCA is working to find out what this means in practice but what we do know is that restrictions on White House media coverage only hurt the American people who rely on unfiltered journalism to stay informed and make decisions critical to their lives." *CBS News'* coverage is available here: <https://www.cbsnews.com/news/associated-press-reporters-blocked-oval-office-event-white-house/>.

On April 18, 2025, Judge McFadden determined that the government was no longer engaging in viewpoint discrimination. Noting that the AP had been allowed to attend several events earlier in the week, Judge McFadden told the AP's lawyers, "[i]t seems like one couldn't say your client is being kept out in the way it was kept out before." Judge McFadden determined that the changes to the press pool were facially neutral; that is, the language of the new policies did not single out or target any particular news organization. Judge McFadden said

he was "inclined to presume that this policy is issued in good faith" and determined that as long as the AP was not treated differently from other outlets, the April 8 injunction was not being violated. Coverage of this development is available here: <https://www.washingtonpost.com/style/media/2025/04/18/associated-press-ap-white-house->

[ruling-ban/](https://www.pbs.org/newshour/politics/white-house-starting-new-media-policy-sharply-curtailling-wire-service-access); and here: <https://www.pbs.org/newshour/politics/white-house-starting-new-media-policy-sharply-curtailling-wire-service-access>.

In an opinion piece published by *The Minnesota Star Tribune* in April, Professor Kirtley wrote that the White House's retribution against the AP, alongside Trump's lawsuits against the *Des Moines Register* and CBS communicates a clear message: "The news media must toe the line or face the consequences." Kirtley cautioned readers to pay attention to Trump's attacks on institutions and his threats against democratic principles: "In a few short weeks, the Trump administration has launched relentless attacks on the news media, the judiciary, lawyers, universities and even the arts. We must speak up before we lose them all." The article is available here: <https://www.startribune.com/we-must-fight-back-against-the-trump-administrations-attacks-on-free-speech/601316915>.

According to *The Washington Post*, on June 6, a three-judge panel of the United States Circuit Court of Appeals for the

District of Columbia stayed the District Court's injunction, allowing the Trump administration to bar the AP from certain spaces, including the Oval Office and Air Force One. According to the two-judge majority, "private presidential spaces" are not public or semi-public forums that receive First Amendment protection. To require the president to allow journalists access to these spaces would impermissibly limit the president's control over his private workspaces. The majority did rule, however, that the AP could not be barred from spaces that any accredited journalist can access — for example, the James S. Brady Press Briefing Room where the White House press secretary gives regular briefings. The administration characterized the D.C. Circuit's ruling as a victory, with Trump himself calling the AP "FAKE NEWS!!!" and White House Press Secretary Karoline Leavitt stating that the administration would expand access to different media outlets in the place of "failing legacy media." A representative from the AP said the organization was considering its options. It could appeal the ruling to the Supreme Court, or to the full panel of judges on the D.C. Circuit, known as an *en banc* rehearing. *The Washington Post* article covering the ruling is available here: <https://www.washingtonpost.com/style/media/2025/06/07/trump-associated-press-appeal-ruling-pool/>.

For further information about President Trump's interactions with the press, see the following selected *Bulletin* stories: "Former President Donald Trump Involved in Lawsuits Regarding Access, Copyright, and Defamation" in the Winter/Spring 2023 issue of the *Silha Bulletin*; *Trump Countersues for Anti-SLAPP Violation* in "Three Defamation Cases Against Former President Donald Trump Continue to Play Out in Courts" in the Summer 2023 issue; *Trump Campaign, Allies, Paint a Picture of a Vengeful Second Administration If Elected, Particularly Toward the Press* in "Former President Donald Trump's Defamation Cases Persist Amid Campaign, Criminal Charges" in the Fall 2023 issue; "Events Surrounding the U.S. Capitol Insurrection Raise Significant Media Law Issues and Questions" in the Fall 2020 issue; *White House Excludes CNN from Media Session with President Trump* in "U.S. Senate and Trump Administration Impose Restrictions on Media Access" and *United States and China Engage in "Media War" Amidst COVID-19 Pandemic* and *President Trump Calls for DOJ Investigation into*

News Media for Market Manipulation, Continues Anti-Press Rhetoric and Actions and *COVID-19 Pandemic Raises New Concerns About Misinformation Online* in "Special Report: COVID-19 Pandemic Raises Media Law and Ethics Issues, Challenges, and Opportunities" in the Winter/Spring 2020 issue; "President Trump's Campaign Demands CNN Retract and Apologize for Poll, but Network Decline" and "D.C. Circuit Affirms Ruling Requiring White House to Return White House Reporter's Press Credential" in the Summer 2020 issue; "Letter Sent on

"In a few short weeks, the Trump administration has launched relentless attacks on the news media, the judiciary, lawyers, universities, and even the arts. We must speak up before we lose them all."

— Jane Kirtley,
Silha Center Director and Silha Professor of
Media Ethics and Law

Behalf of President Trump Threatens Legal Action Against CNN, Prompting Criticism" and "Federal Judge Orders White House to Reinstate Reporter's Press Credential" in the Fall 2019 issue; "Second Circuit Rules President Trump Violated the First Amendment By Blocking Twitter Users" and "White House Revokes and Suspends Hard Press Passes Under New Rules" in the Summer 2019 issue; *PEN America Files First Amendment Lawsuit Against President Trump, Alleges He Retaliated Against Media Outlets and Journalists* in "President Trump Prevails in Two Federal Courts' First Amendment Rulings, Faces New First Amendment Lawsuit" and *President Trump Calls CNN Reporter "Rude, Terrible Person," Revokes His Press Credentials; Federal Judge Requires Trump Administration Reinstate Credentials* in "President Trump Continues Anti-Press Rhetoric and Actions" and "President Trump Continues Anti-Press Rhetoric and Actions" and "Journalists in the United States and Abroad Face Threats of Violence and Incarceration" and *The New York Times Publishes Op-Ed by Senior Trump Administration Official, Drawing Criticism from President Trump and Some Observers* in "President Trump Continues Anti-Press Rhetoric and Actions" and "Trump Administration Threatens Regulation of Social Media

Companies and Google for Alleged Political Bias" in the Fall 2018 issue; *Book About the Trump Administration's White House Raises Ethical and Legal Questions* in "The Ethics of Covering President Donald Trump" in the Winter/Spring 2018 issue; *Federal Judge Rules President Trump Cannot Block Twitter Users, Violated First Amendment* in "Federal Courts and State Governors Deal with First Amendment Implications of Politicians Blocking Social Media Users" and *Five Newspaper Staff Members Killed, Two Injured in Shooting at*

Local Maryland Newsroom in "Journalists Face Physical Violence, Other Dangers in the United States and Abroad," and *Federal Prosecutors Seize Phone and Email Records of New York Times Reporter in Leak Investigation* in "Trump Administration

Targets Journalist, Leaker of Government Information, and Former Government Employees Who Took Classified Documents," in the Summer 2018 issue; "Media Face Several Challenges During President Trump's First Months in Office" in the Winter/Spring 2017 issue; "Reporters and Leakers of Classified Documents Targeted by President Trump and the DOJ" and "President Trump and His Administration Spark Debate Over Several Media Law Issues" and *West Virginia Journalist Arrested and FCC Commissioner Apologizes for Treatment of Reporter* in "Journalists Face Physical Restraints and Arrests; Trump Video Raises Further Concerns About Violence Against the Media" in the Summer 2017 issue; "2016 Presidential Candidates Present Challenges for Free Expression" and *Trump Alleges News Organizations Deliberately Print False News, Suggests Changes in Libel Laws* and *Washington Post Joins Several Organizations that Trump Bars from Covering Campaign Events* and *Observers Suggest Either Outcome of 2016 Election Could Be Troublesome for the Press* in "2016 Presidential Candidates Present Challenges for Free Expression" in the Summer 2016 issue.

— ALEX LLOYD
SILHA CENTER RESEARCH ASSISTANT

Trump Sues CBS Over 60 Minutes Story, Threatens CBS Parent Company's Merger With Skydance

On Oct. 7, 2024, *CBS News* aired an episode of *60 Minutes* that featured an interview with Democratic presidential nominee Kamala Harris. After the interview aired, Republican presidential nominee Donald Trump accused *CBS News* of

TRUMP AND THE MEDIA

deceptively editing Harris's interview. Specifically, Trump argued there was a discrepancy between a preview of the interview and the interview itself. Trump subsequently sued CBS for misleading consumers. The incident raised journalism ethics concerns, and Trump's lawsuit stands as an example of the financial and reputational dangers that potentially face media companies and news organizations during the second Trump term. For additional coverage of the *60 Minutes* editing controversy, and Trump's lawsuit, see "Trump Accuses 60 Minutes of Deceptive Editing, Prompting Journalism Ethics Questions" in the Fall 2024 issue of the *Silha Bulletin*.

The incident that sparked Trump's suit of CBS occurred in October 2024, before the presidential election. Before airing its interview with Democratic nominee for president Kamala Harris, *60 Minutes* aired a preview clip that showed Harris responding to a question from correspondent Bill Whitaker. However, when the interview aired, the answer Harris gave in the interview appeared different from the answer that had been shown in the clip. In the preview that aired — during a discussion between Harris and Whitaker about the billions of dollars in military aid the United States gives to Israel each year — Whitaker remarked that it seemed like Israeli Prime Minister Benjamin Netanyahu "is not listening" to U.S. input on military actions. Harris responded, "Well Bill, the work that we have done has resulted in a number of movements in that region by Israel that were very much prompted by, or a result of, many things, including our advocacy for what needs to happen in the region."

In the version that aired, however, Harris appeared to give a different answer. She stated: "We are not going to stop pursuing what is necessary for the United States to be clear about where we stand on the need for this war to end."

One day after the interview aired, on Oct. 8, 2024, the Trump campaign accused *CBS News* of covering up Harris's "word salad" and demanded that *60 Minutes* release the "unedited transcript" of Harris's interview. The preview clip that appeared on *Face the Nation* is available here: <https://www.youtube.com/watch?v=3N-yaqClBqg&t=271s>. The full *60 Minutes* primetime interview is available online at: <https://www.youtube.com/watch?v=TJys7OVH24E/>.

On October 31, Trump sued CBS Broadcasting, Inc. and CBS Interactive, Inc., for \$10 billion in the United States District Court for the Northern District of Texas. Trump alleged that *CBS News* violated a Texas consumer protection law — the Texas Deceptive Trade Practice Act (DTPA) — by deceptively editing its interview with Harris. In February 2025, Trump amended his complaint, adding Paramount, the parent company of CBS Broadcasting and CBS Interactive, as a defendant. Trump also added a claim under the federal Lanham Act, the federal law governing trademark law and unfair competition, and amended his damages to \$20 billion, including attorneys' fees, punitive damages, and any other relief the Court deems proper.

Trump's Lawsuit Against CBS and Paramount

Trump's amended complaint has two claims — one under the Texas Deceptive Trade Practice Act (DTPA) and one under the federal Lanham Act. The DTPA creates a cause of action for a consumer where "false, misleading, or deceptive acts or practices" cause economic damages or mental anguish. See DTPA § 17.50(a)(1). Such practices include but are not limited to: "causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services" and "causing confusion or misunderstanding as to affiliation, connection, or association with, or certification, by another." See DTPA § 17.46(b)(2)–(3).

Trump's lawyer also asserted that the defendants' actions violate Section 43(a)(1)(B) of the Lanham Act. The Lanham Act is known primarily as a regulator of trademarks. However, the Act also regulates false advertising, and includes a cause of action for "any person who believes that he or she is or is likely to

be damaged by" an act "in commercial advertising" that "misrepresents the nature, characteristics, [or] qualities of his or another person's . . . services, or commercial activities." 15 U.S.C § 1125(a)(1)(B).

In the amended complaint, Trump's lawyer put forward three theories of liability under the DTPA. First, that "CBS's misconduct" caused confusion to Americans as to the "source, sponsorship, approval, or certification of CBS's broadcast 'services.'" According to the complaint, this confusion "render[ed] it impossible for even the most discerning viewers to determine what Harris really said and why her two Replies [*sic*] were so different." Trump's second theory of liability under the DTPA is that "CBS's misconduct 'caus[ed] confusion or misunderstanding as to' CBS's 'affiliation, connection, or association with' Kamala and her Campaign and caused 'confusion or misunderstanding' as to the Interview's 'certification by' CBS given its legal obligation to broadcast news in a non-distortive manner." Finally, Trump argues that "CBS's misconduct was unconscionable because it amounts to a brazen attempt to interfere in the 2024 U.S. Presidential Election." Trump's lawsuit is *Trump v. Paramount Global*, No. 2:24-cv-00236-Z. The amended complaint is available here: <https://z.umn.edu/TrumpParamountAmendedComplaint>.

For the lawsuit to proceed in the Northern District of Texas, the court must have authority to hear and decide cases affecting specific parties to the case. The legal term for this is personal jurisdiction. Courts generally have personal jurisdiction over parties that reside or operate in their jurisdiction, or that have some other significant connection to the jurisdiction. None of the defendants are incorporated in or have their primary place of business in Texas. CBS Interactive is incorporated in Delaware; CBS Broadcasting is incorporated in New York, as is Paramount. But Trump's lawyers argued that the defendants are subject to personal jurisdiction in Texas, according to the amended complaint, because "[they] own, operate, and affiliate with numerous broadcast stations throughout the state." The close ties these broadcast stations have with

CBS, continued on page 8

CBS, continued from page 7

Texas — through their Texas-based business operations, employees, and broadcasts — mean that “each of the Defendants has forged an enduring relationship with Texas.”

Trump’s lawyers also argued that the Northern District of Texas is a proper venue for the lawsuit because “a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this District by virtue of the Interview being transmitted by Defendants into this District” through Paramount+, YouTube, and local CBS affiliates. Moreover, Trump’s lawyers contend that the Northern District of Texas is a proper place for this fight to play out because the defendants purposefully broadcast the interview in the Northern District of Texas.

In the legal context, venue is the location of the court where a particular dispute is heard. Venue concerns not whether the court has authority to hear the case, but what location is proper given where the litigants and the evidence are located, as well as where the alleged harm occurred. More information on personal jurisdiction is available here: https://www.law.cornell.edu/wex/personal_jurisdiction. More information on venue is available here: <https://www.law.cornell.edu/wex/venue>.

Before Trump’s lawyer amended the complaint in February 2025, the defendants had moved to dismiss the original complaint. They filed two motions to dismiss, arguing first that the court lacked personal jurisdiction and that venue was improper. In a separate motion to dismiss, defendants argued that the court lacked subject matter jurisdiction and plaintiffs failed to state a claim upon which relief could be granted. On February 10, three days after the amended complaint was filed, Judge Matthew J. Kacsmaryk denied the defendants’ motion to dismiss the original complaint. The plaintiffs’ amended complaint rendered the original complaint without legal effect, so the motion to dismiss was moot, according to Judge Kacsmaryk’s order. On March 6, defendants filed motions to dismiss the amended complaint, under the theories that the court lacks jurisdiction, venue is improper, and plaintiffs failed to state a claim. At the time the *Bulletin* went to press, no ruling had been made on Judge Kacsmaryk’s order. The parties were set to begin mediation during the week of

April 28 to discuss settlement, according to reporting by *The Wall Street Journal*, available here: <https://www.wsj.com/business/media/paramount-in-talks-with-fcc-over-diversity-policy-concessions-for-merger-18a9c883>.

On April 30, Trump posted on his Truth Social account: “The case we have against 60 Minutes, CBS, and Paramount is a true WINNER. They cheated and defrauded the American People at levels never seen before in the Political Arena.” He continued, “Despite all of the above, and Paramount’s/CBS’/60 Minutes’ admittance to this crime and, with other similar corrupt removals of answers to questions, the Failing New York Times, which is Fake News both in writing and polling, claims that ‘people’ said that the case is baseless. They don’t mean that, they just have a non curable case of TRUMP DERANGEMENT SYNDROME, possibly to the point where the Times’ interjection makes them liable for tortious interference, including in Elections, which we are intently studying.” Reporting on Trump’s comments is available here: <https://variety.com/2025/tv/news/trump-60-minutes-cbs-admitted-crime-harris-interview-mediation-1236382562/>.

CBS Releases the Unedited Transcripts of its 60 Minutes Interview with Kamala Harris

In February 2025, following pressure from the Federal Communications Commission (FCC) on *CBS News*, *60 Minutes* released the unedited transcripts of its interview with Kamala Harris. According to the *Associated Press* (AP), CBS said it was compelled to turn over the transcripts by FCC chair Brendan Carr so the agency could conduct an investigation into alleged broadcast distortion by the network. The AP report is available here: <https://apnews.com/article/trump-cbs-60-minutes-harris-interview-ac36372dd700c9d233eee78773473f49/>.

Harris’s full answer to Whitaker’s question as documented on the transcript and corroborated by the full unedited video, is: “Well, Bill, the work that we have done has resulted in a number of movements in that region by Israel that were very much prompted by, or a result of many things, including our advocacy for what needs to happen in the region. And we’re not going to stop doing that. We are not going to stop pursuing what is necessary for the United States to be clear about where we stand on the need for this war to end.” The first part, beginning with

“Well, Bill . . .” and ending with “in the region,” appeared in a preview for the full interview on *Face the Nation*. The second part, beginning with “We are not going to stop . . .” and ending with “for this war to end,” appeared in the *60 Minutes* broadcast. Harris’s full, unedited answer is a combination of what aired in the preview and what aired in the primetime interview, separated only by the phrase “and we are not going to stop doing that.” The unedited *60 Minutes* interview is available here: <https://www.youtube.com/watch?v=WlxA8MF5r5Y&t=514s>

“We broadcast a longer portion of the vice president’s answer on *Face the Nation* and broadcast a shorter excerpt from the same answer on *60 Minutes* the next day,” read a statement released by *60 Minutes* alongside the transcript. The statement continued: “Each excerpt reflects the substance of the vice president’s answer. As the full transcript shows, we edited the interview to ensure that as much of the vice president’s answers to *60 Minutes*’ many questions were included in our original broadcast while fairly representing those answers.” The full transcript of the interview and the statement is available here: <https://www.cbsnews.com/news/60-minutes-publishes-transcripts-video-requested-by-fcc/>.

In January 2025, Carr revived a complaint filed by the Center for American Rights, a non-profit legal advocacy organization based in Chicago, accusing CBS of “news distortion” in the way *60 Minutes* edited its interview with Harris. The complaint had been dismissed by his predecessor as being “at odds with the First Amendment,” according to *Deadline*. In restoring the complaint against CBS, as well as complaints against NBC and ABC, the FCC said that the dismissals were “issued prematurely” and “based on an insufficient investigatory record for the station-specific conduct at issue.” The FCC’s news distortion policy subjects broadcast stations to enforcement only “if it can be proven that they have deliberately distorted a factual news report.” The FCC has not enforced this policy, or even attempted to enforce it, in decades, according to Andrew Jay Schwartzman, senior counselor at the Benton Institute for Broadband and Society. *Deadline*’s reporting on the FCC’s restoration of the complaint is available here: <https://deadline.com/2025/01/fcc-complaints-trump-cbs-nbc-abc-1236263995/>. For more information on the FCC and Brendan Carr’s investigation

into CBS, see “Media Organizations Threatened With Regulation by New FCC Chair Brendan Carr; Funding for Public Broadcasting Also in Jeopardy” on page 16 of this issue of the Silha *Bulletin*.

April 2025: Paramount Moves Towards Merger Amidst Personnel Changes at 60 Minutes

As lawyers for President Trump and CBS News continue the legal battle, CBS's parent company, Paramount, is seeking to merge with Hollywood studio Skydance. The merger is awaiting approval from the FCC. On April 24, *The Wall Street Journal* reported that the FCC had directed Paramount Global, CBS's parent company, to take certain steps in order for the agency to approve the merger. The FCC will require the news agency to continue abstaining from diversity, equity, and inclusion programs — a precondition previously announced by Carr that will apply to all mergers and acquisitions considered by the news agency. Carr has reportedly said that the news distortion complaint against *60 Minutes* could influence the FCC's review of Paramount's merger. In an FCC meeting, Carr also reportedly said that Trump's suit against CBS and the agency's review of the merger were two separate processes. The FCC must review and approve the merger between Paramount and Skydance because the merger would involve the transfer of broadcast television licenses. On April 28, *Reuters* reported that Carr said that “all options remain on the table” regarding the agency's investigation into the *60 Minutes* interview and resulting complaint against CBS. Find *The Wall Street Journal's* reporting here: <https://www.wsj.com/business/media/paramount-in-talks-with-fcc-over-diversity-policy-concessions-for-merger-18a9c883>. *Reuters's* reporting on Carr's recent statements is available here: <https://www.reuters.com/world/us/fcc-chair-says-all-options-open-cbs-60-minutes-news-distortion-review-2025-04-28/>. For more information on Brendan Carr and his attempts to regulate the media, see “Media Organizations Threatened With Regulation by New FCC Chair Brendan Carr; Funding for Public Broadcasting Also in Jeopardy” on page 16 of this issue of the Silha *Bulletin*; and “Trump Selects Brendan Carr to Chair the FCC” in the Fall 2024 issue of the Silha *Bulletin*.

In April, *60 Minutes'* executive producer, Bill Owens, resigned. In a note to staff, Owens said that it has “become clear that I would not be allowed to run

the show as I have always run it, to make independent decisions based on what was right for 60 Minutes, right for the audience . . . The show is too important to the country. It has to continue, just not with me as the executive producer.” In February, *The New York Times* reported that Owens said in a staff meeting that he would not apologize for the Harris broadcast as part of any future settlement. At the end of the *60 Minutes* broadcast on Sunday, April 27, correspondent Scott Pelley spent the final on-air minutes paying tribute to Owens. Pelley said that Owens's quitting proved he was the right person for the job. “It was hard on him and it was hard on us,” Pelley said. “But he did it for us — and you.” Pelley also spoke on behalf of the *60 Minutes* team, saying that “none of us is happy” about increased supervision from corporate leaders at the network. Pelley said that Paramount has begun to supervise *60 Minutes* stories in new ways. In particular, former *CBS News* President Susan Zirinsky has reportedly been directed to review stories before they air, according to the *AP*. The *AP's* reporting on Owens's resignation and the update on Trump's suit against Paramount is available here: <https://apnews.com/article/60-minutes-cbs-producer-quits-4c7729507684fa516391a7022d27586b>. Reporting from *The New York Times* is available here: <https://www.nytimes.com/2025/04/07/business/media/trump-paramount-mediator-60-minutes.html>. The *AP's* reporting on Pelley's tribute is available here: <https://apnews.com/article/cbs-trump-60-minutes-pelley-ce93eec7f2dc9c9c72f2d598f6bdf816>

Despite the lawsuit, and increased supervision from Paramount, *60 Minutes* has continued its coverage of the Trump administration. Correspondents traveled to Greenland to talk to people there about Trump's desire to take over the country, according to the *AP*. Also, correspondent Scott Pelley traveled to Ukraine to interview President Volodymyr Zelenskyy. In an interview broadcast on Sunday, April 13, Zelenskyy invited Trump to visit his country and see the effect of Russia's invasion. After these stories were broadcast, President Trump posted on his Truth Social platform: “Almost every week, 60 Minutes . . . mentions the name ‘TRUMP’ in a derogatory and defamatory way, but this Weekend's ‘BROADCAST’ tops them all.” Trump said that FCC Chair Carr should impose fines and punishment on *60 Minutes* “for their unlawful and illegal behavior.” Trump also said

that *60 Minutes* was not a news show anymore, but has turned into “a dishonest Political Operative simply disguised as ‘News,’ and must be responsible for what they have done, and are doing.” The *AP's* reporting on *60 Minutes'* coverage is available here: <https://apnews.com/article/trump-cbs-60-minutes-2c8a32df63f3ec50cfefe94a26436fda>.

On May 19, 2025, according to reporting from *The New York Times* and CNN, Wendy McMahon, the president of *CBS News*, stepped down. Reporting suggested that McMahon's departure was related to Paramount executives' unease with how *CBS News* and *60 Minutes* had been covering Trump. According to *The Times'* report, on May 4, *60 Minutes* aired a segment that quoted prominent lawyers criticizing Trump for his executive orders targeting law firms such as Perkins Coie, Susman Godfrey, and Jenner & Block, among others. Trump had apparently threatened to sue the network for defamation. This new threat, in combination with Trump's ongoing lawsuit, and McMahon's support of Owens, contributed to her being forced out, according to *The New York Times*. A CBS journalist speaking to CNN stated: “Wendy was standing up for us. There's a lot of fear about what happens with her gone now.” *The Times* report is available here: <https://www.nytimes.com/2025/05/19/business/media/cbs-60-minutes-trump-wendy-mcmahon.html>. The CNN report is available here: <https://www.cnn.com/2025/05/20/media/cbs-news-distress-trump-pressure-60-minutes-fear-mcmahon>.

Silha Center Director and Professor of Media Ethics and Law Jane Kirtley, speaking to the hosts of the Adam and Jordana Show on WCCO Radio, said that the departure of McMahon and other prominent journalists' from legacy news media was “not good for the brand of those companies.” Kirtley said she hoped this would “give [the companies] pause about what they're doing that's causing these highly respected individuals to jump ship.” Kirtley's comments are available here: <https://www.audacy.com/podcast/adam-and-jordana-6dea1/episodes/the-president-of-cbs-news-as-the-fallout-from-a-60-minutes-interview-with-kamala-harris-continues-5ff47>.

— RYAN CLEMMONS
SILHA CENTER RESEARCH ASSISTANT

Trump Sues *Des Moines Register*, Continuing Attack on Media Outlets That Publish Unfavorable Coverage

On Nov. 2, 2024, just prior to the 2024 presidential election, *The Des Moines Register* (the *Register*) published a poll showing that Kamala Harris had taken the lead over Donald Trump in Iowa. In an article titled “Iowa Poll: Kamala Harris leapfrogs Donald Trump to take lead near Election Day,” the *Register* reported on “The Iowa Poll” from J. Ann Selzer, president of the Des Moines-based polling firm Selzer & Company (S&C), that showed Harris leading Trump 47% to 44% days before the election. That poll was, to use Selzer’s own post-election language, “a spectacular miss.” Trump won Iowa by more than 13 points.

TRUMP AND THE MEDIA

The day after the *Register*’s article was published, Trump responded, calling it “suppression” and declaring that “it actually should be illegal.” In December, after winning the presidential election, Trump sued the *Register*, Selzer, and S&C for publishing the poll. The *Register*’s Iowa Poll article is available here: <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2024/11/02/iowa-poll-kamala-harris-leads-donald-trump-2024-presidential-race/75354033007/>. Trump’s suppression claims were covered by the *Register* here: <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2024/11/03/donald-trump-criticizes-iowa-poll-that-shows-him-trailing-kamala-harris-iowa-leaders-react/76034650007/>. *New York Times* coverage of the poll and lawsuit is available here: <https://www.nytimes.com/2024/12/19/us/politics/ann-selzer-iowa-trump.html>. For more on Trump’s attacks on the news media see “Trump Bans *Associated Press* from White House After It Refuses to Call Gulf of Mexico ‘Gulf of America’” on page 1 of this issue of the *Silva Bulletin*; and “Trump Sues CBS Over *60 Minutes* Story, Threatens CBS Parent Company’s Merger with Skydance” on page 7 of this issue of the *Silva Bulletin*; and the additional stories listed at the end of this article.

Selzer had been known as the “queen of polling” for her work on The Iowa Poll, which she has overseen since 1987.

The Wall Street Journal has referred to The Iowa Poll as “the gold standard of political surveys in the Hawkeye State.” NPR once referred to Selzer as “the most respected pollster in Iowa.” Leading up to the 2016 election, *Politico* wrote of Selzer: “At a time when trust in public polling has eroded after high-profile failures in elections across the country and around the globe, people in Iowa still have faith that one woman can accurately measure where things stand in next year’s volatile caucuses.” Another article published by *FiveThirtyEight* about Selzer’s career was called “Ann Selzer Is The Best Pollster In Politics.” *The Wall Street Journal* article is available here: <https://www.wsj.com/politics/elections/iowa-poll-harris-surprise-election-2024-45f8aee3>. The NPR article is here: <https://www.npr.org/2016/01/07/462230483/bush-rubio-aim-for-3rd-place-in-iowa-caucuses>. *Politico*’s article is available here: <https://www.politico.com/story/2015/12/ann-selzer-iowa-pollster-216151>. The *FiveThirtyEight* article is available here: <https://fivethirtyeight.com/features/selzer/>. The *Register* described Selzer’s leadership on the Iowa Poll here: <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2024/11/02/how-do-past-iowa-poll-results-compare-to-iowa-election-results/76018755007/>.

