

FILED
MAR 07 2016

DEBRA CROW
Clerk, Dist. Court, Guadalupe Co. Tx.

No. 15-2186-CV

RONALD F. AVERY

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IN THE DISTRICT COURT

VS.

GUADALUPE COUNTY, TEXAS

DYLAN BADDOUR;
HEARST COMMUNICATIONS,
INC.

2nd 25TH JUDICIAL DISTRICT


**PLAINTIFF'S ADDENDUM #2 TO PLAINTIFF'S
AFFIDAVIT IN SUPPORT OF HIS RESPONSE TO
DEFENDANT'S
MOTION TO DISMISS**

STATE OF TEXAS §
GUADALUPE COUNTY §

Before me, the undersigned notary, on this day personally appeared Ronald F. Avery, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

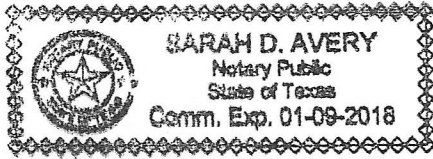
1. My name is Ronald Franklin Avery. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I went to four websites of professional news entities and found their code of ethics and rules of good news journalism and copied excerpts from them. I copied and pasted relevant sections regarding the citizen participation of news reporters in the stories they cover into four page document with links to the source of information. I labeled that document **Exhibit J**. I have attached it hereto and will refer to it as "Plaintiff's Affidavit Exhibit J."
3. I also added an except to **Exhibit J** from Professor Dr. Roger Simpson, showing that "the social role of journalism is a professional detachment that eschews any role other than observation."

Further the Affiant sayeth not.



Ronald F. Avery

Sworn to and subscribed before me by Ronald F. Avery on March 5, 2016



Sarah D. Avery
Notary Public in and for
The State of Texas

My commission expires: 1.09.2018

CERTIFICATE OF SERVICE

I certify that on March 7, 2016, I served a copy of this "Addendum #2 to Affidavit of Ronald F. Avery in Support of His Response to Defendant's Motion To Dismiss" on the parties listed below by Certified Mail RRR 7009 0960 0000 7721 9568:

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Cardinal Rules of News Journalism Prevent Exercise of a Reporter's Own Freedoms Unless They Notice the Participants and the Readers

Cardinal rules of journalism prevent news reporters from Participation or Exercise of their own Freedoms of Speech, Petition & Association in the events they cover and the articles they write about the events they cover unless they notify the citizen participants they are covering and notify the readers of the stories they write about those events. Therefore, news reporters, by professional definition, are not participants in any events they cover nor do they exercise their own personal constitutional rights of free speech, petition and association at the events or in the articles they write about them. The Texas Citizen Participation Act is not applicable to news journalists unless they show evidence, like any other citizen, of their own personal citizen participation in the events they cover or the article they write about them for which they were sued.

1. Excerpts From: SPJ (Society of Professional Journalists) Ethics Committee Position Papers:

Political Involvement:

The SPJ Ethics Committee gets a significant number of questions about whether journalists should engage in political activity. **The simplest answer is “No.” Don’t do it. Don’t get involved.** Don’t contribute money, don’t work in a campaign, don’t lobby, and especially, don’t run for office yourself. (Bolding added)

But it’s a bit more nuanced than that. These are the most pertinent parts of the SPJ Code of Ethics:

- Avoid conflicts of interest, real or perceived
- **Remain free of associations** that may compromise integrity or damage credibility

While those are the most directly relevant provisions, the following also apply, but in different ways:

- Disclose unavoidable conflicts
- Be vigilant and courageous about holding those with power accountable
- **Distinguish between advocacy and news reporting. Analysis and commentary should be labeled and not misrepresent fact or context** (Bolding added)
- Recognize a special obligation to ensure that the public’s business is conducted in the open and that government records are open to inspection

Objectivity in today’s superheated political environment may be impossible, but impartiality should still be a reporter’s goal. Even those who are paid to have opinions — columnists, editorial writers, talk show hosts, bloggers (OK, maybe not always paid) — should at least be aware of all relevant points of view.

Reporters covering politics are at the other end of this spectrum of what may be tolerated. For them, almost no political activity is OK. Some reporters interpret this as meaning it's off-limits even to register to vote as a Democrat or Republican or third-party member. Some take it to extremes and even decline to vote in a general election. Those are extreme positions, and unnecessarily prim. The proof of a reporter's impartiality should be in the performance.

