

Media & Entertainment Group Of The Year: Williams & Connolly

By Sue Reisinger

Law360 (January 31, 2025, 4:03 PM EST) -- Williams & Connolly LLP was successful in several significant First Amendment cases, including one upholding a reporter's right to express opinions, and two others recognizing the importance of summary judgment against the chilling effect of a defamation lawsuit, earning it a spot among the 2024 Law360 Media & Entertainment Groups of the Year.

The firm has won this group honor two years in a row, and three times in the past four years.

Among this year's successes, Joseph Terry, one of the First Amendment and media practice group co-chairs at Williams & Connolly, defended Fox Sports commentator Shannon Sharpe before the Fifth Circuit in a lawsuit and appeal brought by NFL Hall of Famer Brett Favre.

On Sharpe's sports show, "Undisputed," the fellow Hall of Famer criticized Favre — who played in the NFL for 20 years, mostly for the Green Bay Packers — and said he was involved in a Mississippi welfare fraud scandal that was in the news. Favre then sued Sharpe for defamation.

The trial court dismissed the case, *Favre v. Sharpe*, finding that Sharpe's hyperbole was constitutionally protected as a matter of law. The appeals court affirmed that decision Sept. 16, saying Sharpe's statements "could not have been reasonably understood as declaring or implying a provable assertion of fact."

The ruling was significant, Terry told Law360, because it upheld "the reporter's freedom to give his take and his opinion on what was being reported on a matter of public significance."

Thomas Hentoff, the other co-chair of the firm's First Amendment and media practice group, also co-chairs the trademark and copyright group. Hentoff spoke with Law360 about defending The Washington Post in a case in which four alumni of a suspended Gallaudet University fraternity sued the newspaper for defamation.

The school suspended the fraternity amid news reports that the group planned to bring back Ku Klux Klan-style ceremonial robes that had been banned on campus, and after fraternity members were pictured using a group salute that resembled Nazi salutes to Hitler. The university's president issued a



statement at the time saying the fraternity had "become the face of systemic racism in our community."

The court ruled Oct. 4 that the statements were protected opinion, and that politically charged epithets are not in themselves defamatory.

The opinion said "systemic racism" is an "imprecise" phrase that can't be provably false, and readers can look at the factual context of photos and decide for themselves if they are racist or antisemitic.

"I think there's sort of a reinvigoration of the opinion defense in defamation cases," Hentoff said. "It's a very strong ruling in this case that to report an accusation that the plaintiff had engaged in antisemitic activities cannot support a defamation claim because the term 'antisemitic' is too inherently ambiguous to qualify as a statement of fact."

He added one caveat: "Every defamation case is different, and every statement has to be judged in the context in which it was made."

Hentoff also talked about a recent trend of politicians filing defamation suits to try to score points with their voters and silence critics. One example was a pro bono case, Cory Tomczyk et al. v. Wausau Pilot and Review Corp. et al., which was appealed to the Wisconsin Court of Appeals for the Third District.

In that case, a candidate for the state legislature sued the local not-for-profit newspaper for calling remarks he made at a public meeting homophobic. The plaintiff "was essentially threatening to put the paper out of business as a result of the cost of litigation," Hentoff recalled.

Williams & Connolly took on the appeal pro bono, and on Sept. 17, the appeals court affirmed summary judgment in the newspaper's favor. It held that the politician was a limited purpose public figure and could not establish actual malice.

"It was an important case," Hentoff said, "again talking about politically motivated suits that are threatening the viability of journalism, and in particular local journalism."

Besides newspapers, the Williams & Connolly practice group represents news magazines, television networks, book publishers, motion picture studios, technology companies, and individual journalists and artists.

According to Terry, the group has about a dozen partners and dozens of associates who move in and out of the group to help on cases.

He said the First Amendment practice is one of the Washington-based firm's most important practice areas, "and it's been a long-standing practice area with Connolly going back to the firm's founding."

--Editing by Covey Son.