Selzer’s polling has broken away from other election forecasters a number of times. She first rose to fame in 2008 after predicting that Barack Obama would beat Hillary Clinton in the Iowa Caucuses, an outlier prediction at the time. *The Atlantic* reported that Selzer was the only pollster to “predict a big caucus victory for Obama” in a “controversial poll” that was proven accurate by Obama’s eight-point victory. *The Atlantic* reported that Selzer is “not afraid to go out on a limb and defy conventional wisdom based on her faith in her data.” *The New York Times* described her accuracy in other Iowa caucuses and general elections including her prediction that Trump would upset Clinton in 2016. *The Atlantic* article is available here: <https://www.theatlantic.com/politics/archive/2011/11/friday-interview-the-polling-guru-of-the-iowa-caucuses/249036/>. *The Times*’s article is available here: <https://www.nytimes.com/2024/12/19/us/politics/ann-selzer-iowa-trump.html>.

On Nov. 2, 2024, the *Register* published an article about The Iowa Poll which showed Harris leading Trump in Iowa by three points. The article noted that Trump had an 18-point lead over Joe Biden in June and a four-point lead over Harris in September. In the article, Selzer commented, “[i]t’s hard for anybody to say they saw this coming. She has clearly leaped into a landing position.” Selzer’s poll was a clear outlier among other polls at the time. CNBC described it as a “shock poll” coming “as a complete surprise to political observers, as no serious analyst has predicted that the Democratic nominee will defeat Trump in [Iowa].” *Forbes* reported on the “outlier” poll, comparing it with another poll from Emerson College that showed Trump leading by ten points in Iowa. After The Iowa Poll was published, Nate Silver, the founder of the polling website *FiveThirtyEight* who now runs the *Silver Bulletin*, a website which evaluates polling accuracy, published an article titled: “A shocking Iowa poll means somebody is going to be wrong.” Silver wrote, “Releasing this poll took an incredible amount of guts because — let me state this as carefully as I can — if you had to play the odds, this time Selzer will probably be wrong.” The CNBC article is available here: <https://www.nbcbayarea.com/news/business/money-report/shock-poll-shows-harris-leading-trump-in-iowa/3697783/?os=io...&ref=app>. The *Forbes* article is available here: <https://www.forbes.com/sites/saradorn/2024/11/03/why-outlier-poll-showing-harris-winning-iowa-could-spell-trouble-for-trump/>. The *Silver Bulletin* article is available here: <https://www.natesilver.net/p/a-shocking-iowa-poll-means-somebody>.

Trump reacted strongly to Selzer’s November Iowa Poll, calling it “fake news” and suggesting it was intended to manipulate the election. At a campaign rally, Trump attacked the Poll on the stump, saying “[i]t’s called suppression. They suppress. And it actually should be illegal.” On Nov. 3, 2024, Trump posted on Truth Social: “No President has done more for FARMERS, and the Great State of Iowa, than Donald J. Trump. In fact, it’s not even close! All polls, except for one heavily skewed toward the Democrats by a Trump hater who called

it totally wrong the last time, have me up, BY A LOT. I LOVE THE FARMERS, AND THEY LOVE ME. THE JUST OUT EMERSON POLL HAS ME UP 10 POINTS IN IOWA. THANK YOU!” Selzer correctly picked Trump to win Iowa in 2016 and 2020. Other Iowa Republicans also weighed in, including Iowa Gov. Kim Reynolds, a Republican, who posted, “President Trump will win Iowa if we vote and turnout our friends. Let’s prove the Des Moines Register wrong again!” Trump’s post is available here: <https://truthsocial.com/@realDonaldTrump/posts/113419171072451969>. The *Register*’s coverage of Trump’s reaction is linked above. Reynolds’s post is available here: <https://x.com/KimReynoldsIA/status/1852877746579337511>.

Prior to the election, on November 3, Selzer defended her data and results in *The Iowa Poll* on an episode of *The Bulwark Podcast*, which is hosted by the self-described “Never Trump” political activist Tim Miller. Selzer noted, “[p]eople looked at my methodology . . . and it’s published in every article in the Des Moines Register, how we do it, but you look at it on paper and you go, it’s too simple, this can’t possibly work. And so far it has, but I’m prepared that one day it will not work and I will blow up into tiny little pieces and be scattered across the city of Des Moines.” Selzer’s statements to *The Bulwark Podcast* are available here: https://www.youtube.com/watch?v=P-ysKh_Gyd0. *The Guardian*’s coverage of the quote is available here: <https://www.theguardian.com/us-news/2024/nov/17/iowa-pollster-j-ann-selzer-quits>.

The November Iowa Poll ended up being the “blow up” Selzer warned could come. On Nov. 5, 2024, *The New York Times* reported that Trump had won in Iowa by more than 13 points. According to reporting from the *Register*, at a GOP election watch party, the Iowa Republican party chair, Jeff Kaufmann celebrated Trump’s victory, shouting “Ann Selzer’s wrong! The Des Moines Register’s wrong! Donald Trump just won Iowa!” *The Times* election results for Iowa are available here: <https://www.nytimes.com/interactive/2024/11/05/us/elections/results-iowa-president.html> and coverage of Selzer’s miss is available here: <https://www.nytimes.com/2024/12/19/us/politics/ann-selzer-iowa-trump.html>. The *Register*’s coverage of Trump’s win is available here: <https://www.dsmoinesregister.com/story/news/politics/elections/2024/11/05/election-2024-republicans-expect-donald-trump-win-iowa-over-surg-ing-kamala-harris/75720978007/>.

Both the *Register* and Selzer commented on the election results, describing the need to figure out what led to the inaccurate polling. Selzer said: “Tonight, I’m of course thinking about how we got where we are. The poll findings we produced for The Des Moines Register and Mediacom did not match what the Iowa electorate ultimately decided in the voting booth today. I’ll be reviewing data from multiple sources with hopes of learning why that happened. And, I welcome what that process might teach me.” The *Register*’s Executive Editor Carol Hunter commented: “The Des Moines Register is closely reviewing the disparity between the results of the final Iowa Poll and the election results.” Hunter described that review, noting that “Register editors will work closely with pollster J. Ann Selzer, to review all methodologies and other factors that may have impacted the difference. The Iowa Poll has measured opinions of Iowans on everything from farm policy to traffic cameras to the quality of mental health services in the state. We want to ensure it accurately reflects the sentiments of Iowans moving forward.” These statements were published by the *Register* here: <https://www.dsmoinesregister.com/story/news/politics/iowa-poll/2024/11/05/pollster-j-ann-selzer-to-review-data-after-iowa-poll-misses-trump-win/76085598007/>.

On Nov. 17, 2024, Selzer announced her retirement from election polling, a move she said was planned before election day. In a guest column for the *Register*, she wrote, “[o]ver a year ago I advised the Register I would not renew when my 2024 contract expired with the latest election poll as I transition to other ventures and opportunities.” Selzer described public opinion polling as her “life’s work” and described polling as “a science of estimation.” She went on to write: “science has a way of periodically humbling the scientist. So, I’m humbled, yet always willing to learn from unexpected findings.” Selzer also acknowledged her history of conducting outlier polls that turned out to be accurate, and acknowledged that “[m]aybe that history of accuracy made the outlier position too comfortable.” Selzer defended her work and integrity, describing her pride in the work “done

for the Register, for the Detroit Free Press, for the Indianapolis Star, for Bloomberg News and for other public and private organizations interested in elections.” She concluded: “My integrity means a lot to me. To those who have questioned it, there are likely no words to dissuade. For those who know me best, I appreciate the supportive notes and calls reminding me that what drew me to them as friends, colleagues and clients was commitment to truth and accuracy — both in my professional and my personal relationships.” Selzer’s column is available here: <https://www.dsmoinesregister.com/story/opinion/columnists/2024/11/17/ann-selzer-conducts-iowa-poll-ending-election-polling-moving-to-other-opportunities/76334909007/>.

Donald Trump remained committed to questioning Selzer’s integrity and seeking retribution for the publication of the November poll. On Dec. 16, 2024, Trump filed a lawsuit in the Iowa state court for Polk County. The suit named four defendants: Selzer, Selzer’s polling firm Selzer & Company (“S&C”), *The Des Moines Register*, and Gannett, the *Register*’s parent company. In the original state court complaint, Trump was the only plaintiff and alleged one count against all of the defendants: violation of the Iowa Consumer Fraud Act, Iowa Code § 714H.3(1). Complaint, *Trump v. Selzer*, No. 05771CVCV068364 (Iowa Dist. Ct. Polk Cty. filed Dec. 16, 2024).

The state court complaint claimed to seek “accountability for brazen election interference committed by the Defendants in favor of now-defeated former Democrat candidate Kamala Harris . . . through use of a leaked and manipulated” Iowa Poll, which the complaint referred to as the “Harris Poll.” Trump complained that Selzer’s polling error was “no ‘miss’ but rather an attempt to influence the outcome of the 2024 Presidential Election” by creating “a false narrative of inevitability for Harris in the final week of the 2024 Presidential Election.” The complaint alleged that Trump and all voters are “consumers” under the Iowa Consumer protection statute, that the defendants provided “merchandise” to consumers by publicizing the Iowa Poll, and that the defendants engaged in deception and unfair acts or practices because the Iowa Poll was misleading to consumers.

Register, continued on page 12

In press conference, Trump publicly commented on the lawsuit saying “It costs a lot of money to do it, but we have to straighten out the press.” The *Register*’s coverage of the filing of the lawsuit is available here: <https://www.desmoinesregister.com/story/news/politics/2024/12/17/donald-trump-lawsuit-gannett-des-moines-register-iowa-election-poll/77051510007/>.

The next day, December 17, attorneys for Gannett attempted to move the state court case to federal court by filing a notice of removal with the United States District Court for the Southern District of Iowa. Although the complaint alleged a violation of Iowa state law, Gannett argued that the case should be removed to federal court pursuant to 28 U.S.C. § 1332. Section 1332 allows lawsuits between citizens of different states with an amount in controversy of more than \$75,000 to be heard by a federal court. For federal diversity jurisdiction, there must be complete diversity; no plaintiff can be a citizen of the same state as any defendant. The primary rationale for allowing federal courts to hear these types of cases is to prevent plaintiffs from having an unfair “home court” advantage. Because of that rationale, there is an additional restriction on removal to federal court based on diversity jurisdiction called the “forum-defendant rule.” Under that rule, cases cannot be removed to federal court on the sole basis of diversity jurisdiction “if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2). If a defendant is a citizen of the state where the lawsuit is filed, the concern about unfairness for out-of-state litigants no longer exists and neither does the justification for removal to federal court because of the parties’ diversity. This rule could potentially limit the ability of Selzer and the *Register* to keep the case in federal court based on diversity jurisdiction since both are residents of Iowa, the forum of the state court claim. The notice of removal alleged that for purposes of diversity jurisdiction, Trump is a citizen of Florida, Selzer and S&C are citizens of Iowa, the *Register* is a citizen of Iowa and New York, and Gannett is a citizen of Delaware and New York. A spokeswoman for the *Register* further commented that “[w]e believe this lawsuit is without merit.” She added, “We stand by our reporting on the matter

and will vigorously defend our First Amendment rights.”

In the motion to remove the case to federal court, attorneys for Gannett argued that the forum defendant rule would not prevent removal to federal court because at the time the motion was filed, none of the parties had yet been served. The text of 28 U.S.C. § 1441(b)(2) requires parties to be “properly joined and served as defendants” to apply the forum defendant rule. Gannett argued that because the motion was filed prior to service of the parties, the forum defendant rule does not apply and the case can proceed in federal court based on the diverse citizenship between Trump and the four defendants.

After the lawsuit was filed, many described it as another example of Trump’s war on the news media and campaign to punish those who oppose him. Samantha Barbas, a professor at the University of Iowa College of Law, told *The Times*, “It’s clear that Trump is waging war on the press.” She added, “Trump and his lawyers are going to use any legal claim that they think has a chance of sticking. They’ll cast a wide net to carry out this vendetta.” Brian Stelter, CNN’s chief media analyst, commented that recent media settlements have “emboldened Trump and his allies,” and the suit against the *Register* is an example of that bolder approach to media litigation. Stelter and others also compared the suit to Trump’s suit of *CBS News*, which stemmed from the alleged deceptive editing of a *60 Minutes* story on Kamala Harris. Former U.S. Department of Justice Attorney Lloyd Green wrote in *The Guardian* that Trump’s message is clear in his suits against the media: “bend the knee or else.” *The Times* coverage is available here: <https://www.nytimes.com/2024/12/17/us/politics/trump-sues-des-moines-register.html>. The CNN coverage is available here: <https://www.cnn.com/2024/12/18/politics/trump-greets-press-with-fight-what-matters/index.html>. The *Guardian* column is here: <https://www.theguardian.com/commentisfree/2024/dec/18/trump-press-freedom>. For more on the CBS case and other media settlements, see “Trump Sues CBS Over *60 Minutes* Story, Threatens CBS Parent Company’s Merger with Skydance” on page 7 in this issue of the *Silha Bulletin*; and “Trump Settles Defamation Suit with ABC” on page 37 of this issue of the *Silha Bulletin*.

Silha Center director and Professor of Media Ethics and Law Jane Kirtley also weighed in on the significance of Trump’s lawsuits. She wrote in *The Minnesota Star Tribune*, Minneapolis’s paper of record: “Coupled with lawsuits against the Des Moines Register and CBS which Trump launched before he took office, claiming that their reporting amounted to news distortion or election interference, as well as Federal Communications Commission investigations of Walt Disney (parent company of ABC) and Comcast (which owns NBC) over their DEI practices, the message is clear. The news media must toe the line or face the consequences. Some news organizations, including ABC, have separately settled with Trump rather than risk those consequences.” Kirtley’s column is available here: <https://www.startribune.com/we-must-fight-back-against-the-trump-administrations-attacks-on-free-speech/601316915>.

On Jan. 31, 2025, Trump filed an amended complaint in federal court in the Southern District of Iowa that added two new plaintiffs, two additional claims for relief, and contested the validity of federal jurisdiction. U.S. Rep. Mariannette Miller-Meeks (R-Iowa) and former Iowa State Senator Bradley Zaun (R-Urbandale) both joined the lawsuit as plaintiffs based on the alleged impact of The Iowa Poll on their own state election campaigns in 2024. The amended complaint also added new allegations about The Iowa Poll’s predictions about state congressional races. The plaintiffs argued that The Iowa Poll’s predictions on the presidential and Iowa congressional elections affected the races of Miller-Meeks and Zaun. Amended Complaint, *Trump v. Selzer*, No. 4:24-cv-00449 (S.D. Iowa filed Jan. 31, 2025).

Miller-Meeks sought a third term as the Representative for Iowa’s 1st Congressional District. Selzer projected Miller-Meeks to lose by 16 points, but Miller-Meeks prevailed by two-tenths of a point after a recount vote. The amended complaint argued that Miller-Meeks “never should have been subjected to a recount — and a costly recount at that — and would not have been if not for the combined impact of the Harris Poll and the Congressional Poll on her race.” Zaun had served two terms as the Iowa Senator for the 20th district of Iowa, and later served as a state senator for 22nd district, but lost his 2024 reelection bid by four

points. The complaint alleged that his loss was “fueled by momentum from the Harris Poll.” Along with the added parties, the complaint also added two additional counts: one for fraudulent misrepresentation and one for negligent misrepresentation. Amended Complaint, *Trump v. Selzer*, No. 4:24-cv-00449 (S.D. Iowa filed Dec 17, 2024). The *Register’s* coverage of Miller-Meeks’ race, referred to as the is available here: <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2024/11/03/iowa-poll-democrats-preferred-over-republicans-congress-nunn-baccam-miller-meeks-bohannon-hinson/75988058007/>. Coverage of Zaun’s race is available here: <https://www.desmoinesregister.com/story/news/politics/elections/2024/11/05/iowa-election-results-brad-zaun-matt-blake-senate-district-22/75722250007/#>.

The amended complaint also argued that the federal court did not have proper jurisdiction over the case. The two added plaintiffs, Zaun and Miller-Meeks are citizens of Iowa, which the amended complaint argued would destroy federal diversity jurisdiction because both the plaintiffs and defendants are citizens of Iowa. On Feb. 21, 2025, the plaintiffs filed a motion to remand to state court in Polk County, Iowa, the venue where Trump originally filed the lawsuit.

The fight about whether the case should be in federal or state court could have an impact on the likelihood of either party’s success. In a time of heightened suspicion of the media especially in Republican regions, plaintiffs suing news organizations are likely to face more hostile juries and be driven to settle, regardless of the legal merits of the case. As CNN’s media analyst Brian Stelter pointed out in the interview cited above, “[t]he legal landscape has become more challenging for news outlets in a number of different ways. Lawyers perceive that juries are less favorable toward the news, and that makes the risk of a jury trial more intense.” Silha Center director Jane Kirtley commented on the challenging landscape for media defendants, highlighting that if the news media “ever did have the support of the public, it has seriously eroded over the past few years.” Kirtley’s quote is from a *Guardian* article available here: <https://www.theguardian.com/media/2025/jan/20/cnn-defamation-trial>. For an example of how state court juries have demonstrated skepticism towards media

organizations, see “CNN Found Liable in Defamation Case; Reaches Settlement” on page 33 of this issue of the *Silha Bulletin*.

In addition to the risk associated with losing a lawsuit, litigation — even of frivolous claims — also has associated costs that can have a chilling effect on speech and, and can be used to punish opponents. Trump himself once said of a libel case that he lost: “I spent a couple of bucks on legal fees, and they spent a whole lot more. I did it to make his life miserable, which I’m happy about.” The Public Participation Project documented that quote here: <https://anti-slapp.org/trump-and-the-first-amendment>.

A lawsuit filed as a tool to silence critics is known as a Strategic Lawsuit Against Public Participation or “SLAPP.” Commentators have referred to Trump’s suit against Selzer and the *Register* as a SLAPP because of its expansive argument about the reach of Iowa’s consumer protection statute and clear objective to punish those who suggested Trump could lose the 2024 presidential election. Brett Johnson, an associate professor at the University of Iowa School of Journalism, who holds a law degree and a Ph.D. in journalism from the Hubbard School, commented on Trump’s *Register* suit, “I have no trouble calling this a SLAPP.” Brant Houston, the University of Illinois John S. and James L. Knight Foundation Chair in Investigative and Enterprise Reporting and president of the Midwest Center for Investigative Reporting, referred to the suit as part of “the autocrat, oligarch playbook” and noted that “Trump has been very transparent about his goals. It’s more about the lawsuit than the outcome.” *The New York Times* described the impact of these lawsuits, noting that “[p]laintiffs don’t need to win in court in order to be effective. Defending against them is expensive and time-consuming. News organizations that get sued often find that insurance companies jack up premiums — or cut them off altogether. Sometimes editors have to choose between backing down or incurring years of overwhelming legal costs.” Some states have passed Anti-SLAPP laws to protect against frivolous, chilling suits, but Iowa is one of sixteen states with no Anti-SLAPP protection. Johnson’s and Houston’s comments are available here: <https://www.bleedingheartland.com/2024/12/21/trumps-lawsuit-against-des-moines-register-selzer-is-not-about-winning/>. *The*

Times article is available here: <https://www.nytimes.com/2025/03/03/briefing/donald-trump-press.html>. For more on Anti-SLAPP laws, see “Anti-SLAPP Legislation Update: Two More States Adopt the UPEPA’s Model Statute” in the Fall 2024 issue of the *Silha Bulletin*.

On Jan. 7, 2025, The Foundation for Individual Rights and Expression (FIRE) announced that it would represent Selzer and her polling company pro bono, describing Trump’s suit as “the very definition of a ‘SLAPP’ suit.” Greg Lukianoff, FIRE’s CEO, characterizes FIRE as a “nonpartisan defender of free speech that will advocate unapologetically for this fundamental human right in both the court of law and the court of public opinion.” FIRE criticized Trump’s use of the Iowa consumer protection statute, writing that “[t]he notion that officials can recast the electorate as ‘consumers’ to punish political speech or news they don’t like is squarely at odds with the First Amendment.” The FIRE announcement is available here: <https://www.thefire.org/news/fires-defense-pollster-j-ann-selzer-against-donald-trumps-lawsuit-first-amendment-101>.

On Jan. 8, 2025, another nonprofit organization weighed in on The Iowa Poll. The Center for American Rights, a conservative public interest law firm, filed an additional lawsuit against the same four defendants in the Trump lawsuit on behalf of all *Des Moines Register* subscribers. Dennis Donnelly, characterized in the pleadings as a resident of West Des Moines and a longtime subscriber to the *Register*, was the named plaintiff representing “[a]ll digital and print subscribers to the Sunday edition of the Des Moines Register as of November 3, 2024,” and sought certification to bring the claims as a class action. The lawsuit claimed that the defendants “acted with intentional fraud or reckless disregard” and “failed basic journalist and polling practices to construct a reasonably accurate estimate of the Iowa electorate.” The plaintiff claimed that he and class members “were *injured* by the Poll’s fraudulence: they pay good money to subscribe to the Register to read accurate and important news, not to be misled by fraudulent misrepresentations.” (emphasis in original). They also suggested that the inaccuracies in the poll “created an ascertainable pecuniary loss: the value

Register, continued from page 13 of a subscription to the Des Moines Register, as Mr. Donnelly and others can no longer trust what they have read or will read in the paper.” The President of the Center for American Rights wrote about the lawsuit: “President Trump’s lawsuit rightly calls out the harm of fake news to candidates. This suit highlights the accompanying harm to subscribers — ordinary Americans who rely on trusted sources for honest information but were woefully failed in this case.” According to the *Iowa Capital Dispatch*, the plaintiffs in the case are seeking \$2,799,600 in actual damages — representing the cumulative cost of an annual subscription to the *Register* for all 40,000 subscribers — as well as punitive damages and attorney’s fees. The *Iowa Capital Dispatch* report is available here: <https://iowacapitaldispatch.com/2025/04/29/lawsuit-over-newspapers-2024-presidential-poll-moves-to-federal-court/>.

The day the Center for American Rights filed suit, Nick Klinefeldt, one of the *Register*’s attorneys, commented that the *Register* and Gannett were “reviewing the frivolous, copy-cat lawsuit filed by the Center for American Rights allegedly on behalf of subscribers of The Des Moines Register. This is the latest in disturbing attempts to pervert consumer protection laws to suppress political speech protected by the First Amendment.” The Center for American Rights state court case was closed on April 24, 2025, after attorneys for Gannett removed the case to federal court where the case remains pending. Class action cases may be removed to federal court by any defendant under 28 U.S.C. § 1446(b). The Center for American Rights wrote about its suit here: <https://www.americanrights.org/cases/subscribers-sue-des-moines-register-over-fake-news-poll>. The *Register*’s coverage is available here: <https://www.desmoinesregister.com/story/news/politics/2025/01/08/second-suit-claims-fraud-des-moines-register-poll-showing-kamala-harris-leading-donald-trump/77515618007/>. The state court class action case is *Donnelly v. Des Moines Register*, 05771CVCV068445 (Iowa Dist. Ct. Polk County dismissed Apr. 24, 2025). The federal case is *Donnelly v. Gannett Co., Inc.*, No. 4:25-cv-00150 (S.D. Iowa filed Apr. 24, 2025).

The Trump lawsuit that inspired the Center for American Rights filings

remains pending in federal court. In February 2025, the defendants filed motions to dismiss the case for failure to state a claim. In Selzer’s brief in support of the motion, she argued that the plaintiffs’ claims “are barred by the First Amendment” because “[i]n the United States there is no such thing as a claim for ‘fraudulent news.’” The brief filed by Gannett and the *Register* argued: “There is no legal basis for President Trump to obtain the relief he seeks; indeed,

“The President’s transparent attempt to intimidate the media through a manipulation of state consumer protection laws and legal gamesmanship will not stand. Nothing less than the First Amendment is at stake and we will continue to aggressively fight back against his attempts to punish the media for reporting the news.”

— Nick Klinefeldt
Des Moines Register attorney

such relief would violate free speech principles. President Trump attempts to punish press coverage of which he disapproves through tortured application of the Iowa Consumer Fraud Act, as well as through frivolous tort claims for fraudulent misrepresentation and negligent misrepresentation. If he had his way, such claims would become weapons for any political candidate to challenge any press coverage they do not like. However, his claims all fail to state a cause of action on which relief can be granted.” The *Register*’s coverage of the motions to dismiss is available here: <https://www.desmoinesregister.com/story/news/crime-and-courts/2025/02/25/dismissal-sought-donald-trump-lawsuit-pollster-ann-selzer-des-moines-register-iowa-poll/79442387007/>.

On Feb. 21, 2025, the plaintiffs filed a motion to remand to the Iowa state court. Briefing from the parties followed throughout March and April, and the matter remains pending before Magistrate Judge William P. Kelly. The Center for American Rights filed a motion on March 21, 2025, to file an *amicus* or “friend of the court” brief in support of Trump and the additional plaintiffs. That request was denied on April 18, 2025.

Whether or not Trump’s suit eventually succeeds, the action

represents a continuation of his campaign against the media and presents clear risks to the ability of the press to report without fear of reprisal. Trump has even suggested that he should be able to use the Justice Department to retaliate against the media, saying of his lawsuits against media entities: “I shouldn’t really be the one to do it. It should have been the Justice Department or somebody else, but I have to do it. Our press is very corrupt.” Seth

Stern, the advocacy director for the Freedom of the Press Foundation, warned that the Trump’s lawsuits “create[] an environment where journalists can’t help but look over their shoulders knowing the incoming administration is on the lookout for any pretext or excuse to come after them.” Robert

Corn-Revere, the chief counsel for FIRE, who also delivered the Annual Silha Lecture in 2007 and 2022, described the suit against the *Register* as “absurd” and “a direct assault on the First Amendment.” Another attorney for FIRE commented: “Donald Trump is abusing the legal system to punish speech he dislikes. If you have to pay lawyers and spend time in court to defend your free speech, then you don’t have free speech.” Nick Klinefeldt, the *Register*’s attorney, commented: “The President’s transparent attempt to intimidate the media through a manipulation of state consumer protection laws and legal gamesmanship will not stand. Nothing less than the First Amendment is at stake and we will continue to aggressively fight back against his attempts to punish the media for reporting the news.” *The Washington Post* reported these comments here: <https://www.washingtonpost.com/style/media/2024/12/17/trump-des-moines-register-ann-selzer-lawsuit/>. FIRE’s coverage is available here: <https://www.thefire.org/news/blogs/ronald-kl-collins-first-amendment-news/lawsuit-punishment-reflections-trump-v-selzer>. For more information on Corn-Revere’s Silha lectures, see “Robert Corn-Revere to Deliver 37th Annual Silha Lecture

'Inherit the *What?* Banning Books in 2022,'" and "Attorney, FCC Expert Robert Corn-Revere to Deliver 2007 Silha Lecture on Regulating Television Violence" in the Summer 2007 issue of the Silha *Bulletin*.