Many employers' codes of ethics are much more specific than SPJ's code about their employees' involvement in politics. The SPJ code is merely advisory, but a journalist can be fired for violating an employer's ethical rules. NPR's code, for instance, says quite bluntly that **"NPR journalists may not participate in marches and rallies" concerning issues that NPR covers — which is pretty much everything.** (Bolding added)

Newspapers, in particular, have a longstanding practice of endorsing candidates in competitive political races. Although some readers think these endorsements signal a bias in the publication's news coverage, SPJ encourages editorial pages to promote thoughtful debate on candidates and politics; letting readers know through endorsements which candidates share the newspaper's vision is part of that discussion. **Part of an editorial page's responsibility, though, to take every appropriate opportunity to explain the firewall between news and opinion.** (Bolding added)

Ironically, journalism is a profession protected by the same First Amendment that grants to all citizens the right to run for office or to support, by word, deed or cash, the people they would like to see elected. But journalists who want to be perceived as impartial must avoid any display of partisanship.

<http://www.spj.org/ethics-papers-politics.asp>

2. Excerpts From: Associated Press News: Values and Principles:

EXPRESSIONS OF OPINION:

Anyone who works for the AP must be mindful that opinions they express may damage the AP's reputation as an unbiased source of news. They must refrain from declaring their views on contentious public issues in any public forum, whether in Web logs, chat rooms, letters to the editor, petitions, bumper stickers or lapel buttons, and must not take part in demonstrations in support of causes or movements.

<http://www.ap.org/company/News-Values>

3. Excerpts From: NPR Ethics Handbook: Impartiality:

On attending marches, rallies and other public events.

There is real journalistic value in being an observer at public events such as a march or rally, even without a reporting assignment. **But while we may observe, we refrain from actively participating in marches, rallies or public events involving political issues or partisan causes that our organization covers or may cover.** (Bolding added)

<http://ethics.npr.org/category/f-impartiality/>

4. Excerpts From: Greater Good Science Center Berkeley University:

Rules of Engagement by Professor Dr. Roger Simpson. Roger Simpson, Ph.D., is a professor of communication at the University of Washington, where he holds the Dart Professorship for Journalism and Trauma, and was the founding director of the Dart Center for Journalism and Trauma:

Journalists are bystanders to the world around them, often witnessing people in great distress. When should they put down their cameras and notebooks and help their subjects? **Roger Simpson** explains when journalists should get involved—and when they shouldn't.

In his reporting for CNN, **Cooper adhered obediently to the journalistic standards of objectivity and non-intervention.** (Bolding added)

“You have the power of a thousand bulldozers,” a New Orleans resident told Anderson Cooper. “I don't think it's true, of course,” Cooper later wrote. No two comments could speak more clearly about our confused expectations of journalists and the burden that confusion places on them. The confusion rests in large part on **the news industry's demands that its employees stand aloof from what they cover—an effort to assure audiences of reporters' fairness and objectivity.** The demands have been effective. The “**dominant stance of journalism today,**” writes **Maxwell McCombs, a leading scholar of the social role of journalism, is a “professional detachment that eschews any role” other than observation.** (Bolding added)

http://greatergood.berkeley.edu/article/item/the_rules_of_engagement

5. Excerpts From: Ethical Journalism Network:

5 Principles of Journalism

The core principles of journalism set out below provide an excellent base for everyone who aspires to launch themselves into the public information sphere to show responsibility in how they use information. There are hundreds of codes of conduct,

charters and statements made by media and professional groups outlining the principles, values and obligations of the craft of journalism. Most focus on five common themes:

Truth and Accuracy

Journalists cannot always guarantee ‘truth’, **but getting the facts right is the cardinal principle of journalism.** We should always strive for accuracy, give all the relevant facts we have and ensure that they have been checked. When we cannot corroborate information we should say so. (Bolding added)

Independence

Journalists must be independent voices; **we should not act, formally or informally, on behalf of special interests whether political, corporate or cultural. We should declare to our editors – or the audience – any of our political affiliations, financial arrangements or other personal information that might constitute a conflict of interest.** (Bolding added)

Fairness and Impartiality

Most stories have at least two sides. While there is no obligation to present every side in every piece, stories should be balanced and add context. Objectivity is not always possible, and may not always be desirable (in the face for example of brutality or inhumanity), but impartial reporting builds trust and confidence.

Humanity

Journalists should do no harm. What we publish or broadcast may be hurtful, but we should be aware of the impact of our words and images on the lives of others.

Accountability

A sure sign of professionalism and responsible journalism is **the ability to hold ourselves accountable. When we commit errors we must correct them and our expressions of regret must be sincere not cynical. We listen to the concerns of our audience. We may not change what readers write or say but we will always provide remedies when we are unfair.** (Bolding added)

EJN members do not believe that we need to add new rules to regulate journalists and their work in addition to the responsibilities outlined above, but we do support the creation of a legal and social framework, that encourages journalists to respect and follow the established values of their craft.

In doing so, journalists and traditional media, will put themselves in a position to be provide leadership about what constitutes ethical freedom of expression. What is good for journalism is also good for others who use the Internet or online media for public communications.

<http://ethicaljournalismnetwork.org/en/contents/5-principles-of-journalism>