For further information about former President Trump's interactions with the press, see the following selected *Bulletin* stories: "Former President Donald Trump Involved in Lawsuits Regarding Access, Copyright, and Defamation" in the Winter/Spring 2023 issue of the Silha *Bulletin*; *Trump Countersues for Anti-SLAPP Violation* in "Three Defamation Cases Against Former President Donald Trump Continue to Play Out in Courts" in the Summer 2023 issue; *Trump Campaign, Allies, Paint a Picture of a Vengeful Second Administration If Elected, Particularly Toward the Press* in "Former President Donald Trump's Defamation Cases Persist Amid Campaign, Criminal Charges" in the Fall 2023 issue; "Events Surrounding the U.S. Capitol Insurrection Raise Significant Media Law Issues and Questions" in the Fall 2020 issue; *White House Excludes CNN from Media Session with President Trump* in "U.S. Senate and Trump Administration Impose Restrictions on Media Access" and *United States and China Engage in "Media War" Amidst COVID-19 Pandemic* and *President Trump Calls for DOJ Investigation into News Media for Market Manipulation, Continues Anti-Press Rhetoric and Actions* and *COVID-19 Pandemic Raises New Concerns About Misinformation Online* in "Special Report: COVID-19 Pandemic Raises Media Law and Ethics Issues, Challenges, and Opportunities" in the Winter/Spring 2020 issue; "President Trump's Campaign Demands CNN Retract and Apologize for Poll, but Network Decline" and "D.C. Circuit Affirms Ruling Requiring White House to Return White House Reporter's Press

Credential" in the Summer 2020 issue; "Letter Sent on Behalf of President Trump Threatens Legal Action Against CNN, Prompting Criticism" and "Federal Judge Orders White House to Reinstate Reporter's Press Credential" in the Fall 2019 issue; "Second Circuit Rules President Trump Violated the First Amendment By Blocking Twitter Users" and "White House Revokes and Suspends Hard Press Passes Under New Rules" in the Summer 2019 issue; *PEN America Files First Amendment Lawsuit Against President Trump, Alleges He Retaliated Against Media Outlets and Journalists* in "President Trump Prevails in Two Federal Courts' First Amendment Rulings, Faces New First Amendment Lawsuit" and *President Trump Calls CNN Reporter "Rude, Terrible Person," Revokes His Press Credentials; Federal Judge Requires Trump Administration Reinstate Credentials* in "President Trump Continues Anti-Press Rhetoric and Actions" and "President Trump Continues Anti-Press Rhetoric and Actions" and "Journalists in the United States and Abroad Face Threats of Violence and Incarceration" and *The New York Times Publishes Op-Ed by Senior Trump Administration Official, Drawing Criticism from President Trump and Some Observers* in "President Trump Continues Anti-Press Rhetoric and Actions" and "Trump Administration Threatens Regulation of Social Media Companies and Google for Alleged Political Bias" in the Fall 2018 issue in the Fall 2018 issue; *Book About the Trump Administration's White House Raises Ethical and Legal Questions* in "The Ethics of Covering President Donald Trump" in the Winter/Spring 2018 issue; *Federal Judge Rules President Trump Cannot Block Twitter Users, Violated First Amendment* in "Federal Courts and State Governors Deal with First Amendment Implications

of Politicians Blocking Social Media Users" and *Five Newspaper Staff Members Killed, Two Injured in Shooting at Local Maryland Newsroom* in "Journalists Face Physical Violence, Other Dangers in the United States and Abroad," and *Federal Prosecutors Seize Phone and Email Records of New York Times Reporter in Leak Investigation* in "Trump Administration Targets Journalist, Leaker of Government Information, and Former Government Employees Who Took Classified Documents," in the Summer 2018 issue; "Media Face Several Challenges During President Trump's First Months in Office" in the Winter/Spring 2017 issue; "Reporters and Leakers of Classified Documents Targeted by President Trump and the DOJ" and "President Trump and his Administration Spark Debate Over Several Media Law Issues" and *West Virginia Journalist Arrested and FCC Commissioner Apologizes for Treatment of Reporter* in "Journalists Face Physical Restraints and Arrests; Trump Video Raises Further Concerns About Violence Against the Media" in the Summer 2017 issue; "2016 Presidential Candidates Present Challenges for Free Expression" and *Trump Alleges News Organizations Deliberately Print False News, Suggests Changes in Libel Laws* and *Washington Post Joins Several Organizations that Trump Bars from Covering Campaign Events and Observers Suggest Either Outcome of 2016 Election Could Be Troublesome for the Press* in "2016 Presidential Candidates Present Challenges for Free Expression" in the Summer 2016 issue.

— ALEX LLOYD
SILHA CENTER RESEARCH ASSISTANT

VIDEOS OF PAST SILHA LECTURES AND FORUMS
ARE AVAILABLE TO VIEW ON THE
SILHA CENTER YOUTUBE CHANNEL:
[HTTPS://Z.UMN.EDU/SILHACENTERYOUTUBE](https://z.umn.edu/SilhaCenterYouTube)

Media Organizations Threatened With Regulation By New FCC Chair Brendan Carr; Funding for Public Broadcasting Also in Jeopardy

On Jan. 20, 2025, the day of Donald Trump's inauguration, Brendan Carr assumed the chair of the Federal Communications Commission (FCC). The FCC is headed by a committee of five commissioners appointed by the president and

MEDIA REGULATION

confirmed by the Senate. The commissioners serve five-year terms, and by law, no more than three of the commissioners can be from the same political party. The committee is led by a chair chosen by the president. The chair of the FCC has significant powers that are not shared with the other commissioners, including the power to set the FCC's agenda and decide what matters will be voted on. Carr, who has served as a commissioner since 2017, did not require Senate approval to become chair because he had been reappointed and confirmed by the Senate in 2023. For additional coverage of Brendan Carr's activism and role at the FCC, see "Trump Selects Brendan Carr to Chair the FCC" in the Fall 2024 issue of the *Silha Bulletin*.

As *Deadline* reported, one of Carr's first actions as FCC chair was to revive complaints against NBC, ABC, and CBS that had been dismissed by the previous FCC chair Jessica Rosenworcel. The complaints were brought by the conservative Center for American Rights during the 2024 presidential campaign, and all alleged some sort of bias on the part of the networks against then-candidate Trump. ABC was accused of bias by fact-checking in real time when it hosted the September presidential debate; CBS was accused of deceptively editing an interview with Democratic challenger Kamala Harris; and NBC was accused of violating the FCC's so-called "equal time rule" when it allowed Kamala Harris to appear on *Saturday Night Live* shortly before the election. Rosenworcel dismissed all three complaints, writing: "The facts and legal circumstances in each of these cases are different. But what they share is that they seek to weaponize the licensing authority of the FCC in a way that is fundamentally at odds with the

First Amendment. To do so would set a dangerous precedent." At the same time, Rosenworcel also dismissed a complaint against Fox News brought by the left-leaning Media and Democracy Project. The complaint alleged that revelations about Fox's owner Rupert Murdoch that came to light in the Dominion Voting System defamation lawsuit revealed that Murdoch and his family lacked the necessary "character" to hold a broadcasting license. The *Deadline* report is available here: <https://deadline.com/2025/01/fcc-complaints-trump-cbs-nbc-abc-1236263995/>. For additional coverage of Trump's suit against CBS and his attacks on media companies, see "Trump Accuses 60 Minutes of Deceptive Editing, Prompting Journalism Ethics Question," and *Trump's Threats to Sue News Organizations* in "Donald Trump Threatens Media Companies with Business and Legal Consequences" in the Fall 2024 issue of the *Silha Bulletin*. For more information on the Dominion Voting defamation lawsuit, see "Dominion Lawsuit Against Fox Sparks Debate About Boundaries of Actual Malice" in the Winter/Spring 2023 issue; "Dominion v. Fox Libel Suit Continues to Capture Public Attention After Settlement," in Summer 2023 issue; and *Supreme Court Tosses MyPillow CEO, Election Denier's Attempt to Toss Defamation Suit* in "First Amendment Issues About Two Years After 2020 Election" in the Fall 2022 issue of the *Silha Bulletin*.

In a statement on the revival of the complaints, the FCC said they merited "further consideration," and that the dismissals had been issued "prematurely," and "based on an insufficient investigatory record for the station-specific conduct at issue." Notably, the FCC did not revive the complaint against Fox News.

In a statement, Democratic Commissioner Anna Gomez criticized the FCC's decision to revive the complaints. She wrote: "we cannot allow our licensing authority to be weaponized to curtail freedom of the press. The First Amendment is a pillar of American democracy, and our country needs a press free from interference from regulators like me. In fact, the

Communications Act explicitly prohibits the Commission from censoring broadcasters. We must respect the protections of the First Amendment and the restrictions in the Communications Act." Gomez's statement is available here: <https://docs.fcc.gov/public/attachments/DOC-409098A1.pdf>.

Gomez's accusation — that the FCC was attempting to censor broadcasters rather than engaging in legitimate regulatory oversight when it revived the complaints — echoed the fears of many media commentators who have speculated that Carr, who has repeatedly criticized the mainstream news networks for supposedly biased coverage of Trump, would try to weaponize the FCC against the president's political and ideological enemies. Indeed, Trump has vociferously criticized ABC, NBC, and CBS, at various times calling for the suspension of their broadcasting licenses and other legal consequences to punish what he perceives as biased coverage of his presidency and legal battles. Further, in late 2024, Trump personally sued CBS for \$20 billion in relation to the network's allegedly biased editing of its Kamala Harris *60 Minutes* interview. Trump brought the action under the Texas Deceptive Trade Practices-Consumer Protection Act, which allows consumers to bring actions for damages stemming from "false, misleading, or deceptive acts or practices." Trump has also periodically criticized Fox News, but with less frequency.

In addition to reviving the FCC complaint against CBS stemming from the Kamala Harris *60 Minutes* interview, Carr has signaled that the dispute could impact the FCC's review of the pending merger between Paramount, CBS's parent company, and Skydance Media. As *The Wall Street Journal* reported in February, CBS's leadership was considering "new options" to ensure the deal is approved, including potentially settling Trump's personal lawsuit. Speaking to *The Journal*, the cofounder of the media advocacy group True Knowledge and one-time counselor to former Democratic FCC Chair Tom Wheeler, Gigi Sohn, stated, "[a]ll the saber rattling that's coming out of the FCC is operating as intended to scare

the living daylights out of the networks.” Sohn further characterized Carr’s efforts as an intimidation campaign that exceeded the FCC’s legitimate scope of review. *The Wall Street Journal* report is available here: <https://www.wsj.com/business/media/fcc-chair-brendan-carr-media-95222e95>.

Carr has also wielded the FCC’s power in an attempt to enforce the Trump administration’s efforts to end diversity, equity, and inclusion (DEI) programs nationwide. On Jan. 21, 2025, the day after his inauguration, Trump issued an executive order titled “Ending Illegal Discrimination And Restoring Merit-Based Opportunity.” The order “[e]ncourag[ed]” the private sector to end DEI programs, and ordered the attorney general to identify the “most egregious and discriminatory DEI practitioners” and develop a plan to “deter” DEI programs. The executive order is available here: <https://www.whitehouse.gov/presidential-actions/2025/01/ending-illegal-discrimination-and-restoring-merit-based-opportunity/>.

On Feb. 11, 2025, Carr sent a letter to the CEO of Comcast Corporation, Brian Roberts, informing him that the FCC had opened an investigation into Comcast and NBC Universal’s promotion of DEI. Carr wrote: “the Communications Act and Commission rules prohibit regulated entities — like Comcast and NBCUniversal — from discriminating on the basis of race, color, religion, national origin, age, or gender. Indeed, the FCC’s longstanding Equal Employment Opportunity or EEO rules set forth specific requirements that both Comcast and NBCUniversal must adhere to. Nonetheless, I am concerned that Comcast and NBCUniversal may be promoting invidious forms of DEI in a manner that does not comply with FCC regulations.” Carr cited as examples Comcast’s statement on its website that promoting DEI is a “core value of [its] business,” as well as reports that the company hosted DEI days and DEI training for its executives. Carr’s letter is available here: <https://www.fcc.gov/sites/default/files/Chairman-Carr-Letter%20to-Comcast-02112025.pdf>.

The EEO rules cited by Carr state: “Equal opportunity in employment shall be afforded by each cable entity to all qualified persons, and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age or sex.” 47 CFR § 76.73 And further, that:

“[e]ach employment unit shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity to every aspect of cable system employment policy and practice.” 47 CFR § 76.73.

Speaking about the investigation to *The New York Times*, Tom Wheeler, a former chair of the FCC, said, “It’s clear that what is going on here is — whether it be Comcast and D.E.I. . . . or CBS and the ‘60 Minutes’ interview — is how can you use the coercive authority of regulation to accomplish the goals of your master and mentor, Donald Trump.” In a different interview, given to journalist Oliver Darcy, Wheeler confessed that he is loathe to criticize a successor. However, he felt that he had to speak out against Carr’s actions. “The fact that they’re saying that because you have a corporate philosophy of inclusion, I will launch an investigation that attacks the fact that your website states that this is a ‘core value of our business’ — maybe that was my breaking point,” Wheeler told Darcy. Wheeler’s statement is available here: <https://www.nytimes.com/2025/02/12/business/media/fcc-comcast-nbc-dei-discrimination.html>.

Wheeler is not the only former FCC chair to speak out against Carr’s actions. Reed Hundt, who served as FCC chair under Bill Clinton, told Darcy that the FCC’s purpose was to act as a bulwark against the use of executive power to “reward friends and punish enemies.” Alfred Sikes, FCC chair under George H.W. Bush, warned Darcy that Carr was acting in opposition to the Constitution. “The First Amendment is foundational. It should be foundational not just in the Constitution, but in the way the FCC acts,” Sikes said. Darcy also reached out to Carr for comment, and the current FCC chair responded: “I feel bad for the three of them. I . . . imagine it’s hard when the curtain is closing on your career and yet you’re still yearning for one more moment in the limelight. I’m glad that you’re helping them out by getting their names in print again.”

In addition to targeting legacy media giants, Carr has also trained the FCC’s sights on public media. On Jan. 29, 2025, Carr sent a letter to the heads of National Public Radio (NPR) and the Public Broadcasting Service (PBS) stating that he was concerned the organizations were violating federal law by airing commercials. Section 399B of the Communications Act prohibits public broadcasters from running

advertisements, which are defined as messages or programming designed to promote a for-profit business’s services, express the views of a person or company on a matter of public importance, or support or oppose a candidate for political office. 47 U.S.C. § 399(b). Although public broadcasters may not run advertisements, they may accept donations from individuals and corporations and may acknowledge those contributions on air. This practice, known as “underwriting,” has long helped sustain broadcasters such as NPR and PBS, which receive a portion of their funding from the federal government through the Corporation for Public Broadcasting (CPB). Only 1% of NPR’s funding comes from CPB, whereas 15% of PBS’s funding comes from the organization. CPB also funds the local affiliate stations that air NPR and PBS’s content, in addition to funding various other public media. Although the FCC does not directly regulate NPR and PBS, it licenses the over 1,500 local affiliates that air the broadcaster’s content. Carr’s letter to the CEOs of NPR and PBS is available here: <https://www.caprдио.org/media/12276790/chairman-carr-letter-to-npr-and-pbs.pdf>.

In response to Carr’s letter, the CEOs of both NPR and PBS denied airing advertisements. The CEO of PBS, Paula Kerger, was quoted by NPR as saying: “PBS is proud of the noncommercial educational programming we provide to all Americans through our member stations. We work diligently to comply with the FCC’s underwriting regulations and welcome the opportunity to demonstrate that to the Commission.” NPR’s CEO Katherine Maher said in a statement: “We are confident any review of our programming and underwriting practices will confirm NPR’s adherence to these rules. We have worked for decades with the FCC in support of noncommercial educational broadcasters who provide essential information, educational programming, and emergency alerts to local communities across the United States.” Andrew Jay Schwartzman, a public interest communications lawyer, was quoted in the NPR report on Carr’s letter as saying that there was no reason to believe that NPR or PBS had engaged in widespread violations of Section 399B, or any other FCC regulation. And indeed, Carr did not identify any specific instances of illicit

Media Threats, continued from page 17

promotional underwriting in his letter. The NPR report, including the CEOs' statements, is available here: <https://www.npr.org/2025/01/30/nx-s1-5281162/fcc-npr-pbs-investigation>.

The FCC's investigation into NPR and PBS comes after prominent conservative commentators and the president himself have called for the broadcasters to lose federal funding. For example, Mike Gonzalez of the Heritage Foundation wrote in Project 2025 that defunding CPB should be a major goal of the next Republican president. Gonzalez claimed that public broadcasting has become "a liberal forum for public affairs and journalism," and wrote further that, with the federal government "trillions of dollars in debt," the country could no longer afford the "more than half a billion dollars squandered on leftist opinion [*sic*] each year." The fact that half a billion dollars reflects less than one third of one tenth of one percent of the federal government's \$1.8 trillion annual budget suggests that, despite conservative critics' lip service to fiscal responsibility, the heart of their complaint lies with public broadcasting's supposed liberal bias. Trump, for his part, has repeatedly criticized NPR and PBS for what he views as biased coverage. In a March 27, 2025, Truth Social post, Trump wrote "NPR and PBS, two horrible and completely biased platforms (Networks!), should be DEFUNDED by Congress, IMMEDIATELY. Republicans, don't miss this opportunity to rid our Country of this giant SCAM, both being arms of the Radical Left Democrat Party. JUST SAY NO AND, MAKE AMERICA GREAT AGAIN!!!" Mike Gonzalez's statements on public broadcasting in Project 2025 are available here: https://static.project2025.org/2025_MandateForLeadership_CHAPTER-08.pdf. Trump's Truth Social post is available here: <https://truthsocial.com/@realDonaldTrump/posts/114232752130631453>.

These statements threatening to defund public media were echoed by Carr in the conclusion of his letter to the CEOs of NPR and PBS. After accusing the organizations of running advertisements, Carr wrote: "For your awareness, I will be providing a copy of this letter to relevant Members of Congress because I believe this FCC investigation may prove relevant to an ongoing legislative debate. In particular, Congress is actively considering whether

to stop requiring taxpayers to subsidize NPR and PBS programming. For my own part, I do not see a reason why Congress should continue sending taxpayer dollars to NPR and PBS." He added, "[t]o the extent that these taxpayer dollars are being used to support a for-profit endeavor or an entity that is airing commercial advertisements, then that would further undermine any case for continuing to fund NPR and PBS with taxpayer dollars."

Carr's words proved prescient. In mid-April 2025, various outlets reported that the White House was planning to ask Congress to rescind \$1.1 billion in appropriations for the CPB, which would amount to two years of funding for the organization. Rescission is a formal request to Congress from the president to rescind previously appropriated funds. Congress created the mechanism in the 1970s after President Nixon refused to spend certain congressional appropriations. The courts rejected Nixon's attempt, and Congress quickly passed legislation to stop the president from refusing to spend — to impound — money it had allocated. However, Congress also created a means for the president to request the rescission of certain federal appropriations, subject to congressional approval. More information on the rescission process is available here: <https://taxpolicycenter.org/briefing-book/what-are-rescissions>.

According to reporting from *The New York Times*, public media advocates argued that the rescission would hit rural communities the hardest, especially remote areas with no broadband access where public radio and TV are among the few available sources of news. Although NPR and PBS receive a small portion of their funding from the CPB, the majority of the money allocated by the corporation funds the newsrooms of local public broadcasters. In 2011, NPR produced an internal exploratory report to predict how the cessation of government funding would affect public broadcasters across the nation. The report concluded that 18% of the roughly 1,000 member stations across the country would close. Further, it suggested that up to 30% of listeners would lose access to NPR altogether, and that communities in the midwest, south, and west would be most affected. However, these and similar predictions have not convinced conservative critics that the federal government should continue to fund public media. For example, *The Times*

noted that in March 2025, Republican Rep. Marjorie Taylor Greene of Georgia stated in an interview that, in the absence of federally-funded public media, rural residents in her district would be able to rely on cellphone and internet services to stay informed. *The New York Times* story on the potential rescission is available here: <https://www.nytimes.com/2025/04/14/business/media/trump-npr-pbs-funding.html>.

On April 14, before the rescission had been officially requested, the White House released a statement titled: "The NPR, PBS Grift Has Ripped Us Off For Too Long." The statement began: "For years, American taxpayers have been on the hook for subsidizing National Public Radio (NPR) and the Public Broadcasting Service (PBS), which spread radical, woke propaganda disguised as 'news.' As President Trump has stated, taxpayer funding of NPR's and PBS's biased content is a waste." It then cited examples of the "trash that passes for 'news' at NPR and PBS," including a PBS documentary on the case for reparations, a PBS film on transgenderism and a teenager's "so-called 'changing gender identity,'" and an NPR segment on the racial origins of "fat phobia." The statement went on to say that NPR and PBS have "zero tolerance for non-leftist viewpoints," and cited NPR's alleged refusal to cover the Hunter Biden laptop scandal, as well as the broadcaster's repeated dismissal of the theory that COVID-19 originated in a lab. To substantiate these claims, the statement cited numerous reports conducted by the Media Research Center, a right-leaning media watchdog group founded by the conservative activist Brent Bozell III. The statement is available here: <https://www.whitehouse.gov/articles/2025/04/the-npr-pbs-grift-has-ripped-us-off-for-too-long/>.

Ars Technica reported that the White House intends to send the rescission package to Congress after it returns from its Easter recess. It will then have 45 days to approve or reject the rescission by simple majority. The *Ars Technica* report is available here: <https://arstechnica.com/tech-policy/2025/04/white-house-aims-to-defund-npr-and-pbs-in-move-slammed-as-cultural-sabotage/>.

— STUART LEVESQUE
SILHA BULLETIN EDITOR

Jeff Bezos Announces New *Washington Post* Editorial Policy in Support of “Personal Liberties and Free Markets,” Raising Journalistic Independence Concerns

Jeff Bezos, the billionaire Amazon founder and *Washington Post* owner, announced in February 2025 that the Opinions section of *The Post* would implement an editorial change. Bezos announced that going forward, the Opinions section would publish only pieces defending “personal

JOURNALISTIC INDEPENDENCE

liberties and free markets.” The Opinions Editor, David Shipley, resigned in light of the change. *The Post*’s Executive Editor, Matt Murray, has maintained that Bezos’ direction is limited to the Opinions section and will not impact the paper’s news coverage. Many, however, have raised concerns that this direction from Bezos is an attack on independent journalism reporting on a diversity of viewpoints and topics. *The Post*’s coverage of the policy change is available here: <https://www.washingtonpost.com/style/media/2025/02/26/washington-post-bezos-opinions-section/>.

Bezos purchased *The Post* in 2013 for \$250 million. According to a 2023 *New York Times* report on Bezos’ first ten years of *Post* ownership, after an initial surge of involvement that lasted several years, during which he made several important hires, Bezos stepped back from being heavily involved in the paper’s business. In a retrospective on Bezos’ tenure as owner published in *The Atlantic* in March 2025, Martin Baron, *The Post*’s executive editor from 2013 until 2021, described Bezos’ ownership during this era as “defy[ing] the worst expectations of him as a media owner.” Baron wrote that “Bezos showed himself to have integrity and spine.” Baron discussed *The Post*’s coverage of Trump during his first presidential term and affirmed that Bezos “fully supported our news coverage, giving us complete journalistic independence. Never once did he interfere, even when stories provoked Trump to retaliate against Amazon and him personally.” *The Times* noted that Bezos showed renewed interest in *The Post* beginning in early 2023 after a dip in morale at the paper led to the loss of several reporters and executives. Early that year, Bezos made a rare appearance in the newsroom and visited with journalists. *The Times* article is available here: <https://www.nytimes.com/2023/07/22/business/>

[media/jeff-bezos-washington-post.html](https://www.washingtonpost.com/style/media/jeff-bezos-washington-post.html). Martin Baron’s article is available here: <https://www.theatlantic.com/ideas/archive/2025/03/bezos-appease-trump-administration/681899/>.

Leading up to the second Trump presidency, Bezos’ view of his role and the direction of *The Post* seemed to shift once again. On Oct. 25, 2024, *The Post* published an announcement from its publisher and CEO, Will Lewis stating: “The Washington Post will not be making an endorsement of a presidential candidate in this election. Nor in any future presidential election. We are returning to our roots of not endorsing presidential candidates.” The announcement discussed the Editorial Board’s decisions in 1960 and 1972 not to endorse a presidential candidate, and characterized the decision as returning to those roots, following a string of endorsements starting with Jimmy Carter. Lewis wrote, “Our job at The Washington Post is to provide through the newsroom nonpartisan news for all Americans, and thought-provoking, reported views from our opinion team to help our readers make up their own minds.” The announcement is available here: <https://www.washingtonpost.com/opinions/2024/10/25/washington-post-endorsement/>.

On the same day as Lewis’s announcement, The Washington Post Guild, the union self-described as “a voice for employees at the company since 1934” that “represent[s] 1,000 people across the newsroom and in our commercial operations,” responded to the decision not to endorse. The Guild wrote, “[w]e are deeply concerned that The Washington Post — an American news institution in the nation’s capital — would make the decision to no longer endorse presidential candidates, especially a mere 11 days ahead of an immensely consequential election. The role of an Editorial Board is to do just this: to share opinions on the news impacting our society and culture and endorse candidates to help guide readers.” The statement went on to critique Bezos’ involvement writing: “This message from our chief executive, Will Lewis — not from the Editorial Board itself — makes us concerned that management interfered with the work of our members in Editorial. According to our own reporters and Guild

members, an endorsement for Harris was already drafted, and the decision to not publish was made by The Post’s owner, Jeff Bezos.” The Guild’s statement is available here: <https://x.com/PostGuild/status/1849868082900250885>.

On Oct. 28, 2024, Bezos published his own opinion piece in *The Post* supporting the decision not to endorse a candidate. He wrote: “What presidential endorsements actually do is create a perception of bias. A perception of non-independence. Ending them is a principled decision, and it’s the right one.” In the piece, Bezos conceded that the chief executive of his Blue Origin Company met with Donald Trump on the same day as the announcement, but insisted that there was no connection between the meeting and the decision on endorsements. Bezos’ piece is available here: <https://www.washingtonpost.com/opinions/2024/10/28/jeff-bezos-washington-post-trust/>. For more coverage of *The Post*’s and the *Los Angeles Times*’s decisions not to endorse presidential candidates, see “Billionaire Owners of Los Angeles Times and Washington Post Quash Presidential Endorsements, Raising Questions of Journalistic Independence” in the Fall 2024 issue of the *Silha Bulletin*.

In the weeks following the 2024 election, Bezos took actions that some saw as further attempts to placate Donald Trump. A report from *Variety* noted that, Bezos congratulated Trump “on an extraordinary political comeback and decisive victory” in the presidential election. *Variety* also noted that Amazon contributed \$1 million to Trump’s inauguration fund, and Bezos has said he would work with President Trump “to dismantle government regulations that hinder economic growth.” The *Variety* article is available here: <https://variety.com/2025/digital/news/jeff-bezos-washington-post-opinion-editor-quits-1236321120/>

The conflict between the role of *The Post* as a nonpartisan news source and Bezos’ strategy for navigating the second Trump Administration has resurfaced with Bezos’ new instructions for the management of the paper’s Opinion section. On Feb. 26, 2025, Bezos posted on X that the Opinion section of *The Post*

Bezos, continued on page 20

was changing. He wrote: “I shared this note with the Washington Post team this morning: I’m writing to let you know about a change coming to our opinion pages. We are going to be writing every day in support and defense of two pillars: personal liberties and free markets. We’ll cover other topics too of course, but viewpoints opposing those pillars will be left to be published by others.” Bezos’ post is available here: <https://x.com/JeffBezos/status/1894757287052362088>.

Bezos justified this change by citing the changed media landscape. The announcement argued, “[t]here was a time when a newspaper, especially one that was a local monopoly, might have seen it as a service to bring to the reader’s doorstep every morning a broad-based opinion section that sought to cover all views. Today, the internet does that job.” Bezos continued, “I am of America and for America, and proud to be so. Our country did not get here by being typical. And a big part of America’s success has been freedom in the economic realm and everywhere else. Freedom is ethical — it minimizes coercion — and practical — it drives creativity, invention, and prosperity.”

In addition to the editorial change, Bezos’ post also announced that Opinion Editor David Shipley, a former *New York Times* and *Bloomberg View* Opinion editor, would be leaving *The Post*. “I offered David Shipley, whom I greatly admire, the opportunity to lead this new chapter. I suggested to him that if the answer wasn’t ‘hell yes,’ then it had to be ‘no.’ After careful consideration, David decided to step away. This is a significant shift, it won’t be easy, and it will require 100% commitment — I respect his decision. We’ll be searching for a new Opinion Editor to own this new direction. I’m confident that free markets and personal liberties are right for America. I also believe these viewpoints are underserved in the current market of ideas and news opinion. I’m excited for us together to fill that void.” As of May 2025, there have been no indications that the position has been filled.

NPR reported that Bezos’ decision caused “shock and dismay” at the paper. According to the report, Shipley wanted the Opinions section to remain a “broader, pluralistic place” rather than the “focused [opinion] report” demanded by Bezos. Members of the newsroom editorial team were also apparently upset by the change

and raised concerns at a meeting following Bezos’ announcement. Following this meeting, *The Post’s* Executive Editor Matt Murray sent a memo to newsroom staff stating: “The independent and unbiased work of *The Post’s* newsroom remains unchanged, and we will continue to pursue engaging impactful journalism without fear or favor.” NPR’s coverage is available here: <https://www.npr.org/2025/02/26/nx-s1-5309725/jeff-bezos-washington-post-opinion-section>.

Bezos’ changes to *The Post’s* editorial policy have faced widespread criticism from journalists and media professionals. The Martin Baron *Atlantic* article cited above sharply criticized Bezos’s decision: “The most fundamental American liberty is free expression. Newspapers such as the *Post* have long honored that constitutional right by welcoming a wide range of views in the opinion section, whether their leadership agrees with them or not, so as to encourage civil public debate. Bezos was now decreeing that views out of alignment with his own ideology would not see the light of day in territory that he controls. The paper that proclaims itself to be on the side of democracy had taken a step that was distinctly undemocratic.” Baron further described Bezos’ announcement as “worrisome,” noting that neither Bezos nor *The Post’s* publisher, Will Lewis, had defined what sorts of opinions would be nonconforming. Would opinions in favor of regulating major tech platforms be tolerated, Baron wondered. Would columnists be permitted to discuss instances where free markets went awry? The answer to these questions remained unclear following Bezos’ announcement. Baron also worried about how the change would affect the reputations of opinion writers on staff. “Who exactly in the opinion section has been against personal liberties?” Baron wondered. Finally, Baron noted that the change had been heartily embraced by “the White House and its allies.” For example, “Steven Cheung, the White House communications director, responded to [Bezos’ announcement] by posting a GIF of a typically grumpy Grinch cracking a smile. Elon Musk promptly blasted out, ‘Bravo, @JeffBezos!’ The right-wing activist Charlie Kirk cheered, ‘Good! The culture is changing rapidly for the better.’”

Other commentators have expressed similar concerns. *Post* Associate Editor and longtime journalist David Maraniss posted the following on Blue Sky: “One pernicious step after another, Bezos encroached on the *Post* editorial

policy. Today he seized it fully. The old *Washington Post* is gone. I’ll never write for it again as long as he’s the owner.” Cameron Barr, a former senior managing editor with *The Post* who had been on contract as a senior associate editor, wrote “The *Washington Post* in my lifetime has always held power to account. It has been an independent newspaper, to cite the longstanding motto on the editorial page, dedicated to the truth-telling and journalistic rigor that sustains and strengthens American democracy. I have sadly concluded that *The Post* is retreating from this mission.” Margaret Sullivan, a former *Post* columnist, wrote for *The Guardian* that “What is clear is that Bezos no longer wants to own an independent news organization. He wants a megaphone and a political tool that will benefit his own commercial interests. It’s appalling. And, if you care about the role of the press in America’s democracy, it’s tragic.” Maraniss’s post is available here: <https://bsky.app/profile/davidmaraniss.bsky.social/post/3lj3o3ozerc2d>. Barr’s post is available here: <https://z.umn.edu/BarrsPost>. Sullivan’s article is available here: <https://www.theguardian.com/commentisfree/2025/feb/26/jeff-bezos-washington-post-opinion>.

In addition to media commentators, *Post* readers also expressed dismay at Bezos’ decision. NPR reported that, within several days of the change, more than 75,000 digital subscribers had cancelled their subscriptions. This mass departure followed an even larger subscriber exodus following *The Post’s* decision not to endorse a candidate in the 2024 presidential election. Though the paper aggressively pursued new subscribers in the wake of the election, often offering highly discounted rates, the numbers attained by NPR suggested that, by late February 2025, *The Post* had suffered a net loss of “a couple hundred thousand subscribers.” NPR further reported that competitor papers tried to capitalize on *The Post’s* losses, noting that *The Guardian* had sent a fundraising pitch to readers stating that its fate will never be dictated by billionaire owners. The NPR report is available here: <https://www.npr.org/2025/02/28/nx-s1-5312819/washington-post-bezos-subscriptions-cancellations>.

— ALEX LLOYD
SILHA CENTER RESEARCH ASSISTANT

Trump Administration Threatens Free Expression on Campus and in the Student Press with Immigration Crackdown Targeting Dissident Speakers

On March 11, 2025, students and faculty from the Columbia University Graduate School of Journalism (Columbia Journalism School) gathered to discuss the Trump administration's crackdown on political speech and pro-Palestinian activism. The meeting was convened only days after the federal government announced that it would revoke \$400 million in funding to Columbia University because of the university's alleged failure to protect Jewish students from harassment during pro-Palestinian protests in 2023 and 2024.

ENDANGERED JOURNALISTS

The meeting also followed the detainment of Mahmoud Khalil, a former Columbia School of International and Public Affairs graduate student who had emerged as a leader of the student protests. Khalil was born to Palestinian parents and has Algerian citizenship. He is a green card holder and had been studying in the United States as a legal permanent resident when he was detained.

At the March 11 meeting, several faculty members warned students — particularly international students — about the dangers of engaging in political speech in light of the Trump administration's recent actions. According to *The New York Times*, Stuart Karle, a First Amendment lawyer and adjunct faculty member at the Columbia Journalism School, stated, "If you have a social media page, make sure it is not filled with commentary on the Middle East." A Palestinian student reportedly objected to Karle's statement, at which point Jelani Cobb, Dean of the school, responded, "[n]obody can protect you. These are dangerous times." *The New York Times* article is available here: <https://www.nytimes.com/2025/03/12/nyregion/columbia-university-trump-protests.html>.

The day after the meeting, and the same day as *The Times* report, Dan Froomkin of the media monitoring organization Press Watch, criticized Cobb's statements in a series of posts on the social network Bluesky. Froomkin wrote: "Great. Columbia J-school students are being told to obey in advance by their dean." The phrase "obey in advance" is drawn from

the work of Timothy Snyder, a historian and expert on authoritarianism who wrote in his 2017 book *On Tyranny*: "Do not obey in advance. Most of the power of authoritarianism is freely given. In times like these, individuals think ahead about what a more repressive government will want, and then offer themselves without being asked. A citizen who adapts in this way is teaching power what it can do."

In a follow up to his original post, Froomkin wrote: "What Cobb should have done is say: You still have free-speech rights as far as we are concerned. If you get targeted for protected speech, we will do our best to support you. We will put up a fight. We will protest. And if you get deported, you can Zoom into your classes and still get your degree." A March 13 article covering the meeting at the Columbia Journalism School in *Forward*, an independent non-profit Jewish publication, quoted Robert Shibley, a lawyer with the Foundation for Individual Rights and Expression (FIRE), as saying that university administrators should not prescribe how students act, but rather should focus on giving legal advice. "Let students make up their own minds as to whether or not they want to continue speaking out," Shibley said. Froomkin's posts are available online here: <https://bsky.app/profile/froomkin.bsky.social/post/3lk7dv7uawc2w>. Information about Snyder's book is available here: <https://timothysnyder.org/on-tyranny/>.

Speaking to *Forward*, Karle defended his statements at the March 11 meeting, stating that he was simply giving the same advice he would to a client. He noted that the country's laws apply differently to citizens and non-citizens, stating "[t]here is local law that may or may not protect you. Do your work up to your standards — but recognize there may be limits on your ability to publish." Karle stated that international journalism students should still feel empowered to report on whatever topics they wish, but that it might be prudent to wait to publish until they have returned home, or no longer have to worry about their visa being revoked. Others in the journalism world agreed with Karle's assessment. Matt Pearce, a longtime reporter for the *Los Angeles Times* who has since left the paper, wrote on his Substack that

Karle's advice is "the kind of honest guidance an editor . . . gives to a journalist operating in authoritarian contexts The novel part is that this advice is now being dispensed to American residents." Kelly McBride, an ethics expert from the non-profit journalism school and research organization Poynter was also quoted in the *Forward* article and sounded a similarly cautious note. "If you are not a U.S. citizen, if you publish anything that could be interpreted as pro-Palestinian, I think that it's likely that you will lose your visa or your green card," she said. McBride also noted, however, that this would be a loss for readers, who would lose a perspective on the Israel-Hamas war that American citizens likely wouldn't be able to articulate. The *Forward* article is available here: <https://forward.com/about-us/>. Pearce's Substack article is available here: <https://mattdpearce.substack.com/p/how-to-make-journalists-disappear>.

Also on March 13, Cobb posted on Bluesky his own response to *The Times* piece. He wrote that although *The Times'* characterization of his statement was "technically accurate," it was also "practically misleading." He continued: "I went on to say that I would do everything in my power to defend our journalists and their right to report but that none of us had the capacity to stop [the Department of Homeland Security] from jeopardizing their safety. It was important to speak directly to the threats journalists were likely to confront in reporting on the situation on campus not to dissuade students but to give them a [sic] honest rendering of the risks entailed. . . . These are, in fact, dangerous times. They require as much caution as they do courage. It is my responsibility to lay out this fact as clearly as possible for the journalists in my charge." Cobb's post is available online here: https://bsky.app/profile/did:plc:ydmnslxlapod5jgxcxyvgdmzc/post/3lkciai75s22n?ref_src=embed&ref_url=https%253A%252F%252Fwww.thewrap.com%252Fcolumbia-journalism-dean-nyt-quoted-nobody-can-protect-you-out-of-context%252F.

Cobb's words proved prescient. The Trump administration has not only targeted pro-Palestinian demonstrators,

Student Speech, continued on page 22

Student Speech, continued from page 21

but has also lashed out against international members of the student press. On March 29, 2025, *The New York Times* reported that Rumeysa Ozturk, a Turkish graduate student at Tufts University (Tufts), had been detained by immigration officials for “engag[ing] in activities in support of Hamas.” Ozturk was not a protestor, and her detention was apparently in response to an op-ed she had written with three other students in March 2024 in *The Tufts Daily*, the student newspaper of record at Tufts. The op-ed criticized the Tufts’ administration for its response to resolutions passed by the student senate which called for the University’s divestment from Israel. Ozturk’s op-ed in *The Tufts Daily* is available here: <https://www.tuftsdaily.com/article/2024/03/4ftk27sm6jkj>. *The Times* article on Ozturk’s detention is available here: <https://www.nytimes.com/2025/03/29/us/rumeysa-ozturk-tufts-student-detained.html>.

In early 2025, Ozturk was doxxed by the organization Canary Mission, which states on its website that its purpose is to “document[] individuals and organizations that promote hatred of the USA, Israel and Jews on North American college campuses and beyond.” The group further states that it investigates “hatred across the political spectrum, including the far right, far left and anti-Israel activists,” and the “array of organizations that comprise the anti-Semitic Boycott, Divestment, Sanctions (BDS) movement.” Canary Daily’s profile of Ozturk states that she “engaged in anti-Israel activism in March 2024, in the wake of the Hamas terrorist attacks on Israelis.” The statement includes a link to Ozturk’s 2024 op-ed. No other evidence is presented to substantiate the claim that Ozturk “engaged in anti-Israel activism.” According to an April 1, 2025, report from *The New York Times*, Canary Mission claimed not to have shared any information about potential deportation targets with the Trump administration. The group stated: “Our investigations of anti-U.S. and antisemitic extremists are all publicly available on our website.” Canary Mission’s website, including its profile of Ozturk is available here: <https://canarymission.org/>. *The Times* piece on Canary Mission is available here: <https://www.nytimes.com/2025/04/01/us/israel-gaza-student-protests-canary-mission.html>.

Whether the Trump administration’s attempts to deport non-citizen dissidents

for their speech will be blocked in court remains unclear. As *The Marshall Project*, a nonprofit journalism organization that covers criminal justice topics, noted in an April 4 report, the Supreme Court’s decisions on the First Amendment’s application to non-citizens are a mixed bag. In *Bridges v. Wixon*, a 1945 case that concerned the attempted deportation of a suspected communist sympathizer, the Court held that non-citizens cannot be deported based solely on their political associations or beliefs. 326 U.S. 135 (1945). However, seven years later, in *Harisiades v. Shaughnessy*, the Court allowed the deportation of legal residents who had previously been members of the Communist Party. 342 U.S. 580 (1952). In *Harisiades*, the Court cited the executive’s broad discretion to protect national security and enforce federal immigration laws. How the current Court would decide the matter is uncertain. In any case, the Trump administration has demonstrated in other contexts that it does not see adverse legal rulings as necessarily limiting its ability to remove individuals from the country. *The Marshall Project* article is available here: <https://www.themarshallproject.org/2025/04/05/visa-immigration-first-amendment-protest-speech>.

On April 4, 2025, following Ozturk’s arrest, several student journalism advocacy groups, including the Student Press Law Center, the College Media Association, and the Associated Collegiate Press, issued a warning to student journalists and media organizations. The warning, titled “Student Media Alert,” (the Alert) stated: “Ethical journalism demands that we minimize harm. We have issued this alert because our organizations believe student media may fail that obligation if they continue to adhere to the traditional guidelines in light of recent developments. ICE has weaponized lawful speech and digital footprints and has forced us all to reconsider long-standing journalism norms.” The Alert advised student media to take the following steps as long as risks persisted. It urged student media to review its takedown and anonymity policies, including “easing some of the normal restrictions you may have applied to takedown request.” The Alert noted that student media provides “an important historical record of the institutions they cover” and further stated that “altering” history by changing archived stories is normally “antithetical to the mission of journalism.” However, given the political

climate, granting retroactive anonymity requests could “help protect those most vulnerable from being punished for their speech.” The Alert also advised student media to allow individuals, especially non-citizens, to produce content or be quoted anonymously, noting that “[a]t this moment, it is essential to hear from those most impacted by current U.S. policies.” Finally, the Alert advised student media to educate itself on the risks now faced by sources and non-citizen contributors. The Alert is available here: <https://splc.org/wp-content/uploads/2025/04/April-2025-Student-Media-Alert.pdf>.

Nieman Reports, an online and quarterly print publication covering journalism news and based at the Nieman Foundation for Journalism at Harvard, discussed the Alert with student journalists while covering the Christopher J. Georges Conference on College Journalism. The Alert was issued while the conference was ongoing. Several of the student journalists who spoke with *Nieman Reports* said that they had seen an uptick in requests for anonymity, including from people wanting their names removed from past coverage. Yezen Saadah, editor-in-chief of New York University’s *Washington Square News* stated: “These are conversations being had in every single newsroom, whether we should accommodate the feelings and the safety of our sources.” Charlotte Hampton, editor-in-chief of *The Dartmouth* at Dartmouth College stated: “It’s a very difficult position to be in, because you’re balancing your paper’s commitment to being a historical document with your ethical responsibility — as a person, as a community member, and as a journalist. It’s especially difficult for student newspapers, I think, because young people are so often thrown into these positions with little real background experience.” The article from *Nieman Reports* is available here: <https://niemanreports.org/student-journalists-press-freedom-splc/>.

Additional student journalists spoke to the *Associated Press (AP)* in late April, with some saying that their publications were fielding increased requests to remove quotations, bylines, photos, and op-eds. Greta Reich, the editor-in-chief of *The Stanford Daily*, Stanford University’s student paper of record, stated that the paper was considering requests on an individual basis. Reich’s statement followed an April 7 op-ed in *The Stanford Daily* addressed to the student body in which the paper’s editors said that they would be more lenient with anonymity

requests given recent visa revocations and immigrations actions taken by the federal government. Speaking to the *AP*, Reich stated that she feared *The Daily* was losing a diversity of voices, especially the perspective of international students. She called the situation “wildly concerning.” Other student editors expressed similar concern, with many expressing a willingness to accommodate student anonymity requests. “We feel an enormous pressure to do the right thing because the stakes are higher and we don’t want to put anyone in danger,” one editor said. “It’s terrifying to think that something we put into the world could have such a devastating impact on someone. And so we take that very seriously.” According to a late April report in *The Wall Street Journal*, Dartmouth College’s student newspaper wrote that it had recently received a “tsunami” of takedown requests. *The Journal* further noted that Purdue University’s student newspaper, *The Exponent*, had removed names from all pro-Palestinian viewpoints in content published since Oct. 7, 2023.

Although many student editors have signaled willingness to make editorial changes to protect student anonymity, others have expressed reservations. Speaking to *The Journal*, Parker Hodges-Beggs, the opinion editor at *The Cougar*, a weekly student newspaper at the University of Houston, said, “[i]t just feels like the opposite of what we’re really meant to be doing as journalists. It’s so important to keep that transparency and have all of those records out there for people to read.” Hodges-Beggs stated that, although *The Cougar* would consider student takedown requests, it had not officially changed its policies.

Journalism ethics experts voiced a similar concern. Silha Center Director and Professor of Media Ethics and Law Jane Kirtley told *The Journal* that she understands why student editors would review policies, but she cautioned that granting take down requests could have long term repercussions, potentially opening the door for others to request the same treatment in the future for different reasons. “I think it’s even more problematic to basically go back and rewrite history,” Kirtley said, “and that means taking down articles or columns that have been there before in their entirety.” Kirtley voiced similar sentiments to the *AP*, urging student journalists to slow down when considering anonymity requests. “You have to ask yourself, what am I doing to the historical record,

especially amid attempts in the current administration to rewrite history.” The *AP* report, including Kirtley’s statement and statements from student journalists, is available here: <https://apnews.com/article/trump-universities-free-speech-student-journalists-deportation-c844570d3e429abd1f37205f7c164133>. *The Wall Street Journal* report is available here: https://www.wsj.com/us-news/education/trump-student-visas-newspaper-op-eds-61595294?st=DMSAFE&reflink=desktopwebshare_permalink.

Despite these challenges, many student publications have taken strong stands in favor of free speech and press freedom. *The Tufts Daily* has continued to cover Ozturk’s arrest and detention, and on March 28, the paper’s managing board published a letter reaffirming the paper’s commitment to the First Amendment. “The safety of our community remains of utmost importance to us, and we consider the well-being of our writers and sources at every step of the editorial process. That said, the withholding of ideas and abstinence from debate will only contribute to the erosion of free expression. In a moment of uncertainty and turmoil, we will continue to defend independent journalism by sharing others’ viewpoints and stories,” wrote the managing board. On March 31, the editorial board of Northeastern University’s student newspaper *The Huntington News* published a similar editorial. The editorial board wrote: “While the Trump administration has yet to single out Northeastern University . . . we believe it is only a matter of time before our institution is targeted by the administration.” The board further stated that Northeastern’s mission does not change with the times, and “[n]either does a student’s fundamental right to freedom of speech and freedom of expression.” The letter from the managing board of the *The Tufts Daily* is available here: <https://www.tuftsdaily.com/article/2025/03/letter-from-the-managing-board-affirming-the-dailys-commitment-to-the-first-amendment-following-the-detainment-of-rmeysa-ztrk>. The editorial from *The Huntington News* is available here: <https://huntnewsnu.com/85461/editorial/editorial-board-our-first-amendment-rights-are-under-assault/>.

As encouraging as such statements are, they also signal the acknowledgment of a new reality: during a second Trump term, student journalists and their sources may be in danger simply for doing their jobs and informing the public. In early

May, speaking to Boston area PBS affiliate *GBH News*, Columbia Dean Cobb urged young journalists, in the face of fear and reprisals, to take continued heart. “One of the things that I remind our students all the time,” Cobb said, “is that we stand on the shoulders of people who faced struggles that were much bigger than ours. And we also have colleagues around the world that face jeopardies that are much sharper and much more dangerous than the ones that we are confronting right now. And the work that we do simply has to get done. This is a noble profession . . . the work that we do is to give people the information they need to operate in a democratic society.” Cobb’s remarks are available here: <https://www.youtube.com/watch?app=desktop&v=EO1jcQoPlh0>.

On May 10, 2025, *The New York Times* reported that Rumeysa Ozturk had been released from federal custody in Louisiana. Ozturk spoke at Boston’s Logan Airport following her return flight, and said that she had been detained with 23 other women in a room meant for 14; that she had suffered repeated asthma attacks, and when she sought medical help, was treated condescendingly. Judge William K. Sessions III of the U.S. District Court for the District of Vermont held that Ozturk’s detention had the potential to chill the speech of “the millions and millions of individuals in this country who are not citizens.” Judge Sessions further held that the government had produced no evidence supporting its contention that Ozturk supported Hamas. *The Times* noted that the Trump administration will continue to try and deport Ozturk. A spokesperson for the Department of Homeland Security stated: “a visa is a privilege, not a right. [The Department will] continue to fight for the arrest, detention and removal of aliens who have no right to be in this country.” Despite this prospect, experts believe the outcome of Ozturk’s case will probably be favorable. Ozturk herself struck a note of optimism upon her return to Boston. “America is the greatest democracy in the world,” she said. “I have faith in the American system of justice. . . . I still believe in the values we share.” *The Times* report is available here: <https://www.nytimes.com/2025/05/10/us/tufts-rumeysa-ozturk-release.html>.

— STUART LEVESQUE
SILHA BULLETIN EDITOR

Stanford Drops Disciplinary Action Against Student Journalist Dilan Gohill; District Attorney Declines to Press Charges

In the early morning hours of June 5, 2024, Stanford University Police began arresting pro-Palestinian protesters who had barricaded themselves inside the university president's office. The protest followed a 120-day sit-in ending in February 2024,

ENDANGERED JOURNALISTS

a solidarity encampment beginning in April 2024, and an attempted occupation of another building in May 2024. One of the individuals arrested was Dilan Gohill, a first-year student acting in his capacity as a journalist for *The Stanford Daily*, the independent student newspaper at the university. According to ABC 7 San Francisco, Gohill was wearing a press badge when he was arrested. Gohill and the other protesters were booked at the Santa Clara County (Calif.) Main Jail on suspicion of felony burglary, vandalism, and conspiracy and held in jail for fifteen hours. Following his arrest, Stanford suspended Gohill and banned him from campus along with the other protesters. Find *The Stanford Daily's* coverage of the protest here: <https://stanforddaily.com/2024/06/05/pro-palestine-protesters-occupy-presidents-office/>. The ABC 7 report is available here: <https://abc7news.com/post/arrest-stanford-student-journalist-dilan-gohill-reporting-barricaded/14986204/>. For additional coverage of Gohill's arrest, see "Stanford Student Journalist Arrested; Faces Felony Charges for Covering Occupation of University President's Office" in the Summer 2024 issue of the *Silha Bulletin*.

In a statement on the arrests, Stanford University leadership maintained that the protesters did not have a right to enter the building. The statement characterized the participation of the *Stanford Daily* staffers as "planned criminal activity" and "deeply concerning." The statement argued that Gohill's participation was not protected by California law or the First Amendment: "The First Amendment does not protect the right to break, enter, and/or trespass in a locked private building," the statement read. However, the university also stated that Gohill's suspension and campus ban had been

lifted because he did not present an immediate threat to the health and safety of campus. Nevertheless, Gohill continued to face the threat of criminal charges related to the incident. The university's statement is available online at: <https://news.stanford.edu/stories/2024/06/university-statement-on-stanford-daily-students-arrested-on-june-5>.

"My job on June 5 was to keep our community informed, updated and aware – and I did just that. Independent student journalism is crucial, and my arrest as a first-year journalist and Stanford's response threaten the value the institution claims to uphold. I remain deeply concerned that the university's actions have had a chilling effect on the free press and student journalists' ability to share vital information without fear of retaliation."

— Dilan Gohill,
Stanford student journalist

On June 20, 2024, a group of 26 organizations, including The First Amendment Coalition and the Student Press Law Center, signed a letter urging the District Attorney of Santa Clara County to refrain from criminally charging Gohill. The letter stated that it was clear Gohill was on assignment when he was arrested. The letter stated that Gohill was a "young journalist who was acting in good faith to serve the public's interest in timely coverage of newsworthy events." The letter is available online at: <https://firstamendmentcoalition.org/2024/06/20/coalition-calls-on-da-to-decline-charges-against-stanford-student-journalist/>.

On Jan. 22, 2025, *The Stanford Daily* reported on an email sent by Stanford president Jon Levin which confirmed that Stanford had dropped its disciplinary case against Gohill. According to Levin, each of the Stanford student protesters arrested in June was also referred to Stanford's internal disciplinary process, but Stanford had

decided not to pursue these actions. However, Levin also acknowledged that criminal charges remained possible. He wrote that Stanford would let the Santa Clara County District Attorney's Office "determine how to proceed based on the evidence it has assembled." A spokesperson from the DA's office told *The Stanford Daily* on January 21 that they currently "don't have the cases

to charge yet." *The Stanford Daily's* reporting is available online at: <https://stanforddaily.com/2025/01/22/daily-reporter-face-no-disciplinary/>.

Stanford's decision not to pursue disciplinary action against Gohill was confirmed in a Jan. 24, 2025, report by *The Mercury News*, based in San Jose. The report quoted Stanford spokesperson Dee

Mostofi, who stated: "We can confirm that the student conduct review process for Dilan Gohill was completed at the end of last year and resulted in no formal disciplinary action. The Santa Clara County District Attorney's Office will make an independent decision based on the evidence it has assembled."

Gohill's attorney Max Szabo commented on Stanford's decision not to take action, as well as Levin's statement: "Stanford correctly declined to pursue disciplinary charges against Dilan, so we're shocked the university is standing by its absurd stance supporting criminal prosecution," Szabo said. "Declining to pursue lesser disciplinary charges while advocating for criminal ones suggests Stanford is more interested in punishing a journalist for reporting something they didn't like than in reaching a fair outcome."

In his own statement, Gohill said: "My job on June 5 was to keep our community informed, updated, and aware — and I did just that. Independent

Trump Shuttters U.S. News Agencies

On March 14, 2025, President Donald Trump issued an executive order gutting the U.S. Agency for Global Media (USAGM), the

government agency that oversees and funds various nonpartisan international broadcasters including Voice of America (VOA) and Radio Free Europe/Radio Liberty (RFE/RL), whose mission is to

TRUMP AND THE MEDIA

disseminate news and information about the United States worldwide. Many of these broadcasters, including VOA and RFE/RL, were originally founded to combat disinformation by totalitarian regimes such as Nazi Germany and Soviet Russia. Since the end of the Cold War, they have continued this work, reaching audiences in Vladimir Putin's Russia, in the People's Republic of China, and in the dictatorships of the Middle East. Trump's attempt to shutter the USAGM and defund its subsidiary networks poses an existential threat to this mission, and is currently being challenged in the courts. The March 14 executive order was issued mere months after Trump tapped Kari Lake to lead VOA and Brent Bozell III to lead the USAGM. Trump's selection of Lake and Bozell, both staunch conservatives and Trump supporters, led many to fear that the networks under the USAGM's control would be politicized during Trump's term. Whether this fear comes to fruition depends, in part, on the outcome of the legal battles ahead. Even

if the USAGM and the broadcasters it oversees survive the Trump administration's attacks, their future remains profoundly uncertain.

Trump Selects Conservative Firebrands to Lead U.S. News Agencies, Stoking Fears of Politicization

Following Trump's election, he tapped Kari Lake as his pick to lead VOA. Trump announced his choice in a Dec. 11, 2024, post on Truth Social, writing: "I am pleased to announce that Kari Lake will serve as our next Director of the Voice of America. She will be appointed by, and work closely with, our next head of the U.S. Agency for Global Media, who I will announce soon, to ensure that the American values of Freedom and Liberty are broadcast around the World FAIRLY and ACCURATELY, unlike the lies spread by the Fake News Media." Trump's Truth Social post is available online here: <https://truthsocial.com/@realDonaldTrump/posts/113637437665057869>.

As reported by the *Deseret News*, a daily newspaper based in Salt Lake City and owned by the Church of Jesus Christ of Latter-day Saints, Lake is a former journalist who worked for more than two decades as television news anchor in Phoenix, Ariz. Beginning in 2018, Lake began to attract attention for her unfounded claims on social media. She claimed that a movement for better pay and benefits for teachers was actually a front for legalizing marijuana, and she reposted false claims of voter

fraud and COVID-19 misinformation. In 2021, the website *FTVNews*, which covers TV newsrooms across the country, published footage of Lake at the Conservative Political Action Conference (CPAC), questioning whether she was there in her professional or personal capacity. Lake resigned from her news anchor post shortly thereafter, denying that the report was the reason she stepped down.

In June 2021, Lake announced her candidacy for Governor of Arizona, running on a hardline conservative platform. Lake opposed mask and vaccine mandates, advocated for completing the U.S.-Mexico border wall, and argued that state funds should be withheld from local governments that defunded their police forces. She also stridently criticized the mainstream media, which she claimed "push[ed] fear and division." One of Lake's campaign videos depicted her destroying television sets airing CNN with a sledgehammer. Donald Trump endorsed Lake in September 2021, writing in a statement, "[F]ew can take on the Fake News Media like Kari. She is strong on Crime, will protect our Border, Second Amendment, Military, and vets, and will fight to restore Election Integrity . . . She is against Covid lockdowns, Cancel Culture, and will end 'woke' curriculum in our schools." Shortly after Trump's endorsement, Lake stated that she would not have certified the 2020 election results. The *Deseret News* report is

News Agencies, continued on page 26

student journalism is crucial, and my arrest as a first-year journalist and Stanford's response threaten the values the institution claims to uphold. I remain deeply concerned that the university's actions have had a chilling effect on the free press and student journalists' ability to share vital information without fear of retaliation."

Both Gohill and Szabo's statements are available online here: <https://www.mercurynews.com/2025/01/22/stanford-university-drops-administrative-case-student-journalist/>

On Thursday, March 6, 2025, nine months after Gohill's arrest, the Santa Clara County district attorney announced criminal charges would not be pursued. "We have no evidence that

this student did anything other than cover this event as a journalist," said Jeff Rosen, Santa Clara County District Attorney. After the DA's office declined to press charges, Gohill said he felt like he could "finally breathe." Gohill said: "It was always in the back of my head. If I'm getting dinner with my friends, is this the last dinner I'm going to have with them? Tomorrow, could I wake up and receive an email that I'm being expelled or that I have three felonies being leveled against me?" Gohill has returned to his role as a student journalist for *The Stanford Daily*.

Even though Gohill did not face criminal consequences, press freedom advocates expressed concern about the effects of Gohill's arrest on student

journalism. David Loy, a legal director with the First Amendment Coalition, expressed concern that Gohill's arrest will have a "chilling effect" on student journalists at Stanford and elsewhere. "To have your own university calling for you to be prosecuted and potentially sent to jail is highly frightening and potentially intimidating," Loy said.

The statements by Rosen, Gohill, and Loy are available online here: <https://www.kqed.org/news/12030271/stanford-journalist-can-finally-breathe-after-avoiding-charges-for-reporting-on-protest>.

— RYAN CLEMMONS
SILHA CENTER RESEARCH ASSISTANT

News Agencies, continued from page 25 available online here: <https://www.deseret.com/2021/10/15/22713081/how-kari-lake-went-from-mainstream-media-to-arizonas-leading-maga-candidate-for-governor-trump-fox/>.

According to an *Associated Press* (AP) report, Lake lost the 2022 Arizona gubernatorial election, but never conceded the race, claiming in her 2023 book *Unafraid: Just Getting Started* that she was the state's "lawful governor." Following the loss, she ran for Arizona senator in 2024, again attracting Trump's endorsement, and again losing, this time by an even wider margin. The AP report is available online here: <https://apnews.com/article/trump-kari-lake-voice-of-america-ambassadors-e894cf2e84791b35528baa0cbdd66b22>.

The VOA, the organization Lake was tapped to lead, has a long history as a nonpartisan international broadcaster. According to VOA, the broadcaster was founded in "1942 as a response to the need of peoples in closed and war-torn societies for reliable news." Its mission is to "broadcast accurate, balanced, and comprehensive news and information to an international audience." VOA provides content in 49 languages, and "reaches audiences via web and social media platforms, including Facebook, Instagram, Twitter and YouTube. In countries where VOA content is blocked by repressive regimes, VOA content is available via web proxies, allowing audiences to circumvent the censorship." The broadcaster has a global audience of 354 million people. Information on VOA's mission and reach are available online here: <https://docs.voanews.eu/en-us-inside/2024/10/11/5e5e2926-ae45-4547-a71e-943b0234cd04.pdf>.

In 1976, the principles underlying VOA's mission were codified into law in the organization's Charter. The Charter states: "The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America must win the attention and respect of listeners." To this end, the Charter states, "VOA news will be accurate, objective, and comprehensive." It will "represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions." Further, it will "present the policies of the United States clear and effectively, and will also present responsible

discussions and opinion on these policies." The VOA Charter is available online here: <https://www.usagm.gov/who-we-are/oversight/legislation/voa-charter/>.

VOA operates under the supervision of the USAGM, which is an independent government agency and wing of American diplomacy that broadcasts news and information on various platforms worldwide. In addition to VOA, USAGM supervises RFE/RL, Radio Free Asia, and the Middle East Broadcasting Networks. USAGM is run by a CEO who in turn is advised by the International Broadcasting Advisory Board (IBAB). The IBAB is comprised of six members appointed by the president with seats split evenly between Democrats and Republicans. Under federal law, the CEO of the USAGM may appoint network heads, but those appointments must be approved by a majority of the IBAB. 22 U.S.C. § 6205.

In light of VOA's expressly nonpartisan aims, some within the organization expressed alarm at Lake's statement immediately following her selection. On Dec. 11, 2024, Lake posted on X, writing: "Under my leadership, the VOA will excel in its mission: chronicling America's achievements worldwide." As several VOA journalists who spoke to *The New York Times* noted, chronicling America's achievements is not VOA's goal. One of the journalists, who requested anonymity for fear of retribution, observed that many of VOA's journalists who have worked overseas under repressive regimes take pride in working for an agency whose journalistic neutrality is enshrined in law. And yet, Lake's public statements on the media suggest a disdain for this neutrality. In a January 2025 report, the AP quoted Lake as saying that her "pet project" would be "[r]eforming the fake news into some real honest press." She further stated: "The days of the fake news are numbered. We're going to get some real journalists once again." The tenor of Lake's statements stands in stark contrast to VOA's mission, and to the statements of current Director Michael Abramowitz, who has characterized VOA's mission as combating disinformation and democracy undermining propaganda. *The New York Times* report on Trump's selection of Lake is available online here: <https://www.nytimes.com/2024/12/12/us/politics/voice-of-america-journalists-trump.html>.

On Jan. 23, 2025, National Public Radio (NPR) reported that Trump had selected Brent Bozell III to lead the USAGM. In a Truth Social post, Trump wrote of Bozell: "Few understand the Global Media landscape in print, television, and online better than Brent. He and his family have fought for the American principles of Liberty, Freedom, Equality, and Justice for generations, and he will ensure that message is heard by Freedom-loving people around the World."

Bozell is the founder of the conservative media watchdog group Media Research Center. On its website, the Media Research Center states that it "has played a crucial role in countering left-wing bias in news media and popular culture, revealing the left's agenda to undermine traditional values, restrict individual liberty, and stifle private enterprise. Alongside this effort, MRC champions free speech by taking on Big Tech companies that aim to suppress conservative voices." Bozell has strong ties to conservative media. His father, L. Brent Bozell Jr., was a prominent conservative activist and writer. Bozell III is also the nephew of William F. Buckley Jr., who founded the conservative magazine *National Review*. Bozell founded the Media Research Center in 1987, and since then he has often criticized the mainstream media. In 2018, he wrote of the media, "[t]hese are not dispassionate observers of the national scene. These are leftist partisans." The NPR article is available online here: <https://www.npr.org/2025/01/23/nx-s1-5272574/trump-brent-bozell-usagm-agency-for-global-media>.

Though originally an anti-Trump Republican, as *The New York Times* reported, Bozell eventually came to support the president. During Trump's first term, Bozell argued that the media was unfairly smearing the president, and in 2019, he published a book entitled *Unmasked: Big Media's War Against Trump*. Bozell also flirted with election denialism leading up to the 2020 election and in its aftermath. In October 2020, *The Washington Post* reported on a closed-door gathering of conservative activists at which Bozell spoke. He reportedly said that the left was planning to "steal [the 2020] election." He continued, "if they get away with that, what happens? Democracy is finished because they usher in totalitarianism." Bozell's election denialism is shared by

his son, Leo Brent Bozell IV, who was arrested during the Jan. 6, 2021, Capitol riots and convicted of assaulting a police officer. On Jan. 20, 2025, Trump granted an unconditional pardon to those who had been convicted of offenses related to the January 6 riot, including Leo Bozell. *The Washington Post* article is available online here: https://www.washingtonpost.com/investigations/council-national-policy-video/2020/10/14/367f24c2-f793-11ea-a510-f57d8ce76e11_story.html.

Following Trump's announcements of Lake and Bozell, many media commentators expressed fear that the new appointees would politicize the USAGM and the broadcasters it oversees. These fears were stoked by steps Trump took to further consolidate his power over the USAGM and its subsidiary organizations. As *Politico* reported, in January 2025, Trump fired the entire IBAB, clearing a potential roadblock to Lake's appointment as director of VOA. In addition to approving the USAGM's picks for directors of news agencies, the IBAB is also empowered to remove directors by majority vote, even over the head of the USAGM's protest. Following the firings, reporters at VOA worried that Trump would attempt to pack the board with loyalists. The *Politico* report is available online here: <https://www.politico.com/newsletters/west-wing-playbook/2025/02/04/voice-of-trump-00202471>.

Fears of politicization were further exacerbated when NPR reported on March 1, 2025 that VOA had embarked on a formal review of one of its own chief national correspondents, Steve Herman. The report stated that Herman's social media postings were being investigated for "potential bias against the Trump administration," and that Herman had been placed on paid excused absence during the investigation. Herman was previously investigated by VOA for political bias during Trump's first term. However, that investigation was later ruled unconstitutional by a federal judge. The judge held that then USAGM director Michael Pack had infringed Herman's First Amendment rights and had impermissibly breached the firewall separating the newsroom from editorial interference. *Turner v. U.S. Agency for Glob. Media*, 502 F.Supp.3d 333 (D.D.C. 2020). However, according to the NPR report, the current investigation does not trigger the same

legal concerns, and was approved by Michael Abramowitz, VOA's director and a Joe Biden appointee. Nevertheless, VOA employees who spoke to NPR on condition of anonymity, stated that they were fearful of additional pressures coming from the Trump administration officials, especially Kari Lake. The NPR report is available here: <https://www.npr.org/2025/03/01/g-s1-51489/voice-of-america-bias-inquiry>.

Trump Guts the USAGM, Seeks to Shutter VOA and Other Broadcasters

On March 14, 2025, Trump issued an executive order requiring the USAGM and six other federal agencies

"[VOA and RFE/RL broadcasts were] a window into America and a Western culture of openness, democracy, press freedoms and civil liberties."

— Serfe Schmemmann,
Former *New York Times* Moscow bureau chief

to "reduce the performance of their statutory functions and associated personnel to the minimum presence and function required by law." As *The New York Times* reported, immediately following the executive order, "virtually the entire staff" of VOA was placed on administrative leave, including the broadcaster's director, Michael Abramowitz. VOA employees speaking to *The Times* stated that the "the cuts were so widespread that they would effectively shut down the international broadcaster." The order stipulated that the head of USAGM had seven days to submit a report to the Office of Management and Budget detailing his plans to bring the USAGM into compliance, and outlining which of the agency's functions are statutorily required. *The New York Times* report is available online here: <https://www.nytimes.com/2025/03/15/us/politics/trump-order-voice-of-america.html>.

On March 18, 2025, *CBS News* reported that the day after Trump issued his executive order, 500 VOA contractors, including journalists and editors, were terminated. Speaking to *CBS News*, Abramowitz called VOA "an incredibly important soft power tool" for the United States. "If America pulls off the playing field and cedes it to our adversaries, then they're going to be telling the narratives that people around

the world are going to be hearing, and that can't be good for America," he stated. "They're going to be hearing an anti-America narrative. We need to fight that with truth." Abramowitz concluded that gutting VOA would be a "self-inflicted blow" to U.S. national security because the network targets nations without a free press, and its work helps to combat Russian, Chinese, and Iranian disinformation. The *CBS News* report is available online here: <https://www.cbsnews.com/news/voa-cuts-trump-director-michael-abramowitz-interview/>.

This sentiment was echoed in a March 24, 2025, editorial by Serge Schmemmann,

a former Moscow Bureau Chief for *The New York Times*. Schmemmann wrote of his many years as a correspondent in the Soviet Union, and of the "extraordinary influence" of

western broadcasts from networks such as VOA and RFE/RL, which were popular with Soviet dissidents. These broadcasts, he wrote, were "a window into America and a Western culture of openness, democracy, press freedom and civil liberties." Schmemmann noted that Trump's decision to shutter the networks was cheered by both Russian and Chinese state media. Schmemmann's editorial is available online here: <https://www.nytimes.com/2025/03/24/opinion/voice-of-america-shutdown.html>.

Lake and Bozell Move to New Positions

Following Trump's executive order effectively shuttering the USAGM, the president pivoted on his previous appointments and deputized Lake and Bozell to new roles. Indeed, Lake had already received a reassignment from the position she was originally slated for. With Bozell's Senate confirmation pending, in late February, the USAGM announced that Lake would assume the position of senior advisor to the agency. In early April, following the agency's tear down, multiple outlets reported that Lake would soon be moved to a position at the State Department. As *The Washington Post* reported, the new undefined role "is intended to help [Lake] coordinate closely with USAGM and

News Agencies, continued on page 28

News Agencies, continued from page 27

the State Department to scale back the agency and its affiliated outlets to their statutory minimum.” *The Post* further reported that Lake made the following comments on the move: “I am thrilled to be working on behalf of President Trump and this administration. He put me in this role because I’m a fighter. And I’m disgusted how Washington DC and this agency, in particular, has been screwing over hardworking Americans.” *The Washington Post* report is available here: <https://archive.is/20250410035707/> <https://www.washingtonpost.com/politics/2025/04/09/kari-lake-voa-doge/#selection-911.0-911.265>.

Meanwhile, in late March, Trump withdrew Bozell’s nomination to head the USAGM. The same month, Bozell was nominated to be an ambassador to South Africa. Where all this change leaves the USAGM, VOA, and the agency’s other affiliated networks is unclear. Much will turn on the final outcome of the ongoing legal fights. Regardless of the outcome, Trump and Lake’s statements suggest that the president and his surrogates remain committed to cutting back on U.S. government-sponsored global media.

VOA and RFE/RL Employees Sue Trump Administration

On March 21, 2025, six VOA employees sued in United States District Court in the Southern District of New York to block the administration’s attempt to gut the USAGM. The complaint accused the Trump administration of “rank viewpoint discrimination” in violation of the First Amendment. It argued that the executive order was primarily motivated by Trump’s animus for VOA, and cited numerous examples of the president criticizing the broadcaster, including calling it “the Voice of the Soviet Union,” and stating that it was “parroting Chinese talking points during its coronavirus coverage” and that the network “often speaks for America’s adversaries — not its citizens.” In light of these comments and Trump’s previous attempts to stifle VOA during his first term, the plaintiffs argued that the March 2025 executive order amounted to a government effort to chill protected speech and an unconstitutional prior restraint on the press. In addition to First Amendment arguments, the complaint argued that Trump had violated the separation of powers by overriding

Congress’s legislative prerogative, and that he had “arbitrarily and capriciously” violated the Administrative Procedure Act (APA), the law that outlines procedures for government agencies. The complaint is available online here: <https://z.umn.edu/USAGMcomplaint>. *Widakuswara v. Lake*, No. 1:25-cv-02390 (S.D.N.Y. Mar. 21, 2025).

Five days later, on March 26, another group of VOA employees, including Abramowitz, filed a separate suit to block the executive order. The second suit did not raise First Amendment arguments but focused on the separation of powers and APA violations. It argued that VOA is mandated by law to carry out certain functions, including “producing and disseminating news programming in accordance with the highest professional journalistic standards,” and broadcasting that content to “significant global audiences.” The USAGM’s decision to place VOA’s employees on administrative leave following the executive order prevented the network from performing these legally mandated functions. And under the APA, courts have the authority to set aside agency actions that are contrary to law. The March 26 complaint is available online here: <https://storage.courtlistener.com/recap/gov.uscourts.dcd.278809/gov.uscourts.dcd.278809.1.0.pdf>.

Shortly after the complaints were filed, a federal judge held that the plaintiffs in the March 21 suit were likely to succeed on the merits, and therefore a preliminary injunction temporarily blocking the executive order was warranted. On March 28, Judge J. Paul Oetken of the Southern District of New York held that the USAGM’s placement of VOA employees on administrative leave and its cancellation of grants constituted final executive actions that were reviewable by a court. Further, he held that the agency actions were likely arbitrary and capricious in violation of the APA because they occurred mere hours after the Trump administration’s executive order and contained scant justification — a single sentence — suggesting that the agency had not engaged in a reasoned and considered decision making process as required by law. Judge Oetken’s opinion is available online here: <https://www.justsecurity.org/wp-content/uploads/2025/03/3-Widakuswara-v-Kari-Lake-tro.pdf>. *Widakuswara v. Lake*, No. 25-CV-2390 (JPO), 2025 WL 945869 (S.D.N.Y. Mar. 28, 2025).

On April 4, Judge Oetken granted the Trump Administration’s motion to transfer the suit from the Southern District of New York to the United States District Court for the District of Columbia in the interest of judicial efficiency. At the time of the transfer, there were five pending cases related to the Trump administration’s shuttering of the USAGM pending before Judge Royce C. Lamberth, including the March 26 suit brought by Abramowitz. As Oetken noted, these pending cases made similar legal claims and named the same defendants, and four of the five sought emergency relief. Judge Oetken’s order granting the transfer is available online here: <https://cases.justia.com/federal/district-courts/district-of-columbia/dcdce/1:2025cv01015/279211/61/0.pdf>.

On March 25, Judge Lamberth ruled in a related case brought against the USAGM by RFE/RL that the Trump administration had probably violated the APA. Like Judge Oetken, Judge Lamberth held that the USAGM’s one-sentence justification for shuttering VOA could “scarcely be characterized as an explanation,” and established no “rational connection between the facts found and the choices made.” Judge Lamberth therefore issued a temporary injunction blocking the defunding of RFE/RL. *RFE/RL v. Lake*, No. 1:25-cv-799-RCL, 2025 WL 900481 (D.D.C. Mar. 25, 2025)

On April 22, Judge Lamberth also issued a preliminary injunction in the March 26 litigation that had been transferred from New York. Lamberth held that the Trump administration had probably violated the APA by acting arbitrarily and capriciously and contrary to law, and ordered the administration to “take all necessary steps to return USAGM employees and contractors to their status prior to the . . . Executive Order.” The Trump administration filed an interlocutory appeal on the consolidated challenges to the USAGM’s actions with the federal Circuit Court of Appeals for the District of Columbia. This appeal combined the suits from VOA employees with those from RFE/RL. An interlocutory appeal allows litigants to appeal non-final decisions in certain limited circumstances. On May 3, a three-judge panel of the D.C. Circuit voted 2 to 1 to reverse Judge Lamberth’s earlier decisions. The majority consisted of two Trump-appointed judges, Neomi Rao and Gregory Katsas. The majority opinion was issued *per curiam*, meaning

the author was not identified. Judges Rao and Katsas held that District Court had probably lacked jurisdiction to enjoin the Trump administration's actions because the case concerned the revocation of government contracts and exclusive jurisdiction over government contract disputes rests with the Court of Federal Claims (CFC). Judge Cornelia Pillard, an Obama appointee, wrote a dissent in which she argued that the plaintiffs' claim was properly understood not as an action for breach of contract, but rather as a claim that the Trump administration's policy directives were unlawful in the face of federal statutes allocating funds for specific purposes. Judge Lamberth's order issuing an injunction is available here: https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2025cv1015-98. The D.C. Circuit's ruling overturning that injunction is available here: <https://storage.courtlistener.com/recap/gov.uscourts.cadc.41992/gov.uscourts.cadc.41992.01208736131.0.pdf>.

Immediately following the D.C. Circuit's ruling, the plaintiffs filed an

appeal for a hearing before the entire eleven-judge panel of the D.C. Circuit, a process known as *en banc* review. The plaintiffs also filed for an emergency stay of the three-judge panel's decision pending the appeal. Mere hours after Katsas and Rao issued their *per curiam* opinion, the full panel of D.C. Circuit judges granted the stay by a vote of 7 to 4, reinstating Judge Lamberth's orders. Katsas and Rao both dissented. The cases are currently awaiting *en banc* rehearing. The order issuing a stay is available here: <https://media.cadc.uscourts.gov/orders/docs/2025/05/25-5150LDEN.pdf/>.

As the *Bulletin* went to press, the fate of the broadcast networks under the USAGM remained uncertain. The D.C. Circuit's late hour stay meant that Judge Lamberth's initial orders were given legal effect, and the Trump administration was required to reinstitute the funding it had withheld. On May 13, RFE/RL announced that it had finally received its April funding, a full six weeks after Judge Lamberth's initial order. Meanwhile, the litigation before the full Circuit Court

awaits rehearing, and the remainder of RFE/RL's funding for the 2025 fiscal year, and the funding of other networks under the USAGM, hangs in the balance. And yet the Trump administration has not backed down from its threats. On May 16, *Politico* reported that nearly 600 VOA employees, including many journalists and editors, had been fired. Abramowitz, in a letter to staff, stated that he was "heartbroken" by the terminations, and that he had not received any rationale from the USAGM justifying the changes. Patsy Widakuswara, VOA's White House bureau chief and one of the named plaintiffs in the litigation challenging the Trump administration's actions, told *Politico*: "The plaintiffs and our legal team will fight this in court for as long as it takes, [u]ntil there is no more fight left." The *Politico* report is available here: <https://www.politico.com/news/2025/05/16/voa-layoffs-trump-administration-00353694>.

— STUART LEVESQUE
SILHA BULLETIN EDITOR



SILHA CENTER
FOR THE STUDY OF MEDIA ETHICS & LAW
HUBBARD
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& MASS COMMUNICATION

The Silha Center for the Study of Media Ethics and Law was established in 1984 with an endowment from Otto and Helen Silha. Located in the Hubbard School of Journalism and Mass Communication at the University of Minnesota, Twin Cities, the Silha Center is the vanguard of the School's interest in the ethical responsibilities and legal rights of the mass media in a democratic society.

The Silha Center focuses on the concepts and values that define the highest ideals of American journalism: freedom and fairness. It honors the importance of these ideals by examining their theoretical and practical applications and by recognizing the interdependence of ethical and legal principles.

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Supreme Court Upholds TikTok Ban, But Trump Comes to App's Rescue

On Jan. 17, 2025, in a unanimous *per curiam* decision, the United States Supreme Court upheld a 2024 law that was set to impose a national ban on the video-sharing app TikTok. Just two days before the ban was set to take effect, the

FREE SPEECH

Supreme Court held that the law, the “Protecting Americans From Foreign Adversary Controlled Applications Act” (the Act) was constitutional. The Act faced two separate challenges, one from TikTok and its China-based parent company ByteDance, and the other from a group of TikTok users. The Supreme Court upheld the U.S. Court of Appeals for the D.C. Circuit’s ruling that the Act did not violate petitioners’ First Amendment rights. Read the full opinion here: https://www.supremecourt.gov/opinions/24pdf/24-656_ca7d.pdf.

On April 24, 2024, President Joe Biden signed the “Protecting Americans from Foreign Adversary Controlled Applications Act” into law. Pub. L. 118–150, div. H, 138 Stat. 955. The Act, set to go into effect 270 days from the date of its enactment, makes it unlawful for any entity to “enable the distribution, maintenance, or updating of” a “foreign adversary controlled application” in the United States. The Act defines “foreign adversary controlled application” as a “website, desktop application, mobile application, or augmented or immersive technology application” that is operated by ByteDance, TikTok, a subsidiary of either, or an entity controlled or owned by either. The Act also has a catchall category for a company that is (1) controlled by a foreign adversary; and (2) is determined by the President to “present a significant threat to the national security of the United States.” The Act prohibits web hosting services, such as app stores, from offering the application to U.S. users. The Act directs the Attorney General to investigate potential violations of the Act and, upon determination that a violation has occurred, bring an action seeking appropriate relief.

The Act contains an exemption for applications controlled by foreign adversaries that undergoes a “qualified

divestiture.” A “qualified divestiture” is a transaction that the President determines “would result in the relevant foreign adversary controlled application no longer being controlled by a foreign adversary.” The sitting President may grant a one-time extension of the Act’s 270-day effective date. The extension may be granted only if (1) a path to qualified divestiture has been identified; (2) “evidence of significant progress toward executing such qualified divestiture has been produced;” and (3) binding legal agreements are in place that ensure the execution of the divestiture during the period of the extension. The entire law is available here: <https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter123&edition=prelim>.

Proponents of the Act said the law was driven by national security concerns. Specifically, legislators expressed concern over ByteDance’s potential access to U.S. citizens’ personal data, as well as concern that the app could be used to spread misinformation, given that it is a major source of information for many Americans. Although ByteDance is privately owned, legislators argued that its owners, who are Chinese nationals, would be obligated under Chinese law to turn over access and control of the app to the Chinese Communist Party should the party make that demand. Shortly after the bill passed the House, House Speaker Mike Johnson said: “Today’s bipartisan vote demonstrates Congress’ opposition to Communist China’s attempts to spy on and manipulate Americans, and signals our resolve to deter our enemies.” Also, in a joint statement, Sens. Mark Warner (D-Va.) and Marco Rubio (R-Fla.), chair and co-chair of the Senate Intelligence Committee, said: “We are united in our concern about the national security threat posed by TikTok — a platform with enormous power to influence and divide Americans whose parent company ByteDance remains legally required to do the bidding of the Chinese Communist Party.”

Before the bill passed the House, Rep. Mike Gallagher (R-Wis.), who introduced the bill alongside Rep. Raja Krishnamoorthi (D-Ill.), told *ABC News*, “[w]e’ve had instances in the past where TikTok has used the app

to spy on journalists, for example, but the broader risk in my mind is having a foreign adversary, in this case, the Chinese Community Party, control what is increasingly becoming the dominant news platform in America.” Rep. Gallagher continued, “[t]he risk in terms of propaganda, the risk to influence our election are just too severe. That’s not just me talking. That’s every single major national security official from the Biden administration. That’s why we’re seeking a divestiture to guard against those two risks.” Rep. Krishnamoorthi’s statement is available online at: <https://abcnews.go.com/Politics/house-passes-bill-ban-tiktok-chinese-owners-sell/story?id=108077695>.

Some Senators pushed back against framing the law as a ban. “We are talking about a transition in ownership, not a ban, not elimination of TikTok — a transition of ownership that puts it in different hands but permits it to continue to exist,” said Sen. Richard Blumenthal (D-Conn.) in March 2024. Meanwhile, the CEO of TikTok, Shou Chew, publicly disputed this claim. “Make no mistake, this is a ban,” Chew said in a video posted on the platform in April 2024. “A ban on TikTok and a ban on you and your voice.” Sen. Blumenthal’s statement is available here: <https://slate.com/news-and-politics/2024/03/tiktok-ban-update-senate-house-bill-bytedance.html>. Chew’s response video is available here: <https://www.tiktok.com/@tiktok/video/7361448925972155679>

Critics of the Act argue that it violates First Amendment rights. After the bill passed the House, Rep. Tom McClintock (R-Calif.) remarked: “The answer to CCP-style propaganda is not CCP-style oppression. Let us slow down before we blunder down this very steep and slippery slope.” Rep. Jim Himes (D-Conn.) also weighed in: “One of the key differences between us and those adversaries is the fact that they shut down newspapers, broadcast stations, and social media platforms. We do not. We trust our citizens to be worthy of their democracy. We do not trust our government to decide what information they may or may not see.” Both statements are available online at: <https://apnews.com/article/tiktok-ban-house-vote-china-national-security-8fa7258fae1a4902d344c9d978d58a37>.

This criticism was echoed by certain civil rights and free expression groups. In a statement, Jacob Mchangama, Executive Director of the Future of Free Speech and a senior fellow at the Foundation for Individual Rights and Expression (FIRE), who also delivered the 39th Annual Silha Lecture, said of the potential ban: “If enacted, this ban would make the U.S. the first free and open democracy to impose such sweeping restrictions, drawing uncomfortable parallels with authoritarian regimes like Somalia, Iran, and Afghanistan, which use similar measures to suppress dissent and control their populations. This is not just about a single app; it is a litmus test for the resilience of First Amendment principles in the digital age.” In an article published after oral arguments at the Supreme Court, the ACLU argued that the ban infringed on free speech. It noted that courts have previously held that U.S. citizens have a right to access foreign propaganda. Further, it characterized the argument that the ban does not implicate the First Amendment because users can simply move to another platform as “nonsense.” “The government can’t justify shutting down The Washington Post because readers can simply buy The New York Times instead,” the ACLU argued. Mchangama’s statement is available here: <https://www.thefire.org/news/fire-scotus-tiktok-ban-violates-americans-first-amendment-rights>. The ACLU article is available here: <https://www.aclu.org/news/national-security/banning-tiktok-is-unconstitutional-the-supreme-court-must-step-in>. (To read about Mchangama’s Silha Lecture, see “Professor Jacob Mchangama Explores Decline in Free Speech at the 39th Annual Silha Lecture” in the Fall 2024 issue of the *Silha Bulletin*.)

TikTok and ByteDance first filed a petition for review of the law with the U.S. Court of Appeals for the District of Columbia Circuit on May 7, 2024. Although normally, litigation begins at the district court, the Act contains a provision that grants exclusive and original jurisdiction over actions arising from the Act to the D.C. Circuit, meaning that the Circuit Court, which is normally a court of appeal, gets to hear the case first. A group of TikTok creators filed a separate petition one week later. The D.C. Circuit consolidated the cases. In an opinion released on Dec. 6, 2024, the D.C. Circuit held the law was constitutional because it was supported by a compelling government

interest — national security — and was narrowly tailored to further that interest. The D.C. Circuit’s full opinion is available here: <https://media.cadc.uscourts.gov/opinions/docs/2024/12/24-1113-2088317.pdf>. For more information about the passage of the Act and TikTok’s petition for review at the D.C. Circuit, see “TikTok Challenges Federal and State Attempts to Ban the App Based on Data Privacy and Propaganda Concerns” in the Winter/ Spring 2024 issue of the *Silha Bulletin*.

The case’s expedited timeline was atypical for the Supreme Court. Usually, litigants who wish to appeal to the Court file a petition for a writ of *certiorari* — a request for the Court to review a decision — within 90 days of entry of the final judgment from the highest appellate court available to them. The justices then consider the petition, with no set time period to decide whether to hear the case or not. If the Court grants review, briefing begins again, and the case is heard at least a few months later. More information on the Court’s *certiorari* process is available here: <https://www.scotusblog.com/election-law-explainers/the-certiorari-process-seeking-supreme-court-review/>.

As recounted in the Supreme Court’s opinion (which was *per curiam*, meaning the author was not identified), the petitioners TikTok and ByteDance filed an application for an injunction blocking the ban, pending the Supreme Court’s review of the merits, on Dec. 16, 2024, ten days after the D.C. Circuit’s decision. The Court treated the application as a petition for a writ of *certiorari* and agreed to hear the case. Oral argument took place on Jan. 10, 2025, and the decision was released seven days later.

The first question considered by the Supreme Court was whether the Act is subject to First Amendment scrutiny. The plaintiffs argued that the Act is effectively a ban on TikTok, and this ban burdens various First Amendment activities, such as content moderation, as well as generation and access to a certain medium of expression. The Court acknowledged that it has not created a clear test for assessing “whether a regulation of non-expressive activity that disproportionately burdens those engaged in expressive activity triggers heightened review.” The Court concluded that there is no need to craft a test in this case, and assumed that the challenged provisions of the Act are

subject to First Amendment scrutiny.

The next question addressed by the Court was what level of scrutiny the law should receive. The answer turned on whether the Act was a content-based or content-neutral restriction of speech. Typically, courts apply a more exacting standard — known as strict scrutiny — when evaluating content-based speech regulations. In order for laws subject to strict scrutiny to pass constitutional muster, they must be supported by a compelling government interest and be narrowly tailored to meet that interest. The D.C. Circuit did not rule on which level of scrutiny applied to the Act. Rather, it assumed that strict scrutiny applied and held that the Act satisfied this standard. Because strict scrutiny is the most demanding form of First Amendment review, and the Act satisfied this standard, the appeals court concluded that there was no need to determine whether the Act should have been subject to a more permissive standard of review.

However, the Supreme Court held that strict scrutiny was not the proper standard of review because the Act was content-neutral. Further, the Court held that the law was content-neutral even though it targeted specific speakers. The Court explained: “laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference,” (quoting *Minneapolis Star & Tribune Co. v. Minnesota Comm’r of Revenue*, 460 U. S. 575, 585 (1983)). But, this scrutiny is not warranted when “the differential treatment is ‘justified by some special characteristic of’ the particular [speaker] being regulated.” The Act, the Court held, specifically its provisions requiring divestiture and the Tik-Tok specific ownership prohibition, “regulate[s] TikTok based on a content-neutral data collection interest.” That interest, said the Court, is the “purpose of preventing a foreign adversary from accessing the sensitive data of 170 million U.S. TikTok users.”

Thus, because the Act was content-neutral, the Court held that it would be subject to intermediate scrutiny. For a law to satisfy intermediate scrutiny, according to the Court, it must further an important government interest and “not burden substantially more speech than necessary to further that interest.”

The Court held that the Act met this threshold. The Court identified the government's important interest in "preventing China, a foreign adversary, from using its control over ByteDance to capture the personal data of U.S. TikTok users." Further, the Court held the Act's imposition of a conditional ban, rather than an outright ban, satisfied the requirement that the law be narrowly tailored to achieving its important government objective.

However, while the D.C. Circuit and Supreme Court had been considering the Act, and following the election of Donald Trump to the presidency, a political movement was brewing to halt the ban. In the early evening hours of Jan. 18, 2025, one day before the ban was set to take effect, TikTok went dark for U.S. users. A message on the app read: "Sorry, TikTok isn't available right now. A law banning TikTok has been enacted in the U.S. Unfortunately, that means you can't use TikTok for now. We are fortunate that President Trump has indicated that he will work with us on a solution to reinstate TikTok once he takes office. Please stay tuned!" According to the *Associated Press (AP)*, early the next morning, the app returned. A message greeted users when they opened their app: "Thanks for your patience and support. As a result of President Trump's efforts, TikTok is back in the U.S.!" The *AP*'s reporting on the app's short blackout and return is available here: <https://apnews.com/article/trump-tiktok-ban-da11df6d59c17e2c17eea40c4042386d>

TikTok CEO Shou Chew had previously praised President Trump and stated that TikTok's fate depended on him. On Jan. 17, 2025, he posted a video statement on X in which he said: "On behalf of everyone at TikTok and all our users across the country, I want to thank President Trump for his commitment to work with us to find a solution that keeps TikTok available in the United States. We are grateful and pleased to have the support of a president who truly understands our platform." The video is available online here: <https://x.com/TikTokPolicy/status/1880307506532212783>. Chew also attended President Trump's inauguration, alongside tech executives Mark Zuckerberg, Jeff Bezos, and Elon Musk in January 2025. Reporting on Chew at the inauguration is available here: <https://financialpost.com/news/tiktok-ceo-joins-trumps-inauguration>.

On Jan. 20, 2025, the day of his inauguration, President Trump issued an executive order directing the Attorney General not to pursue enforcement of the Act for 75 days from the date of the order — until April 4. In the executive order, President Trump wrote that he intended to consult with advisors to devise a resolution that "protects national security while saving a platform used by 170 million Americans." The full executive order, titled "Application of Protecting Americans from Foreign Adversary Controlled Applications Act to TikTok" is available online here: <https://www.whitehouse.gov/presidential-actions/2025/01/application-of-protecting-americans-from-foreign-adversary-controlled-applications-act-to-tiktok/>.

The legality of President Trump's executive order is unclear. Days before the order was issued, Sarah Kreps, director of Cornell University's Tech Policy Institute, said that there was no evidence ByteDance had made any meaningful progress toward divestiture. "Further, an Executive Order cannot legally override or cancel a law that Congress passed," she stated. "Laws enacted through the legislative process have a higher legal standing and an EO that conflicts with the existing law, the law takes precedence and the EO would likely be struck down by the courts." Additionally, one day before the release of President Trump's executive order, Sen. Tom Cotton (R-Ark.), chair of the Senate Intelligence Committee, said that there was no legal basis for the extension Trump was pursuing. Kreps's and Cotton's statements are available here: <https://apnews.com/article/trump-tiktok-ban-da11df6d59c17e2c17eea40c4042386d>.

Although Apple and Google had removed TikTok from their app stores on Jan. 19, 2025, the day the Act went into effect, TikTok returned to mobile app stores in the United States on Feb. 13, 2025. According to reporting from NPR, TikTok's return to app stores occurred after Apple and Google received a letter from Attorney General Pam Bondi which stated that the Trump administration would not prosecute the companies for supporting TikTok. Despite Bondi's reassurance, Georgetown University Law Professor Anupam Chander told NPR that, by making TikTok available on their app stores, Apple and Google may still be in violation of U.S. law. "You now have some of the biggest corporations

in the world accepting the word of the Trump Justice Department that this statute won't be weaponized against them," said Chander. "This could help them stay on the good side of the Trump administration and address the financial hit they're taking by not hosting TikTok on app stores." NPR further reported that Oracle, Microsoft, and other American investors were working on a bid to purchase TikTok's U.S. operation, with guidance from the White House. Other reported interested buyers include Los Angeles Dodgers owner Frank McCourt and prolific YouTuber James Stephen "Jimmy" Donaldson, known as "Mr. Beast." NPR's full report is available here: <https://www.npr.org/2025/02/13/nx-s1-5273651/tiktok-is-back-apple-google-app-stores>.

On April 4, 2025, the White House extended the order against enforcement of the Act through June 19, 2025. The extension stated that "even after the expiration of the above-specified period, the Department of Justice shall not take any action to enforce the Act or impose any penalties against any entity for any conduct that occurred during the above-specified period or any period prior to the issuance of this order." The extension of the original executive order is available here: <https://www.whitehouse.gov/presidential-actions/2025/04/extending-the-tiktok-enforcement-delay/>.

As the *Bulletin* went to press, TikTok's future in the United States remained uncertain. *The New York Times* reported in early May on the company's annual pitch to marketers, and noted that, at least publicly, the app had once again begun to emphasize business concerns in its outreach to users, signaling a return to normalcy. And although no buyout which would save TikTok from a U.S. ban has yet materialized, the company has until at least June 19 to make a deal. According to *The Times* report, Trump suggested that he would be likely to extend TikTok's reprieve again if no deal is reached before the deadline. *The Times* report is available here: <https://www.nytimes.com/2025/05/06/business/media/tiktok-advertisers-ban.html>.

— RYAN CLEMMONS
SILHA CENTER RESEARCH ASSISTANT

CNN Found Liable in Defamation Case; Reaches Settlement

On Jan. 17, 2025, CNN reached a settlement in a defamation case brought by U.S. Navy veteran Zachary Young. Young alleged that he was defamed during CNN's coverage of the evacuation of Afghans after the U.S. military withdrew from the

DEFAMATION

country in 2021. The settlement followed a Florida trial in which the jury awarded Young \$5 million in compensatory damages. The trial was set to continue into a second phase on additional punitive damages, but a settlement agreement was reached four hours after the initial jury verdict, ending the litigation. The full settlement agreement was not made public. Coverage of the suit is available here: <https://www.reuters.com/legal/cnn-found-liable-defaming-us-navy-veteran-who-helped-people-evacuate-afghanistan-2025-01-17/> and here: <https://www.washingtonpost.com/style/media/2025/01/17/cnn-defamation-afghanistan-withdrawal/>.

The defamation suit arose out of the complicated involvement of private individuals in the Afghan evacuation. In August 2021, after decades in Afghanistan, the U.S. military withdrew all forces from the country. This created significant chaos and violence as the Taliban reclaimed control of the country and people tried to flee. For instance, as some tried to leave the country on Aug. 26, 2021, a suicide bomber attacked an airport, killing 13 U.S. servicemembers and over 150 Afghans. The U.S. military evacuated over 120,000 people during the period leading up to Aug. 31, 2021. *The Washington Post* covered the evacuation and withdrawal in a 2021 article available online here: https://www.washingtonpost.com/national-security/us-afghanistan-longest-war-ends/2021/08/30/b56153ea-09b8-11ec-9781-07796ffb56fe_story.html. For additional coverage of the United States' withdrawal from Afghanistan and the resulting danger to journalists, see "Journalists Face Chaos and Crisis in Afghanistan" in the Fall 2021 issue of the *Silha Bulletin*.

As the *Associated Press (AP)* reported, following the evacuation of U.S. troops, which concluded on Aug.

30, 2021, contractors, private individuals, non-profits, and corporate sponsors continued to work to evacuate Afghans who had worked as military interpreters or who had otherwise aided the United States war-effort. These individuals were thought to be targets for Taliban retribution. One coalition made up of veterans' groups, national security professionals, and human rights groups known as the #AfghanEvac coalition started in 2021 and has resettled over 195,000 individuals, according to its website. Other organizations such as Task Force Argo and Allied Airlift 21 chartered evacuation flights out of Afghanistan. The *AP* report on the evacuation of Afghanistan is available online here: <https://apnews.com/article/afghanistan-immigration-travel-lifestyle-kim-kardashian-west-346e0959989079e5fba109247967573c>. The #AfghanEvac website is available online here: <https://afghanevac.org>.

Although the groups assisting evacuation helped many people leave Afghanistan, they also sometimes lacked the organization and expertise to effectively resettle evacuees. For example, CNN reported in 2023 about thousands of Afghans evacuated to the United Arab Emirates by private groups who ended up trapped in the UAE without any pathway to the United States or other countries. A U.S. Marine veteran who worked with the #AfghanEvac coalition said that although he was "proud of much of the work" the coalition did to help people fleeing the Taliban, the groups "sometimes, unfortunately, ma[de] things worse for vulnerable and at-risk people." The CNN article is available here: <https://www.cnn.com/2023/05/07/politics/afghan-evacuees-stuck-uae-private-evacuation/index.html>.

The private evacuation efforts largely lacked uniformity and oversight. *The Wall Street Journal* reported that one defense contractor offered seats on a plane for \$6,500 per person. That article went on to describe the private rescue efforts as "ad hoc, scattershot and, at times, divisive." An article from *Defense One*, a defense and security news outlet, described a veterans group that broke off from the #AfghanEvac coalition because of the coalition's "rogue approach" to evacuate people without waiting for State Department or other

approval. A State Department Official told *Defense One* that "there have been significant challenges with some of these privately organized flights," and said independent actors could risk long-term plans for getting people out. The CNN article is available here: <https://www.wsj.com/articles/in-kabul-private-rescue-efforts-grow-desperate-as-time-to-evacuate-afghans-runs-out-11629875097>. The *Defense One* article is available here: <https://www.defenseone.com/threats/2022/01/private-group-keeps-afghanistan-evacuations-flying-despite-ground-halt/360591/>.

Zachary Young's lawsuit stemmed from CNN's coverage of his role in the evacuation. In August 2021, Young, a U.S. Navy veteran and consultant to several Defense Department contractors, became involved in the evacuation efforts. In the complaint he later filed against CNN, Young stated that he "recognized an urgent and unfilled need for someone with his experience and contacts to help American and European multinational corporations and NGOs extract their former employees and specific high-risk Afghans trapped inside Afghanistan." Attempting to find those employees in need of rescue, Young posted the following statement on LinkedIn: "If you are a sponsor, WITH FUNDING, serious to evacuate people from Afghanistan on short notice, please reach out." According to the complaint, Young then began contracting with several corporations and NGOs to connect with his contacts in Afghanistan to evacuate people. Young claimed that he never encouraged individual Afghans to get in touch with him, and that he only sought to reach out to organizations with funding. He further stated that he never advertised to, took money from, or worked directly with Afghans trying to flee. Complaint, *Young v. Cable News Network, Inc.*, No. 22000608CA (Fla. Cir. Ct., dismissed Feb. 11, 2025).

In November 2021, CNN covered the evacuation on "The Lead with Jake Tapper." Tapper and fellow reporter Alex Marquardt introduced the segment, saying that "Afghans trying to get out of the country face a black market full of promises, demand of exorbitant fees, and no guarantee of safety or success." Young was then identified by name and

CNN, continued on page 34

photo as a security contractor involved in the evacuations. Although Young was never directly accused of illegal activity or operating in a black market, he was the only named contractor, and a chyron reading “AFGHANS TRYING TO FLEE TALIBAN FACE BLACK MARKETS, EXORBITANT FEES, NO GUARANTEE OF SAFETY OR SUCCESS” appeared at the bottom of the screen while Young’s operation was described. During the segment, CNN displayed a message between Young and someone inquiring about his help with evacuation in which Young stated that he was charging \$75,000 for a 5-6 passenger vehicle to be used in an evacuation. CNN also displayed additional messages in which Young offered evacuation services for thousands of dollars per person. Young would later testify at trial that he took a 65% profit margin from the evacuation fees he charged.

On March 31, 2022, Young sued CNN for defamation in federal court in the Southern District of Florida. The complaint included a second plaintiff, Nemex Enterprises, the company through which Young conducts “all of [his] business activities” as the principal and president of Nemex. Although the suit raised only state law defamation claims, the complaint alleged that diversity jurisdiction existed under 28 U.S.C. § 1332. This law allows state law claims to be heard in federal court when the parties are all citizens of different states (“diversity of citizenship”) and the amount in controversy exceeded \$75,000. In the complaint, Young alleged that CNN “recklessly and maliciously destroyed Young’s hard-earned reputation and his livelihood.” The complaint further argued that CNN had failed to give Young a reasonable chance to counter the claims as he was notified of the segment only two hours before it aired. Complaint, *Young v. Cable News Network, Inc.*, No. 22-CV-80527, 2022 BL 246404 (S.D. Fla. dismissed July 14, 2022).

On June 17, 2022, Young and Nemex filed a motion to dismiss their suit in federal court for lack of jurisdiction. In the motion, the plaintiffs stated that they “filed this case in Federal Court because they believed the parties completely diverse” based on Young being domiciled in Austria, Nemex in Florida, and CNN in Georgia. The motion argued that upon further review, Young’s residence abroad

made him “stateless,” which destroyed diversity jurisdiction and required the Plaintiffs to refile the case in state court, which they had done on June 15, 2022. Plaintiff Motion to Dismiss, *Young v. Cable News Network, Inc.*, No. 22-CV-80527, 2022 BL 246404 (S.D. Fla. dismissed July 14, 2022); *Young v. Cable News Network, Inc.*, No. 22-CA-608 (Fla. Cir. Ct. dismissed Feb. 11, 2025).

On June 28, 2022, CNN filed a motion opposing dismissal, arguing that despite Young’s residence in Austria, his domicile for purposes of diversity jurisdiction remained in the United States. CNN based this conclusion on the fact that Young voted in Florida, was the registered agent of the Florida company Nemex, and owned a residence in Colorado where his family appeared to reside. In the motion, CNN requested permission to conduct jurisdictional discovery to determine whether the suit could remain in federal court. Defendant Opposition to Motion to Dismiss, *Young v. Cable News Network, Inc.*, No. 22-CV-80527, 2022 BL 246404 (S.D. Fla. filed Mar. 31, 2022).

On July 14, 2022, the district court granted the Plaintiffs’ motion to dismiss. The court found that “all undisputed evidence before the Court indicates that Plaintiff Zachary Young is domiciled in Austria and is therefore ‘stateless’ for purposes of diversity jurisdiction” and could not “satisfy the complete diversity requirement to maintain federal subject matter jurisdiction.” Because Young’s lawsuit raised only state law claims, and there was no question of federal law, the matter was properly litigated in state court. *Young v. Cable News Network, Inc.*, No. 22-CV-80527, 2022 BL 246404 (S.D. Fla. July 14, 2022).

On June 15, 2022, while the motion to dismiss in federal court was pending, the plaintiffs filed a complaint in the Circuit Court of the 14th Judicial Circuit for Bay County, Fla. Seventy-three percent of Bay County voted for Donald Trump in the 2024 election, and the judge assigned to the case, William S. Henry, was appointed by Florida Gov. Ron DeSantis (R). *The Washington Post* described the state court venue as advantageous for Young because “Trump supporters largely view CNN unfavorably,” the county contains several military bases, and Young is a veteran. This suggested that Young might benefit from a favorable jury if the case went to trial. This sentiment was echoed by David A. Logan, professor emeritus

at the Roger Williams School of Law, who *The Post* quoted as saying: “You can hardly imagine this case being in a worse place for CNN given this plaintiff, this allegation and this likely jury pool.” *The Post* article is available here: <https://www.washingtonpost.com/style/media/2025/01/06/cnn-defamation-trial-florida/>; Complaint, *Young v. Cable News Network, Inc.*, No. 22-CA-608 (Fla. Cir. Ct. dismissed Feb. 11, 2025).

Leading up to the state court trial, the plaintiffs and CNN filed cross motions for summary judgment, arguing that there was no issue as to any material fact with respect to certain elements of the defamation claim, and that the court should therefore preemptively rule in their favor on the issue. In ruling on these motions, Judge William S. Henry determined in a Dec. 6, 2024 order that there were still material factual disputes that could be decided by a jury. Specifically, the judge held that there was a question as to whether CNN’s statement that Young operated on a “black market” was defamatory. The judge ruled that the decision should be made by a jury. This ruling also noted that CNN admitted that it had not uncovered illegal or criminal activity during its reporting, so there was no factual dispute about whether Young had acted illegally. Order on Plaintiffs’ Motion for Partial Summary Judgment, *Young v. Cable News Network, Inc.*, No. 22-CA-608 (Fla. Cir. Ct. October 22, 2024).

Though CNN was unable to resolve the case through summary judgment, or prevent the case from being removed to a potentially hostile state court, it did not initially settle, deciding instead to take the case to trial. In recent years, ABC News, Fox News, Newsmax, and One America have all settled defamation cases rather than going to a jury, making CNN’s decision to continue litigation notable. For instance, in 2023 Fox News settled with Dominion Voting Systems for \$787.5 million. *The Washington Post* discussed these suits in its reporting on the *Young v. CNN* trial: <https://www.washingtonpost.com/style/media/2025/01/17/cnn-defamation-afghanistan-withdrawal/>. (For more information on the Fox News and Dominion case, see Fox Defamation Suit Leads to Renewed Attention to Reporting Ethics in “Fox’s Election Coverage; NYT’s Backlash for “Inflammatory” Reporting; Risks Associated with the Rise of AI” and

“Dominion Lawsuit Against Fox Sparks Debate About Boundaries of Actual Malice” in the Winter/Spring 2023 issue of the *Silha Bulletin*.)

The Panama City jury trial lasted two weeks, during which time CNN reporters and producers testified about their reporting and newsgathering. The trial analyzed how the story made it on air and unearthed messages between CNN reporters about Young. In one message, Marquardt, one of the reporters who introduced the segment on Young, wrote that they were going to “nail this Zach Young mfucker.” Another message called Young a “shitbag,” and a third described Young as having a “punchable face.” When Marquardt testified on the stand, Young’s attorney questioned him about the broadcast production and accused him of participating in “theater” rather than journalism. Silha Center Director and Silha Professor of Media Ethics and Law Jane Kirtley spoke about the jury trial with *Variety*, noting that newsroom banter might not play well before a jury. “The jury is going to see how the sausage is getting made,” said Kirtley. “We make light of situations some people say we should take more seriously. We may speak about the subjects of a news story in less than respectful ways. All this is part of the give and take in a newsroom. If someone who is not a journalist reads these things and hears you talk about these things, it can be unfortunate.” The *Variety* article is available here: <https://variety.com/2025/tv/news/cnn-defamation-trial-juror-100-million-punitive-damages-fake-news-1236296834/>. Additional coverage of the trial is available here: <https://news.bloomberglaw.com/litigation/cnn-hit-with-5-million-defamation-verdict-in-florida-court> and here: <https://variety.com/2025/tv/news/cnn-defamation-trial-zachary-young-afghanistan-1236269283/>.

Young also took the stand and testified about the harm caused to his reputation, well-being, and future employment prospects. Young maintained that CNN’s reporting suggested he engaged in illegal and extortive conduct when in reality, he only worked with corporate and nonprofit sponsors and never took money from Afghans or violated any laws. Young cited the fact that his post soliciting evacuation inquiries had been on LinkedIn, a site for professionals, and he had explicitly stated that he was only looking to assist those “with funding.” CNN should have known therefore

that his actions were not extortionary, and its statements about him therefore constituted defamation. In his closing statement, Young’s attorney described the case as “historic” and told jurors: “A media company has to face an American jury with the power to punish. That is not a frequent event. Do you believe that CNN should be punished? Do you believe they should send a message to other media companies to avoid this misconduct?” Additional coverage on the

“We make light of situations some people say we should take more seriously. We may speak about the subjects of a news story in less than respectful ways. All this is part of the give and take in a newsroom. If someone who is not a journalist reads these things and hears you talk about these things, it can be unfortunate.”

— Jane Kirtley,
Silha Center Director and Silha Professor of
Media Ethics and Law

trial is available from NPR here: <https://www.npr.org/2025/01/17/nx-s1-5251209/cnn-defamation-afghanistan-evacuations-black-market>.

On Jan. 17, 2025, the jury awarded Young \$5 million in damages for lost business opportunities and pain and suffering. At the close of the trial, the plaintiffs’ attorney asked jurors to “send a message” to the news media. After the verdict, jury foreperson Katy Svitenko responded to written questions from *Variety* that: “The message the jury wanted to send was to not only CNN but to all media that the general public is fed up with fake news and partial truths.” Svitenko also opined on the possibility of punitive damages: “[M]y personal opinion is that it could have been up to \$100 million. It had to be high enough to actually punish CNN and to get the attention of other media outlets as well.” One of Young’s attorneys also commented by email to *Variety*: “I think the jury sent the message we asked for: if media companies create theater in the newsroom, Americans will hold them accountable in the courtroom.” He went on to write, “I hope this case serves as a turning point — one that curbs sensationalism and brings journalism

back to center. Americans want facts, not theatrics. Give it to them.”

After the jury awarded the \$5 million award to compensate Young for harm suffered, the case was set to move to a second phase of trial on punitive damages. Shortly after the initial verdict was announced, however, the parties reached a settlement for an undisclosed amount. A CNN spokesperson gave a statement that despite the verdict and settlement, “We remain proud of our

journalists and are 100% committed to strong, fearless and fair-minded reporting at CNN, though we will of course take what useful lessons we can from this case.” CNN referenced that statement in its brief coverage of the verdict: <https://www.cnn.com/2025/01/17/media/cnn-defamation-trial-verdict/index.html>.

Since the settlement, Young has filed two additional state court defamation lawsuits in Bay County, Fla., the same judicial district as the CNN trial; both relate to other organizations’ reporting on CNN’s coverage of the Afghanistan evacuation. On March 28, 2025, Young sued *Puck News*, a digital media company, for its coverage of Young and the lawsuit against CNN. In the complaint, Young argues that *Puck* “accepted CNN’s framing of the person it wants Mr. Young to be, cast doubt on the verdict that vindicated him, and further damaged his reputation and business.” The complaint takes issue with *Puck*’s reporting on Young’s actions as well as analysis of how defamation claims may fare in red states with judges appointed by republicans. According to the complaint, *Puck* “defamed Mr. Young by implication when it stated that he might succeed because of ‘Ron DeSantis appointees reshaping Florida’s appellate courts [and] Trump allies positioned at the federal level.’” Young argues that “[t]his creates the impression that Mr. Young had brought a frivolous case and was buoyed by political forces and judicial bias, and that his lawsuit against

CNN, continued from page 35

CNN was a threat to the freedom of the press.” Young also alleged defamation based on *Puck’s* reporting that “CNN’s loss isn’t a stunner, although many may find it questionable whether the network’s reporters truly branded Young a criminal war profiteer, as he alleged. CNN’s real problem was geographical: the trial was set in Panama City, one of Florida’s deepest-red outposts.” The case remains pending in Bay County. *Young v. Puck News*, 25000297CA (Fla. Cir. Ct. filed Mar. 28, 2025).

Young also sued the *AP* over its coverage of Young’s role in evacuating Afghans after the fall of Kabul. The suit against the *AP* focused on an article that reported Young had “helped smuggle people out of Afghanistan,” alleging that using the word “smuggling” implies illegal conduct and is therefore *per se* defamatory. The complaint also alleged that the *AP* acted with actual malice because of their knowledge of the full context of the CNN lawsuit, including the October 2024 ruling on summary judgment which identified “no dispute as to material fact that Young did not act illegally or criminally.” This case also remains pending. *Young v. Associated Press*, 25000352CA (Fla. Cir. Ct. filed Apr. 11, 2025); see also Order on Plaintiffs’ Motion for Partial Summary Judgment, *Young v. Cable News Network, Inc.*, No. 22-CA-608 (Fla. Cir. Ct. October 22, 2024).

Young’s victory against CNN may influence the strategy of the news outlets in these other two defamation cases and could have broader implications in the current media landscape. Some outlets have reported that Young’s win as a defamation plaintiff against a news outlet may have added significance in

the current administration. With the hostility Trump has shown to the press, referring to the media as the “enemy of the people” and regularly labeling journalism as “fake news,” media entities may feel increasingly vulnerable to litigation and other threats. Trump is currently in settlement talks with CBS in his own defamation case, he has brought a defamation suit against the Pulitzer Prize board members for not rescinding awards for articles about

quoted by CNN and the *AP* about Young’s defamation case against CNN saying: “Everybody in the news media is on trial in this case.” She emphasized, “[t]his is not a great time to be a libel defendant if you’re in the news media. If we ever did have the support of the public, it has seriously eroded over the past few years.” Commentary on the possible future of defamation cases is available here: <https://www.theguardian.com/media/2025/jan/20/cnn-defamation-trial>,

“[T]his is not a great time to be a libel defendant if you’re in the news media. If we ever did have the support of the public, it has seriously eroded over the past few years.”

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2016 Russian election interference, and Trump is litigating against *The Des Moines Register* for a poll during the 2024 election that incorrectly projected a Kamala Harris victory in Iowa. As one commentator writing for *The Guardian* noted, “the cost of defending such suits is prohibitive, even if the case is ultimately thrown out. Such legal harassment, increasingly common across the world, can also taint the public’s view (‘there’s no smoke without fire’) of the press, further eroding already febrile trust in the media.” The author noted that the concern was especially pressing for nonprofit news organizations that don’t have the resources to litigate.

Silha Center Director and Professor of Media Ethics and Law Jane Kirtley was

<https://apnews.com/article/cnn-libel-afghanistan-navy-e16bbe8fba552f9e46e64e0e262b96a5>, <https://www.adweek.com/tvnewser/cnn-defamation-case-verdict-explained/>, here <https://www.newsweek.com/president-donald-trump-defamation-pulitzer-prize-board-florida-jurisdiction-2031353>, and here <https://www.theguardian.com/commentisfree/2025/feb/14/trump-press-journalists-enemy>. For more information about Trump’s other lawsuits against media entities, see “Trump Sues CBS Over *60 Minutes* Story, Threatens CBS Parent Company’s Merger with Skydance” on page 7 of this issue of the *Silha Bulletin*, and “Trump Sues *Des Moines Register*, Continuing Attack on Media Outlets that Publish Unfavorable Coverage” on page 10 of this issue of the *Silha Bulletin*.

— ALEX LLOYD
SILHA CENTER RESEARCH ASSISTANT

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Trump Settles Defamation Suit With ABC

On Dec. 13, 2024, then-President-Elect Donald Trump and *ABC News* settled a defamation claim stemming from an ABC anchor's misstatement that Trump had been found civilly liable of raping the writer E. Jean Carroll. According to the settlement

DEFAMATION

agreement, ABC agreed to contribute \$15 million to Trump's presidential library. According to the *Associated Press* (*AP*), the network also agreed to pay \$1 million in legal fees to the law firm of Trump's attorney. Trump's suit, and the subsequent settlement, are indicative of a worrying trend of the president suing news networks and media organizations whose coverage displeases him, or that he deems erroneous. Whatever the validity of Trump's claims, the resulting litigation has the potential to inflict significant financial burdens on the media and potentially chill negative coverage of the president. The *AP* report is available here: <https://apnews.com/article/abc-trump-lawsuit-defamation-stephanopoulos-04aea8663310af39ae2a85f4c1a56d68/>.

The events that gave rise to Trump's suit occurred on March 10, 2024, when ABC aired an interview by George Stephanopoulos with Rep. Nancy Mace (R-S.C.). Mace had spoken publicly about her experience as a rape victim. The interview followed a 2023 verdict in the U.S. District Court for the Southern District of New York in which Trump was found civilly liable for sexually assaulting the writer E. Jean Carroll, and a January 2024 verdict in the same court in which Trump was found liable for defaming Carroll. Although the juries in both cases found that there was insufficient evidence to conclude that Trump had committed rape as defined under the New York Penal Code, Stephanopoulos repeatedly stated while interviewing Mace that Trump had been found civilly liable for rape. Stephanopoulos went on to ask Mace how, as a rape survivor, she could continue to support Trump given these findings. Stephanopoulos's interview with Mace is available here: <https://abcnews.go.com/Politics/nancy-mace-defends-support-trump-after-found-liable/story?id=107964612>. For additional *Bulletin* coverage of the E. Jean Carroll defamation suit, see *Federal Judge Dismisses Trump Countersuit Against*

Rape Accuser in "Courts Continue to Grapple with Defamation Cases Involving Sarah Palin, Former President Trump, and Election Misinformation" in the Winter/Spring 2022 issue of the *Silva Bulletin*; and *Jury Rules Against Trump in Defamation Trial; Second Suit Postponed Indefinitely* in "Former President Donald Trump Involved in Lawsuits Regarding Access, Copyright, and Defamation" in the Winter/Spring 2023 issue; and *Carroll's Defamation Suit Against Trump Set for Trial in 2024; Jury to Remain Anonymous* in "Former President Donald Trump's Defamation Cases Persist Amid Campaign, Criminal Charges" in the Fall 2023 issue.

According to *Reuters*, the day after the interview, March 11, Trump filed a defamation lawsuit against ABC, *ABC News*, and Stephanopoulos in the United States District Court for the Southern District of Florida, Miami Division. Trump claimed in the complaint that jurisdiction and venue were proper because ABC conducted significant business in the state and the interview had aired in the district. Further, Trump and the defendants were citizens of different states, and the amount in controversy exceeded \$75,000, meaning, by statute, Trump had a right to bring the suit in federal court. See 28 U.S.C. § 1332. The complaint stated that following the interview, Trump's representatives reached out to ABC to clarify that Trump had not been found liable for rape. Despite this, ABC did not change the substance of its online articles covering the interview, which continued to include Stephanopoulos's statements that Trump had been found liable for rape. ABC did, however, change the title of the article in question to reflect the fact that Trump had been found liable for sexual assault. The complaint went on to cite numerous instances of the Stephanopoulos interview being shared on social media to damaging effect. The complaint further argued that, because ABC and Stephanopoulos should have known the statements were false, the network and the anchor had acted with actual malice — which is the heightened standard of proof public figures must show to win defamation claims — by recklessly disregarding the truth. Trump requested a jury trial to decide the matter and sought actual and punitive damages. The *Reuters* article covering the defamation suit is available here: <https://www.reuters.com/legal/trump-sues-abc-defamation-over-report-citing-rape-case-2024-03-19/>.

The complaint in the defamation case is available here: <https://www.courtlistener.com/docket/68351681/1/trump-v-american-broadcasting-companies-inc/>.

During the summer of 2024, in the lead up to the presidential election, the defendants filed a motion to dismiss Trump's claim, but the motion was denied. Chief Judge Cecilia M. Altonaga held, on the basis of the pleadings alone, that Stephanopoulos's statements had not been substantially true. Although the actions for which Trump was found liable in the E. Jean Carroll case might colloquially have been understood as rape, Stephanopoulos was not referring to the popular understanding of the term but to the specific legal question on which the jury had ruled. Further, Altonaga held that Trump's claim was not barred by a judge's earlier ruling in the Carroll case that Trump had "digitally raped" Carroll because that finding pertained to a narrow legal definition and, again, did not reflect the reality of the jury verdict about which Stephanopoulos had spoken. Judge Altonaga's ruling on the motion to dismiss is available here: <https://www.courtlistener.com/docket/68351681/34/trump-v-american-broadcasting-companies-inc/>.

Following the defendants' failed motion to dismiss, the parties moved on to discovery, the process in a civil suit during which parties seek evidence from each other. The settlement agreement was reached mere days before Trump and Stephanopoulos were scheduled to testify at separate depositions in the case. According to the *AP* article cited above, the settlement amount of \$15 million will be considered a charitable donation and will be earmarked for a non-profit that is being established to facilitate the building of the Trump presidential library. An *ABC News* spokesperson said of the settlement: "We are pleased that the parties have reached an agreement to dismiss the lawsuit on the terms in the court filing." In addition to agreeing to pay the \$15 million towards the Trump presidential library and the \$1 million in attorney's fees, *ABC News* added an editorial note to its online story about Stephanopoulos's interview of Mace that stated: "ABC News and George Stephanopoulos regret statements regarding President Donald J. Trump made during an interview by George Stephanopoulos with Rep. Nancy Mace on ABC's *This Week* on March 10,

ABC, continued on page 38

ABC, continued from page 37

2024.” The article to which the editorial note was added included descriptions of Stephanopoulos’s questions and an acknowledgment that Trump contested Stephanopoulos’s characterizations, but also noted the judge’s statement in the E. Jean Carroll case that Trump’s actions would have been commonly understood as rape. The *ABC News* article, including the editorial note, is available here: <https://abcnews.go.com/Politics/nancy-mace-defends-support-trump-after-found-liable/story?id=107964612>.

Reactions from commentators and media watchdogs to ABC and Stephanopoulos’s decision to settle the dispute before trial were mixed. A *Politico* report on the settlement stated that “[m]any First Amendment advocates see the settlement as a capitulation by ABC that handed Trump both a lucrative victory and a legal roadmap.” David Schulz, director of the Media Freedom & Information Access Clinic at Yale Law School, who delivered the 29th annual Silha Lecture, told *Politico* that the decision to settle was “extremely troubling. It’s going to fuel the perception that the media is unfair to Trump and to incentivize more litigation — and more baseless litigation.” This statement was echoed by David Enrich, journalist and author of the book *Murder the Truth: Fear, the First Amendment, and a Secret Campaign to Protect the Powerful*, who stated in an interview with PBS that the settlement “sets a precedent . . . that . . . could embolden other political leaders, including Trump himself, to really double down on this tactic. The *Politico* report is available here: <https://www.politico.com/news/2024/12/17/media-lawyers-trump-lawsuits-fears-00194938>. Enrich’s statement to PBS is available here: <https://www.pbs.org/newshour/show/abc-news-settlement-with-trump-raises-concerns-about-press-freedom-in-his-2nd-term>. For more information on David Schulz’s Silha Lecture, see “29th Annual Silha Lecture Examines the Right to Access Government Information in the Wake of National Security and Privacy Concerns” in the Fall 2014 issue of the *Silha Bulletin*.

In a commentary published on *LAW.COM*, the New Jersey Law Journal editorial board wrote that the settlement “create[d] a bad precedent in uncertain times for a tattered and beaten news media under attack from many quarters.” The editorial board also argued that the settlement would encourage future abusive litigation from Trump, citing his suits of

the *Des Moines Register* related to an inaccurate poll, and of CBS stemming from the allegedly deceptive editing of a *60 Minutes* segment. The board argued that, by adversely affecting the bottom line of the parent companies of media organizations, Trump’s actions would chill speech. The editorial noted that this chilling effect was arguably already in evidence given the recent decisions of Jeff Bezos, owner of *The Washington Post*, and Patrick Soon-Shiong, owner of the *Los Angeles Times*, to moderate their papers’ editorial commentary. On this view, the ABC settlement could plausibly be interpreted as an attempt by ABC’s parent company, The Walt Disney Co., to preserve business opportunities during a second Trump term. Indeed, reporting suggests that similar suits brought by Trump against other news outlets, as well as actions brought by Trump’s FCC against news outlets, have the potential to impact media companies’ business decisions. The editorial board further argued that the decision to settle was troubling given the defendants’ chance at trial. The board noted that, under the actual malice standard, “it would have been quite difficult for [the defendants’] defenses to fail.” The *New Jersey Law Journal* editorial board commentary is available here: <https://www.law.com/njlawjournal/2025/01/24/abcs-16m-settlement-with-trump-sets-bad-precedent-in-uncertain-times/?srlreturn=20250522110541>. For more information on the impact of FCC investigations on media companies, see “Media Organizations Threatened With Regulation by New FCC Chair Brendan Carr; Funding for Public Broadcasting Also in Jeopardy” on page 16 of this issue of the *Silha Bulletin*.

Meanwhile, an article in *Politico Magazine* by Ankush Khardori, a former federal prosecutor, argued that ABC had “good legal reasons to settle with Trump.” Khardori noted that, although ABC could have won the case, it was “hardly a guarantee.” Although Trump’s burden to prove that the defendants acted with actual malice — meaning that they knew their statements were false or acted with reckless disregard for their falsity — would be difficult to surmount, ABC had failed to quickly publish a clarification when notified of the error. Further, Khardori noted that ABC could have feared that the release of its internal communications about the case obtained in discovery could have hurt the defendants’ chance of winning or damaged the networks’s

reputation. Finally, the defendants may have feared going before a jury in Florida, where support for Trump is high. Khardori distinguished the ABC case from Trump’s suit against the *Des Moines Register*, in which Khardori argued that Trump’s chance of success was “very low.” Khardori’s piece in *Politico Magazine* is available here: <https://www.politico.com/news/magazine/2024/12/21/abc-news-settlement-trump-media-threats-00195761>.

In an interview with the New York-based NTD Television Network, Silha Center Director and Professor of Media Ethics and Law Jane Kirtley acknowledged that Stephanopoulos should have been more precise when characterizing the jury verdict in the Carroll case, but nevertheless argued that Trump’s settlement with ABC was a loss for free speech. Kirtley noted that Trump’s success in the suit was far from certain, and that Stephanopoulos potentially could have claimed the fair report privilege by pointing to the judge’s statements in the Carroll case that Trump had raped Carroll as that term is commonly understood. However, Kirtley also observed that, although journalism organizations tend not to settle defamation cases for fear of setting a bad precedent, ABC, probably at Disney’s direction, has appeared more willing to settle such cases in the past. Kirtley was also quoted in the above cited *Politico* piece, and commented that, whatever ABC’s motivations for settling, the timing — directly after Trump’s reelection — made it seem as though the network was acting out of “fear of retaliation by Trump.” Kirtley’s interview with *NTD News* is available here: https://www.ntd.com/abc-agrees-to-pay-15-million-to-trumps-presidential-library-legal-analysts-weigh-in_1034977.html.

Whether Trump’s settlement with ABC will lead to further litigation against news and media outlets remains to be seen. For more information on Trump’s suit of the *Des Moines Register*, see “Trump Sues *Des Moines Register*, Continuing Attack on Media Outlets that Publish Unfavorable Coverage” on page 10 of this issue of the *Silha Bulletin*. For more information on Trump’s suit of CBS, see “Trump Sues Over CBS *60 Minutes* Story, Threatening CBS Parent Company’s Merger with Skydance” on page 7 of this issue of the *Silha Bulletin*; and “Trump Accuses *60 Minutes* of Deceptive Editing, Prompting Journalism Ethics Questions” in the Fall 2024 issue of the *Silha Bulletin*.

— STUART LEVESQUE
SILHA BULLETIN EDITOR

Former New York Mayor Rudy Giuliani Settles With Georgia Election Workers He Defamed

On Jan. 16, 2025, Rudy Giuliani reached a settlement agreement in the defamation case brought against Giuliani by two Georgia poll workers in 2021. Although the full settlement details have not been released, Giuliani will be able to retain certain property and

DEFAMATION

belongings as part of the agreement. Giuliani was found liable at trial in December 2023 for defaming the two Georgia poll workers, accusing them of tampering with the 2020 presidential election. He has since resisted the damages award by filing for bankruptcy, not appearing in court, failing to turn over documentation, and continuing to defame the plaintiffs. In January 2025, Giuliani was held in contempt of court by two different judges in one week for failing to respond to information requests and continuing to defame the two election workers. In the January 16 settlement letter filed with the United States District Court for the Southern District of New York, the parties jointly requested future court appearances be adjourned “to permit the Parties to fully implement the Agreement.”

The defamation suit was originally filed on Dec. 23, 2021, in the U.S. District Court for the District of Columbia. Two Fulton County, Georgia poll workers, Ruby Freeman and Wandrea “Shaye” Moss, sued the conservative One America News Network (OAN), its officials, and Giuliani for defamation. In their complaint, Freeman and Moss cited statements made by Giuliani and published by OAN claiming that a video of Freeman and Moss showed them fraudulently processing ballots in favor of former President Joe Biden. Freeman and Moss accused Giuliani of making false and defamatory statements that they had committed voter fraud and illegally helped Biden win the state of Georgia in 2020. Because of Giuliani’s statements, Freeman and Moss, two Black women, said they were subjected to “violent and racist threats and harassment.” Freeman and Moss reached a settlement with OAN in 2022, leaving Giuliani as the sole defendant in the case. The full text

of the original complaint is available online at: <https://storage.courtlistener.com/recap/gov.uscourts.dcd.238720/gov.uscourts.dcd.238720.1.0.pdf>. *Freeman v. Giuliani*, 691 F. Supp. 3d 32 (D.D.C. 2023). For more information on the defamation suit, see “Rudy Giuliani Found Liable for Defamation in Georgia Poll Workers’ Suit” in the Summer 2023 issue of the *Silha Bulletin*.

In August 2023, Judge Beryl A. Howell granted the plaintiffs’ motion for default judgment, finding Giuliani liable for defamation, and imposed \$132,000 in sanctions for failing to comply with what the judge described as “basic” discovery obligations. The judge also ordered a jury trial to determine the amount of compensatory and punitive damages owed by Giuliani. The full text of Judge Howell’s opinion finding Giuliani liable for defamation and imposing sanctions is available online at: https://storage.courtlistener.com/recap/gov.uscourts.dcd.238720/gov.uscourts.dcd.238720.94.0_1.pdf.

On Dec. 15, 2023, a jury reached a damages verdict after a four-day trial and awarded \$148 million in damages to Moss and Freeman. The *Associated Press (AP)* reported that during the trial, jurors “heard recordings of Giuliani falsely accusing the election workers of sneaking in ballots in suitcases, counting ballots multiple times and tampering with voting machines.” They also heard “audio recordings of the graphic and racist threats the women received.” The *AP*’s coverage of the trial is available here: <https://apnews.com/article/giuliani-2020-election-georgia-defamation-moss-freeman-6f6446c4f5224f521db8ff7763fb12d1>. *ABC News* coverage of the trial is available here: <https://abcnews.go.com/US/live-updates/giuliani-defamation-trial?id=105479446>.

On Dec. 18, 2023, Freeman and Moss filed an action for injunctive relief in the United States District Court for the District of Columbia in an attempt to permanently bar Giuliani from continuing to defame them. The complaint noted that Giuliani had been found liable for defamation in *Freeman et al. v. Giuliani*, No. 21-cv-3354 (D.D.C.) (“*Freeman I*”). It also highlighted a Dec. 11, 2023, press conference in which Giuliani was asked

about his actions and told reporters that “of course I don’t regret it. I told the truth. They were engaged in changing votes” and “everything I said about them is true.” The video of Giuliani’s December 11 statements is available here: <https://www.youtube.com/watch?v=2W3Emyp14U0>. The injunction case, also before Judge Howell, is *Freeman et al v. Giuliani*, Docket No. 1:23-cv-03754 (D.D.C. filed Dec 18, 2023) (“*Freeman II*”). Giuliani eventually consented to the injunction and agreed to no longer make any claims about the plaintiffs. Coverage of the injunction from *The Washington Post* is available here: <https://www.washingtonpost.com/politics/2024/05/21/giuliani-georgia-defamation-agreement/>.

On Dec. 21, 2023, less than a week after the jury verdict awarding damages, Giuliani filed for bankruptcy, which immediately stayed the requirement that he pay damages and the ability to file post-trial motions. Giuliani, however, filed for an exception from that stay to allow him to immediately appeal the defamation case while leaving in place the stay for any payment to Moss and Freeman. In a motion opposing this tactic, Freeman and Moss’s lawyers wrote that “Mr. Giuliani is looking to have his cake and eat it too: he wants to appeal the Freeman Litigation, not post a bond, and use the automatic stay to bar Ms. Freeman and Ms. Moss from enforcing their judgment.” The *AP* reported on the Giuliani bankruptcy filing, noting that one of the plaintiffs’ lawyers accused Giuliani of using bankruptcy as a “bad-faith litigation tactic” and a “pause button on his woes.” The opposition motion to Giuliani’s stay motion is available here: <https://storage.courtlistener.com/recap/gov.uscourts.nysb.319064/gov.uscourts.nysb.319064.50.0.pdf>. The bankruptcy case is *In re Rudolph W. Giuliani*, No. 1:23-bk-12055 (Bankr. S.D.N.Y. filed Dec 21, 2023).

On Feb. 20, 2024, U.S. Bankruptcy Judge Sean Lane granted Giuliani’s motion and allowed him to move forward with post-trial motions in the *Freeman* case. On Feb. 22, 2024, Giuliani appealed the *Freeman I* jury verdict in the District of Columbia U.S. Circuit Court of Appeals. Initially the

Giuliani, continued on page 40

Giuliani, continued from page 39

appeal was permitted to go forward, but in May 2024, the federal appeals court held the appeal in abeyance pending a decision on the bankruptcy proceedings. Coverage from *Bloomberg* on Judge Lane's decision to lift the stay is available here: <https://www.bloomberglaw.com/product/blaw/bloomberglawnews/bloomberg-law-news/XC8SMCM800000#jcite>. The appeals case is *Freeman, et al v. Giuliani*, 24-7021 (D.C. Cir. filed Feb. 20, 2024).

The bankruptcy matter was ultimately dismissed on July 12, 2024, and the ruling included a one-year filing bar to prevent Giuliani from immediately filing another bankruptcy action. In the dismissal decision, Judge Lane criticized Giuliani's lack of transparency and failure to comply with disclosure requirements for the bankruptcy proceedings. The case is *In re Giuliani*, 661 B.R. 493 (Bankr. S.D.N.Y. 2024). The *AP*'s coverage is available here: <https://apnews.com/article/giuliani-bankruptcy-freeman-moss-2020-election-3cf8d70d1dc2608705c9f938bbb8941d>. Additional coverage of the bankruptcy case is available here: <https://www.axios.com/2024/01/18/georgia-election-workers-giuliani-bankruptcy>.

After the bankruptcy matter concluded, the appeal of the *Freeman I* jury verdict was able to continue and Moss and Freeman began the process of collecting the damages award. On Aug. 5, 2024, Moss and Freeman registered the D.C. judgment in the U.S. District Court for the Southern District of New York before Judge Lewis Liman. In a motion to enforce the judgment, the plaintiffs' lawyers argued an order should be entered to force Giuliani to give up "cash accounts, jewelry and valuables, a legal claim for unpaid attorneys' fees, and Mr. Giuliani's interest in his luxury Madison Avenue co-op apartment," and asked that the plaintiffs be appointed as receivers of Giuliani's Palm Beach, Fla. condo. Giuliani continued to contest the validity of the litigation. *The Guardian* quoted a Giuliani spokesperson as saying: "The appeal of the objectively unreasonable \$148 million verdict hasn't even been heard, yet opposing counsel continues to take steps designed to harass and intimidate Mayor Rudy Giuliani. This lawsuit has

always been designed to censor and bully the mayor, and to deter others from exercising their right to speak up and to speak out." The enforcement case is *Freeman et al v. Giuliani*, Docket No. 1:24-mc-00353 (S.D.N.Y. Aug 05, 2024) ("*Freeman III*"). The motion to enforce judgment is available here: <https://www.documentcloud.org/documents/25082908-83024-moss-freeman-memo-on-motion-to-enforce-judgment/>. *The Guardian* article is available here: <https://www.theguardian.com/us-news/article/2024/aug/30/georgia-election-workers-giuliani-assets-defamation-case>.

"This is a case of political persecution. There isn't a person [who] doesn't know the judgment is ridiculous."

— Rudy Giuliani

On Aug. 30, 2024, the plaintiffs filed to enforce a lien on Giuliani's Palm Beach condo, arguing that he could not establish the condo as his "homestead" to avoid using it to satisfy the judgment owed to Moss and Freeman. This case also was filed before Judge Liman, the judge overseeing the *Freeman III* enforcement litigation, in the Southern District of New York. The case about the Florida condo is *Freeman et al v. Giuliani*, Docket No. 1:24-cv-06563 (S.D.N.Y. Aug 30, 2024) ("*Freeman IV*")

In November 2024, Giuliani was ordered to begin complying with the settlement, with Judge Liman threatening to hold him in contempt if he did not surrender his assets. *Politico* reported that Giuliani turned over a Mercedes-Benz, watches, and a ring to the election workers even as he fought to hold onto other property and continued contesting the case on appeal. The *AP* reported that after the hearing, Giuliani claimed to be a victim of a "political vendetta" and told reporters: "This is a case of political persecution. There isn't a person [who] doesn't know the judgment is ridiculous." *The New York Times* reported that Giuliani referred to Donald Trump's victory in the presidential election and told reporters "Mr. Trump doesn't have to help me get out of it. All Mr. Trump has to do is straighten out the legal system. Then you'll find out who the real criminals are." Defamation in this case is a civil

matter, and President Trump has no power to have private civil suits dismissed. The *AP* article is available here: <https://apnews.com/article/giuliani-defamation-georgia-election-workers-apartment-a91af3224630052f97328623f6acbde6>. The *Politico* article is available here: <https://www.politico.com/news/2024/11/15/rudy-giuliani-down-payment-00189990>. *The Times* article is available here: <https://www.nytimes.com/2024/11/07/nyregion/rudy-giuliani-court-hearing.html>.

On Nov. 13, 2024, two of Giuliani's attorneys withdrew as counsel from the *Freeman III* damages enforcement

action and the *Freeman IV* Florida condo litigation. The withdrawal motion cited the Professional Rules 1.16(c)(4), (6) and (7) for attorneys

that allow lawyers to withdraw when clients take action the lawyer disagrees with, insist upon a claim or defense not supported by law, or fail to cooperate with representation. The attorneys originally attempted to file the motion under seal, but Judge Liman allowed a redacted version to be made public. Judge Liman cited a case holding that "each passing day where access to court-filed documents is improperly denied 'may constitute a separate and cognizable infringement of the First Amendment.'" In an article about the attorneys' motion to withdraw, *Law & Crime* described Giuliani's "rocky relationship" with Judge Liman and Giuliani's assertion that the judge, a 2019 Trump appointee, is an "activist democrat." The motion is available here: <https://storage.courtlistener.com/recap/gov.uscourts.nysd.626017/gov.uscourts.nysd.626017.110.0.pdf>. *Law & Crime* covered the motion to withdraw here: <https://lawandcrime.com/high-profile/judge-set-to-expose-mystery-behind-rudy-giulianis-lawyers-suddenly-quitting-in-defamation-case-from-election-workers-without-telling-their-client/>.

On Nov. 20, 2024, Moss and Freeman filed a motion in the D.C. District Court to have Giuliani held in contempt of court for violating the *Freeman II* Injunction. The plaintiffs cited Giuliani's continued assertions that Moss and Freeman interfered with the 2020 election. The motion alleged that Giuliani's "statements

repeat the exact same lies for which Mr. Giuliani has already been held liable, and which he agreed to be bound by court order to stop repeating. The Court should hold Mr. Giuliani in civil contempt and — following a hearing, if necessary — impose sanctions calculated to ensure Mr. Giuliani’s compliance with the Consent Injunction.” Judge Howell set an in-person hearing for Dec. 12, 2024. This motion was part of the case in the District of D.C. before Judge Howell, *Freeman II*, Docket No. 1:23-cv-03754 (D.D.C. filed Dec 18, 2023). *The Washington Post* covered this filing in an article available here: <https://www.washingtonpost.com/national-security/2024/11/20/giuliani-election-workers-contempt/>.

Giuliani failed to file a response to the motion for contempt by the December 4 deadline. On Dec. 4, 2024, Judge Howell issued an order allowing Giuliani to show cause why the motion should not be granted, given that he had failed to file a response. The order stated that Giuliani was in civil contempt and the Dec. 12, 2024, hearing would now focus on the contempt sanctions. In response, Giuliani submitted a letter requesting an extension to file a response, which was promptly denied for failing to comply with procedural rules. Judge Howell wrote that the denial was appropriate “since even defendants without any legal training and proceeding pro se are required to comply with procedural rules, and this defendant, though pro se, has previously been a practicing attorney with a history of significant government legal positions.” This letter and the judge’s response were covered by *Newsweek* here: <https://www.newsweek.com/rudy-giuliani-federal-judge-defamation-case-ruby-freeman-shaye-moss-washington-1995953>.

On Dec. 5, 2024, Moss and Freeman filed an additional motion for contempt before Judge Liman in the *Freeman IV*

litigation over the Florida Condo. The motion also argued for discovery sanctions based on Giuliani’s failure to provide “a *single* document in response” to the Florida condo discovery requests. When the motion was filed, a trial on the status of the Florida condo was set for Jan. 16, 2025. That motion is available here: <https://storage.courtlistener.com/recap/gov.uscourts.nysd.627518/gov.uscourts.nysd.627518.106.0.pdf>. Coverage is available here: <https://lawandcrime.com/high-profile/severe-sanctions-are-warranted-defamed-election-workers-ask-judge-to-hold-him-in-contempt-for-violating-court-order-and-discovery-rules/>.

In January, the contempt motions before Judge Howell and Judge Liman in the District of Columbia and New York courts were resolved in favor of Moss and Freeman, with the two federal judges holding Giuliani in contempt. On Jan. 6, 2025, Judge Liman held Giuliani in contempt for failing to comply with discovery requests related to the Florida condo. The *AP* reported that Judge Liman said that Giuliani “willfully violated a clear and unambiguous order of this court” by ignoring a December discovery deadline. On Jan. 10, 2025, Judge Howell found that Giuliani had violated court orders by continuing to defame Moss and Freeman and, according to *AP* reporting, the judge warned Giuliani that he may face jail time if he continues spreading false claims. The *AP* article about Judge Liman’s contempt finding is available here: <https://apnews.com/article/rudy-giuliani-defamation-georgia-election-workers-5fe7787f42b4b89ef9d6df50bcde2efb>. The *AP* article about Judge Howell’s contempt finding is available here: <https://apnews.com/article/giuliani-contempt-georgia-election-defamation-74fa6e8e5543363dc45266ce453dcaa0>.

After the contempt findings, Giuliani and the two plaintiffs were able to reach

a settlement agreement. The settlement was announced after Giuliani failed to appear as a witness in the ongoing trial to determine whether he would have to give up his Florida condo. He later issued a statement that a resolution had been reached with the plaintiffs. Although the full details of the settlement were not made public, the agreement reportedly will allow Giuliani to keep his Florida condo and World Series rings in exchange for other payments to Moss and Freeman. CNN reported that in a post on X, Giuliani claimed he would keep “personal belongings” and emphasized that the “resolution does not involve an admission of liability or wrongdoing by any of the Parties.” *NBC News* published a statement from Freeman and Moss stating: “The past four years have been a living nightmare. We have fought to clear our names, restore our reputations, and prove that we did nothing wrong. Today is a major milestone in our journey. We have reached an agreement, and we can now move forward with our lives. We have agreed to allow Mr. Giuliani to retain his property in exchange for compensation and his promise not to ever defame us.” The CNN article is available here: <https://www.cnn.com/2025/01/16/politics/rudy-giuliani-georgia-election-workers-defamation-settlement/index.html>. The settlement letter filed with the court is available here: <https://storage.courtlistener.com/recap/gov.uscourts.nysd.626017/gov.uscourts.nysd.626017.242.0.pdf>. The NBC article is available here: <https://www.nbcnews.com/politics/politics-news/rudy-giuliani-florida-condo-world-series-rings-trial-defamation-rcna187881>.

— ALEX LLOYD
SILHA CENTER RESEARCH ASSISTANT

Mississippi Judge Vacates Order That Newspaper Remove Its Editorial

On Feb. 26, 2025, Mississippi Chancery Court Judge Crystal Wise Martin of Hinds County Chancery Court vacated her previous order which required a local newspaper, *The Clarksdale Press Register* (*The Press Register*), to remove an editorial

PRIOR RESTRAINT criticizing local officials. Judge Wise Martin vacated the order after city officials voted to abandon their libel lawsuit against *The Press Register*. An account of the events leading up to the lifting of the order is available here: <https://www.nytimes.com/2025/02/27/us/mississippi-judge-clarkdale-press-register.html>. The *Associated Press's* (AP) account of events is available here: <https://apnews.com/article/mississippi-newspaper-editorial-removed-judge-clarksdale-394b06f42dbf459eebedcaab27cc447c>

The editorial, published on February 8 and titled “Secrecy, deception erode public trust,” criticized the city of Clarksdale for not sending *The Press Register* notice of a meeting held by the city’s Board of Commissioners. At the meeting, city officials voted to push for a proposed tax on alcohol, marijuana, and tobacco in the Mississippi legislature. Mississippi law requires cities to notify the media via email when such meetings are held. *See* Miss. Code Ann. § 25-41-13(1)(b). The editorial asked, “[s]o why did the City of Clarksdale fail to go to the public with details about the idea before it sent a resolution to the Mississippi Legislature seeking a two-percent tax on alcohol, marijuana, and tobacco?” The editorial then suggested that city officials may have held the meeting without giving notice because “they just want a few nights in Jackson to lobby for this idea — at public expense.” The editorial, which is no longer available on *The Press Register's* website, is available here: <https://x.com/adamsteinbaugh/status/1892226594640412884>. The Mississippi law requiring notice of special meetings to news media can be found here: <https://www.ethics.ms.gov/title-25-chapter-41-open-meetings#25-41-5>.

Shortly after the editorial was published, on February 14, Clarksdale

city officials filed a petition for a temporary restraining order in the Chancery Court of Hinds County. *City of Clarksdale v. Delta Press Publ'g Co., Inc.*, No. 25CH1:25-cv-00152. The petition stated that the editorial “chilled and hindered” the Clarksdale mayor’s ability to lobby for legislation in Jackson, the state’s capital. The petition stated that the meeting was “properly noticed

“The implications of this case go beyond one Mississippi town censoring its paper of record. If the government can get a court order silencing mere questions about its decisions, the First Amendment rights of all Americans are in jeopardy.”

— David Rubin,
FIRE Attorney

by law,” but conceded that the city clerk admitted to failing to send notice to *The Press Register* via email. The petition asked the court (1) to issue a temporary restraining order preventing *The Press Register* from continuing to make the article available to the public or subscribers (2) to declare the editorial libelous and enjoin *The Press Register* from republishing the editorial and (3) to award the city monetary damages, attorney’s fees, and costs. The petition is available here: <https://www.thefire.org/sites/default/files/2025/02/Petition%20-%20City%20of%20Clarksdale%20v.%20Delta%20Press%20Publishing%20Co..pdf>.

In a two-page order issued on February 18, Judge Wise Martin granted the city’s request for a temporary restraining order. Judge Wise Martin granted the order without holding a hearing. Although the judge did not explicitly find the editorial libelous, the order stated: “The injury in this case is defamation against public figures through actual malice in reckless disregard of the truth and interferes with their legitimate function to advocate for legislation they believe would help their municipality during this current legislative cycle.” Judge Wise Martin also required *The Press Register* to remove the article from “their online portals and make it inaccessible to the public.” The temporary restraining order is

available here: <https://www.thefire.org/sites/default/files/2025/02/Temporary%20Restraining%20Order%20-%20City%20of%20Clarksdale%20v.%20Delta%20Press%20Publishing%20Co..pdf>.

Judge Wise Martin’s order was widely criticized by advocates for freedom of the press, within Mississippi and beyond. Layne Bruce, executive director of the Mississippi Press Association, said:

“This is a rather astounding order and we feel it is egregious and chilling. It clearly runs afoul of the First Amendment and we fully support the Press Register’s right to report and offer commentary on the business of Clarksdale’s

city government.” Vice president of legal programs at the Reporters Committee for Freedom of the Press, Lisa Zycherman, said that the order “constitutes censorship and is unquestionably a serious First Amendment violation.” But Clarksdale Mayor Chuck Espy, defending the suit, said: “We’re all for the press doing their job. We’re all for as much transparency as possible. Just tell the truth. I don’t think that’s too much to ask for.” Their statements are available here: <https://apnews.com/article/mississippi-newspaper-judge-editorial-removed-c0290c731da4e24799c0a62724f5da08>.

On February 26, after the city voluntarily dismissed its case against *The Press Register*, Judge Wise Martin issued an order vacating the temporary restraining order and dismissing the city’s suit with prejudice, permanently closing the matter. Clarksdale Mayor Chuck Espy had asked the city to drop the lawsuit, citing an offer from *The Press Register's* Owner, Wyatt Emmerich, to run clarifications. In a text exchange between Emmerich and Clarksdale’s city attorney, Emmerich reportedly offered to clarify that the lack of notification was not a deliberate attempt on the council’s part to hide the meeting. However, after the city dismissed its lawsuit, Emmerich said he made the offer before the city filed

suit, and the offer was no longer an option. Reporting on the correspondence between Espy and Emmerich is available here: <https://apnews.com/article/mississippi-newspaper-editorial-removed-judge-clarksdale-394b06f42dbf459eecedcaab27cc447c>. The Order dismissing the city's suit, with prejudice, is available here: <https://www.thefire.org/sites/default/files/2025/02/Dismissal%20Order%20-%20City%20of%20Clarksdale%20v.%20Delta%20Press%20Publishing%20Co..pdf>.

Before the city abandoned its lawsuit, The Foundation for Individual Rights and Expression (FIRE) had agreed to defend *The Press Register* and its parent company. FIRE attorney David Rubin commented, "The implications of this case go beyond one Mississippi town censoring its paper of record. If the government can get a court order silencing mere questions about its decisions, the First Amendment rights of all Americans are in jeopardy." He continued, "While we are relieved the city has voted to drop its vindictive lawsuit, it doesn't unring this bell. The Press Register is exploring its options to ensure that the city refrains from blatantly unconstitutional censorship in the future."

In commentary posted on FIRE's website, the organization stated that Judge Wise Martin's order was surprising, given that the city's lawsuit had "obvious and fatal flaws." The city's suit was doomed, according to FIRE,

"If asking whether a politician might be corrupt was libel, virtually every American would be bankrupt. For good reason, courts have long held that political speech about government officials deserves the widest latitude and the strongest protection under the First Amendment. That's true from the White House all the way down to your local councilman."

— Josh Bleisch,
FIRE attorney

because libel requires a false statement of fact. FIRE points out that here, the editorial was an opinion piece; the only statement of fact in the editorial — that the city failed to meet its legal obligation to inform the media about the

meeting — was confirmed by the city in its petition for a temporary restraining order. FIRE Attorney Josh Bleisch stated, "If asking whether a politician might be corrupt was libel, virtually every American would be bankrupt. For good reason, courts have long held that political speech about government officials deserves the widest latitude and the strongest protection under the First Amendment. That's true from the White House all the way down to your local councilman." FIRE's commentary on and account of the events is available here: <https://www.thefire.org/news/victory-mississippi-town-votes-drop-lawsuit-had-forced-newspaper-take-down-editorial>.

— RYAN CLEMMONS
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Please include "Silha Bulletin" in the subject line.

You may also call the Silha Center at (612) 625-3421.

Trump Administration Quashes Consent Decree Between Minneapolis and DOJ That Would Have Protected Press

On May 21, 2025, the Trump administration announced that it would no longer enforce a consent decree between the city of Minneapolis and the U.S. Department of Justice (DOJ) that was negotiated in the wake of a federal investigation of

ENDANGERED JOURNALISTS

police misconduct, including actions taken against journalists, following the murder of George Floyd in May 2020. The announcement followed a period of uncertainty about the consent decree's effect after the 2024 presidential election. On April 21, 2025, Judge Paul A. Magnuson of the U.S. District Court for the District of Minnesota granted the United States's request for a motion to stay proceedings related to the finalization of the consent decree. This was the third time the proceedings have been delayed at the federal government's request.

The consent decree is a court-enforceable agreement to reform police agencies. According to an *ABC News* report, the DOJ has used consent decrees to enforce the findings of so-called "pattern or practice" investigations, which were first authorized by the 1994 Violent Crime Control and Law Enforcement Act. These investigations are not criminal, but are intended to determine whether governmental entities engage in widespread and systematic discriminatory or unlawful behavior. Consent decrees are "settlements of the investigation findings that do not require admissions of guilt, but put in place a court-enforced improvement plan that requires agencies to meet specific goals before federal oversight of the agency is removed." In the past, consent decrees have been used to monitor mandated school desegregation and unconstitutional conditions in prisons. Critics of consent decrees argue that they are ineffective and costly, whereas proponents argue that they increase government accountability, and further, that any expense is offset by the resultant decrease in civil liability claims against government agencies and actors that results from federal oversight. The agreement between Minneapolis and the DOJ (which was one of several consent

decrees entered into by the Biden DOJ related to police misconduct; the DOJ also had a consent decree with the city of Louisville Ky., for example) required the Minneapolis Police Department (MPD) to meet certain goals before federal oversight would be removed. The Minneapolis City Council unanimously approved the 171-page agreement on Jan. 6, 2025. However, although the consent decree received approval from the city, it was not enforceable until signed by a federal judge. The *ABC News* report is available here: <https://abcnews.go.com/US/wireStory/federal-consent-decrees-police-reform-us-122051433>.

Negotiations for the consent decree between Minneapolis and the DOJ began in July 2024, about one year after the DOJ released its report on its investigation following George Floyd's murder in 2020. The consent decree, which spans 171 pages, required the MPD to reform its policing practices in various ways. For instance, the consent decree states that the MPD will require its officers to "promote the sanctity of human life as the highest priority in their activities," and must not allow race, gender or ethnicity to "influence any decision to use force, including the amount or type of force used." It mandates that the MPD review its use of force tactics and ban practices such as handcuffing children under 14, and that the MPD increase officer accountability through supervision requirements. In addition to general civil rights protections, the consent decree also includes heightened protections for journalists and those engaged in First Amendment activity. The decree states that the MPD will adopt and implement policies that will "facilitate the exercise of First Amendment rights of community members and journalists while enabling MPD to maintain public safety and order."

The consent decree specifically says that the MPD will prohibit retaliation by officers against any person engaging in First Amendment-protected activities. "Retaliatory intent" of the officer shall be assessed based on a "totality of the circumstances" test. The decree also sets out certain guidelines for responding to "First Amendment Events," which the order does not define. When responding to such events, the decree states that

the MPD will not deploy officers in riot gear or SWAT teams, except when MPD leadership deems it necessary to prevent loss of life, substantial bodily harm, or "widespread or catastrophic damage to property." Further, an order to disperse a crowd shall only be given when officers have "meaningfully attempted to address the issues" through dialogue and other de-escalation techniques and the order to disperse is approved by MPD leadership. Officers are prohibited from using force to disperse a First Amendment Event unless the use of force is consistent with the law, and the health or safety risk presented by the event cannot be addressed otherwise. In these circumstances only the "minimum amount of force practicable to eliminate the risk or abate the nuisance" is allowed. Also, MPD may not make any arrests during First Amendment Events unless that arrest is supported by individualized probable cause. In the event that individuals who are not the target of arrest are encircled alongside those who are the target of arrest, for example, the consent decree says that the officers shall facilitate those individuals' exit immediately.

Further, the consent decree includes specific provisions regarding protecting journalists' right to gather and report the news. The decree states that MPD will not take any action to interfere with a person attempting to photograph, record, or observe officers performing their official duties in public, except when reasonably necessary to prevent harm or necessary to carry out police activity. The decree also mandates that MPD will allow people to record their own interactions with police, but says the officers may instruct the person to put down the recording device when the person is placed under lawful arrest. Further, the decree prohibits the MPD from imposing or enforcing curfews on or detaining any individual that the officer knows or reasonably should know is a journalist. Officers may detain journalists only if the officer has individualized reasonable, articulable suspicion that the journalist has committed a crime, according to the decree. Journalists shall only be arrested if the officer has individualized probable cause to believe the journalist committed a crime. Also, if a journalist is arrested, the decree says

the journalist shall be permitted to speak with a supervising officer immediately for purposes of challenging the arrest. The consent decree is available here: <https://www.justice.gov/crt/media/1383116/dl>. The City of Minneapolis's announcement that it reached an agreement on the decree is available here: <https://www.minneapolismn.gov/news/2025/january/consent-decree/>. Reporting from *CBS News* on the consent decree is available here: <https://www.cbsnews.com/minnesota/news/minneapolis-police-consent-decree-federal-judge-pauses-review/>.

The sections of the consent decree protecting journalists and protestors came on the heels of widespread police mistreatment of the press, including violence, during the riots and protests following George Floyd's murder. These incidents led to a \$1 million settlement between the city and a group of journalists in February 2024. For more information on threats to the press in the aftermath of George Floyd's murder, see "Update: Photojournalist Linda Tirado, Injured by Police During George Floyd Riots, Enters Hospice Care" in the Summer 2024 issue of the *Silha Bulletin*; "Department of Justice's Report Addresses How Minneapolis Deprived Protesters, Journalists of First Amendment Rights" in the Summer 2023 issue; "Subpoenas Target Minnesota Journalists with Connection to Police Actions at George Floyd Protests" in the Winter/Spring 2022 issue; *City of Minneapolis, Protestors Reach \$600,000 Settlement* in "Minnesota Sees Mixed Results on Access and First Amendment Issues Related to Law Enforcement, Government Information, and Protests" in the Fall 2022 issue; and "Special Report: Journalists Face Arrests, Attacks, and Threats by Police Amidst Protests Over the Death of George Floyd" in the Summer 2020 issue.

Since President Trump took office, the consent decree has been stalled. Shortly after President Trump's inauguration, his administration put a pause on all civil rights litigation. The administration also said in a memo that it "may wish to reconsider" police reform agreements that were negotiated by the Biden administration in the last 90 days. President Trump has long opposed consent decrees, calling them a "war on police." Reporting from Minnesota Public Radio on the Trump administration's actions regarding this consent decree is available here: <https://www.mprnews.org/story/2025/03/20/minneapolis-police->

[federal-consent-decree-delayed-again-by-doj.](https://www.mprnews.org/story/2025/03/20/minneapolis-police-consent-decree-federal-judge-pauses-review/)

The first stay of the proceedings, requested by the DOJ, was granted by the court on February 19 following the appointment of the new U.S. Attorney General Pam Bondi. Then, the DOJ's motion to extend the temporary stay was granted on March 20. A third motion to extend the stay for an additional 30 days — until May 21 — was granted on April 21. Despite the stays, Minneapolis Mayor Jacob Frey has said that the city would continue its plans to implement the reforms. Frey told KARE 11: "Regardless of the Trump administration's announcement, we will be moving forward with the terms outlined in the consent decree. Our city worked hard on this agreement, we are prepared to implement the reforms and we are going to get it done."

Some community advocates have expressed concern that the city would not be held accountable if the DOJ did not enforce the agreement. Michelle Gross, a volunteer at the Twin Cities-based organization Communities United Against Police Brutality, claimed the organization was instrumental in the DOJ's investigation that prompted the consent decree. "We wrote a letter to bring them here in the first place," Gross told KARE 11. "We met with them as soon as they came the very first time, and then we held dozens of community events to tell people about the investigation. We collected over 2,300 testimonials from people about their experiences with Minneapolis Police in order to inform the investigation." Mayor Frey and Gross's statements are available here: <https://www.kare11.com/article/news/local/frey-minneapolis-moving-forward-consent-decree-as-trump-freezes-civil-rights-cases/89-5936a2ea-c62c-4f29-b20f-f08e8b3f7316>.

Meanwhile, MPD remains under a court-ordered agreement with the State of Minnesota, entered into after an investigation found that the police department engaged in a years-long pattern of racial discrimination. Minneapolis Police Chief Brian O'Hara said in January that he is confident that reform can happen even without federal oversight. "There's been a whole lot of real work happening for almost a year. That state consent decree covers all of the things that people have in federal consent decrees." O'Hara's statements are available here: <https://www.cbsnews.com/minnesota/news/minneapolis-police-consent-decree-federal-judge-pauses-review/>.

On May 21, 2025, the DOJ announced that it would abandon any further investigation of the MPD, and would not enforce the Biden administration's consent decree. The DOJ press release stated that the original investigation of Minneapolis "accused . . . [the city] of widespread patterns of unconstitutional policing practices by wrongly equating statistical disparities with intentional discrimination and heavily relying on flawed methodologies and incomplete data." Assistant Attorney General Harmet K. Dhillon of the DOJ's Civil Rights Division stated: "Overbroad police consent decrees divest local control of policing from communities where it belongs, turning that power over to unelected and unaccountable bureaucrats, often with an anti-police agenda. Today, we are ending the Biden Civil Rights Division's failed experiment of handcuffing local leaders and police departments with factually unjustified consent decrees." The DOJ press release announcing the decision is available here: <https://www.justice.gov/opa/pr/us-department-justices-civil-rights-division-dismisses-biden-era-police-investigations-and>.

The *Minnesota Reformer*, a nonprofit media organization and government watchdog, reported that, in the wake of the DOJ's decision to quash the consent decree, Minneapolis Mayor Jacob Frey vowed that the city would continue to pursue reform. "We're doing it anyway," Frey stated in a press release. "We will implement every reform outlined in the consent decree — because accountability isn't optional. Our independent monitor has lauded the meaningful progress we've made under the state settlement agreement, and the public can count on clear, measurable proof that our reforms are moving forward. According to the *Reformer*, 17 members of the Democratic-Farmer-Labor party who represent Minneapolis condemned the DOJ's decision to quash the consent decree. "We are deeply disappointed that the federal government is abandoning its responsibility to drive reform at the Minneapolis Police Department," the lawmakers said in a statement. "For years, Minneapolis community members have spoken out to make their voices heard as part of this process, and now their work and commitment have been disregarded by the federal government." The *Minnesota Reformer* report is available here: <https://minnesotareformer.org/>

Consent Decree, continued on page 46

2025 Silha Spring Ethics Forum Examines the Ethics of Undercover Investigative Reporting

At the 2025 Silha Spring Ethics Forum on Monday, Feb. 24, 2025, Professor Alan Chen argued that, although truth in journalism is an essential ethical value, investigative reporters are justified in engaging in what he called “high value lies”: lies that actually promote the values underlying the First

SILHA CENTER EVENTS

Amendment and freedom of the press because they are “lies that are used in the service of discovering the actual truth.” For that reason, Chen said, those lies “should be treated differently from both a legal and an ethical standpoint.”

Chen’s lecture, “High Value Lies: Ethics and Undercover Investigations in the Contemporary News Environment,” was delivered at Coffman Memorial Union Theater at the University of Minnesota — Twin Cities. Chen is the Thompson G. Marsh Law Alumni Professor of Law at the University of Denver Sturm College of Law and a former ACLU staff attorney who teaches and writes about free speech doctrine and theory. He has published numerous scholarly articles about the First Amendment in leading national law journals. He is also the co-author of *Truth and Transparency: Undercover Investigations in the Twenty-First Century and Free Speech Beyond Words: The Surprising Reach of the First Amendment*, which focuses on the rise of so-called “ag-gag” laws, designed to criminalize unauthorized investigations of agricultural facilities to expose inhumane or illegal practices. In 2024, *Truth and Transparency* received the James A. Tankard, Jr. Book Award for the most outstanding book in the field of journalism and communication from the Association for Education in Journalism and Mass Communication (AEJMC), and

The New York Review of Books called it “the definitive work on this subject and a powerful resource for lawyers.” *Truth and Transparency* was available for sale following the Forum. Chen also actively litigates cases in federal courts across the country challenging “ag-gag” statutes, many of which have been struck down as unconstitutional.

Chen explained what he considered to be the defining features of undercover investigations. Undercover investigations usually involve the use of deception or lies about the investigator’s identity, background, their employer and the investigation itself, in order to gain access to private property, people, information, and transactions that otherwise would not be accessible to the reporter. The investigations are intended to reveal unlawful, unethical or immoral conduct, information of “profound” public concern, or other newsworthy information. Furthermore, documentation of the information is often obtained through the use of hidden cameras or recording devices. Finally, the targets of undercover investigations want to keep the information obtained from becoming public knowledge.

Chen explained that investigative reporting in the United States began during the lead-up to the Civil War, when Northern journalists concealed their true identities when investigating the conditions of slavery, fearing threats to their lives and safety. Their investigative reporting extended into the Civil War as they covered military events. Other investigative reporters followed, including Nellie Bly, who feigned insanity to investigate unsafe and inhumane conditions of inmates at the “Women’s Lunatic Asylum” on Blackwell’s Island in New York, and Upton Sinclair, who posed as a meat packing worker in Chicago to investigate unsanitary practices for his novel, *The Jungle*.

More recent investigative reporting includes the “Food Lion” exposé from the mid-1990s, in which two *ABC News* producers obtained jobs as grocery store workers and used hidden cameras to document hygiene and food safety issues, as well as the misbranding of food items. After their report aired on *PrimeTime Live*, Food Lion sued ABC in federal court in North Carolina, claiming that the reporters’ newsgathering techniques constituted fraud, breach of duty of loyalty, trespass and unfair trade practices under North Carolina law. The jury awarded Food Lion \$1,400 in compensatory damages and \$5.5 million in punitive damages for fraud, as well as \$2 in nominal damages for breach of loyalty and trespass. The district court considered the punitive award excessive, reducing it to \$315,000. On appeal, the U.S. Court of Appeals for the Fourth Circuit rejected the fraud claim, and the damages that accompanied it, but upheld the \$2 nominal damages award. Although ultimately the resulting monetary damages were minimal, Chen argued that because of the costs of the extended litigation, the case has served as a “significant deterrent to undercover reporting.” *Food Lion, Inc. v. Capital Cities/ABC, Inc.*, 194 F.3d 505, 510 (4th Cir. 1999) (*Food Lion*).

The *Food Lion* case illustrates some of the legal issues that arise from undercover reporting, Chen said. These include:

- Fraud. Chen stated that fraud requires victims to show they have suffered monetary damages or other actual harm. But investigative reporting typically results in obtaining only information; no money is taken from the target.
- Unauthorized access to private property and violation of trespass laws. Entering private property without consent, even if no damage is done, is nevertheless technically trespassing. If

Consent Decree, continued from page 45

[com/2025/05/21/trump-administration-withdraws-from-federal-consent-decree-meant-to-reform-minneapolis-police/](https://www.mn.gov/2025/05/21/trump-administration-withdraws-from-federal-consent-decree-meant-to-reform-minneapolis-police/).

In addition to the federal consent decree, Minneapolis also entered into a consent decree with the Minnesota Department of Human Rights, which is enforceable in state court. However,

unlike the federal consent decree, the state consent decree does not contain explicit protections for journalists and First Amendment activity. Thus, whether the MPD respects the protections for the press and protestors outlined in the federal consent decree depends on the city’s continued will to enforce an agreement that is no longer binding. The

state-level consent decree is available here: https://mn.gov/mdhr/assets/Signed%20Consent%20Decree%207.13.23_tcm1061-584580.pdf.

— RYAN CLEMMONS
SILHA CENTER RESEARCH ASSISTANT

the property owner does give consent based on misrepresentations, the use of misrepresentations can invalidate the consent.

- Privacy in the workplace.

Although there is generally a diminished expectation of privacy in the workplace, some cases have held that covert investigative reporting can constitute an invasion of the privacy interests of employees.

- Common law duty of loyalty. This is the principle that employees must act in the best interests of their employer. The theory is that the expectation of loyalty is violated when an investigative reporter obtains a job with a company using false pretenses in order to gain access to that business, even if the misrepresentation was for the purpose of disclosing improper conduct to the public.

- Defamation. Although some targets of investigative reporting have tried to sue for defamation, truth is a complete defense in such cases. Assuming the disclosures are true, a defamation claim cannot be used to retaliate against journalists simply because the company is embarrassed by the exposure of accurate and newsworthy information that it wanted to conceal from the public.

Chen noted that, sometimes, even false statements can be protected under the First Amendment. He cited *United States v. Alvarez*, in which the U.S. Supreme Court held that false statements are protected by the First Amendment so long as they do not cause a “legally cognizable harm” or provide “material gain” to the speaker. 567 U.S. 709, 715 (2012). For more information about *United States v. Alvarez*, see “Supreme Court Strikes Down Stolen Valor Act” in the Summer 2012 issue of the *Silha Bulletin*.

Chen also stated that investigative reporting also raises ethical issues:

- whether lying to get a story is unethical under all circumstances;
- whether undercover investigations violate the core journalistic values of truthfulness and transparency; and
- whether undercover investigations can erode the public trust and discredit the profession of journalism.

However, Chen suggested that these ethical concerns can be addressed by asking which actions produce the most public good. Does the investigative story promote the disclosure of information that is important to a free society? Although the target of an investigation may argue that any harm to them ought

to be given primacy, Chen asserted that those harms are often exaggerated, or even non-existent.

Chen further noted that a liberal theory of journalism presumes that citizens need to be informed, and that journalism serves a watchdog role by reporting on governmental and corporate abuses of power. He argued that citizens need context to interpret the news and to understand the significance of current events. In order to do so, the press must obtain information that can help provide that context — information that the targets are unwilling to disclose themselves. Finally, Chen said that the theory of an activist press presumes that citizens sometimes must challenge the status quo. The press can provide the information to inspire citizens to address systemic failures and to achieve those necessary reforms.

Chen concluded his presentation with guidelines to ethical principles for undercover investigators. He suggested that, before beginning an undercover investigation, a journalist should have some specific evidence that the reporting will reveal misconduct, illegality or wrongdoing. No “fishing expeditions” should be undertaken to try to find evidence of misconduct. And if the information sought is readily available and easily obtained from other sources, those sources must be consulted first. Chen contended that in undercover “employment-based investigations,” it is permissible to use deception, including misrepresentation regarding the investigator’s identity, political affiliation, and motivations. However, he emphasized that any photography, audio or video recording should not be altered or edited to mislead the public, although editing for brevity and coherence, or to protect the privacy of the subject being interviewed, is allowed.

Theft of intellectual property belonging to the subject of the investigation should be avoided, as well as any attempt to entrap the subject of the investigation. Journalists, he said, should not deprive the subjects of investigations of their “dignity, privacy, or autonomy” unless it is unavoidable and directly relevant to the wrongdoing being investigated. Chen added that, in his view, if the investigation results in the discovery of wrongdoing, that wrongdoing does not have to be reported to government officials immediately if doing so would compromise the success of the investigation.

In the question and answer session, Chen was asked about the decline in undercover investigations since the 1990s. Chen characterized this drop off as “inevitable” given the state of the law, and noted that the loss is “all the stories we don’t even know about right now.” Chen noted that the *Food Lion* case, which cost ABC millions of dollars to litigate, has made media companies wary of pursuing undercover investigative reporting. However, Chen stated that he believed undercover investigations were still happening, but he thinks that media companies “are very careful” about picking which stories to pursue. For more on Chen’s reflections on *Food Lion*, see “The Long Shadow of Food Lion,” <https://knightcolumbia.org/blog/the-long-shadow-of-food-lion>.

Finally, when asked about the relationship between so-called strategic lawsuits against public participation, or SLAPPs, Chen said that “ag-gag” laws are very similar. “Using the tools of tort law, and in some cases criminal law, to basically punish and then deter people from participating in important news gathering” is, Chen argued, “a classic SLAPP.” For more information on SLAPP suits, see “Anti-SLAPP Legislation Update: Two More States Adopt the UPEPA’s Model Statute” in the Fall 2024 issue of the *Silha Bulletin*.

The 2025 Silha Spring Ethics Forum was co-sponsored by the Silha Center for the Study of Media Ethics and Law, the Minnesota Journalism Center, and the Minnesota Pro Chapter of the Society of Professional Journalists. Approximately 45 people attended the Forum in person; approximately 50 attended online. A video of the forum is available on the Silha Center’s YouTube channel at <https://www.youtube.com/watch?v=ET1xTTt-MLE&t>.

The Silha Center is based at the Hubbard School of Journalism and Mass Communication at the University of Minnesota in Minneapolis. Silha Center activities, including the annual Silha Lecture, are made possible by a generous endowment from the late Otto and Helen Silha. For further information, please contact the Silha Center at 612-625-3421 or silha@umn.edu, or visit the Silha website at www.silha.umn.edu.

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Free Expression Advocate

Author of the *amicus* brief for the Association of American Editorial Cartoonists in *Hustler Magazine, Inc. v. Falwell*

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