

Communications and Media

Since its founding in 1935, Schnader has been dedicated to preserving First Amendment rights and to providing legal services to the media and communications industries.

Our practice includes extensive experience in defamation and privacy litigation, pre-publication counseling and analysis, representation of media entities seeking access to public materials, general First Amendment litigation, representation of those seeking to protect their First Amendment rights to speak in public fora, and protection of journalists' materials under statutory shield laws and common law privileges. We represent traditional media publishers and broadcasters as well as Internet companies and publishers. We do not accept representations of plaintiffs in cases against the media.

Decades of Experience in Defamation and Privacy

Litigation

Schnader has a strong tradition of defending media entities and others against defamation claims. Our clients have included national television networks and local affiliates, radio broadcasters, television and motion picture producers, newspaper publishers, magazine publishers, book publishing houses and Internet content providers. We are sensitive to and experienced in dealing with the unique ways in which journalists and editors work in both the print and the broadcast media, and the impact these distinctions may have on all aspects of libel litigation, including discovery and legal analysis.

Our litigation experience in defamation and related areas ranges from precedent-setting decisions in the Supreme Court of the United States to more traditional litigation in the federal and state trial courts. We have successfully defended attacks on important pieces of investigative journalism in both the print and broadcast media. Because many of our clients are based outside of Pennsylvania, much of our litigation is in

the federal courts under diversity jurisdiction. We regularly defend against libel and privacy cases in the Pennsylvania state courts as well.

The Firm has been at the forefront of landmark decisions dealing with defendants' protection under Pennsylvania law, including the common law opinion defense, the fair report privilege and the Shield Law privilege. These defenses and privileges are important adjuncts to First Amendment guarantees and routinely arise in defamation and privacy cases.

Timely Pre-Publication Libel and Privacy Advice

Our lawyers offer 24-hour pre-publication advice to broadcasters and publishers about whether certain speech, particularly material in news reports, presents a risk of liability - reviewing scripts, drafts and other materials before publication or broadcast to identify potential exposure to libel and privacy claims. Our reviews include specific advice on ways to publish that are likely to help clients avoid liability.

Emergency Aid to Media Seeking Access to Information and Protection from Subpoenas

Our lawyers handle emergency requests from media entities and others for access to information or to the courts, including requests for information under Sunshine Acts and similar statutes. We also defend news media clients against subpoenas seeking privileged material in journalists' files.

Broad Experience in First Amendment Litigation

We have experience litigating on a wide range of core First Amendment issues, including public forum analysis, statutory vagueness, and over-breadth and prior restraints.

Equally important, we also have successfully litigated a variety of cases involving little known but significant rights that exist under state constitutions.

Representative Work

Significant Cases

We litigate cases in both the federal and state court systems, at the trial and appellate levels, throughout Pennsylvania and elsewhere. The following descriptions highlight some of our clients' recent victories and significant involvements in libel, privacy and other cases involving First Amendment issues.

- Obtained from the United States Court of Appeals for the Third Circuit a permanent injunction prohibiting a public transit agency from enforcing an advertising policy that discriminated based on viewpoint by barring advertisements by speakers who identified themselves as affiliated with any religion or as atheists.
- Obtained an injunction on behalf of two newspapers requiring the Pennsylvania Department of Corrections to make the entirety of lethal injection executions visible and audible to the members of the public and the press selected to witness them on First Amendment grounds.
- Successfully defended a major national newspaper and Nobel Prize-winning writer in a defamation suit brought by a Philadelphia public official, in federal court, resulting in a no-damages settlement.
- Successfully defended a major national newspaper in an action for defamation by implication arising from use of a picture of the plaintiff's web page.
- Won summary judgment for a magazine publisher in a state court defamation case brought by a prominent Philadelphia-area attorney.
- Prevailed on behalf of two national broadcasting networks in protecting outtakes and other privileged journalist materials, by successfully moving to quash a subpoena issued by a law firm defending against employment discrimination claims in a nationally publicized case based in Philadelphia.
- Successfully defended a magazine publisher in a state court defamation case brought by a former Philadelphia police officer.
- Won a directed verdict at the close of plaintiff's case at trial in a state court defamation case brought against a magazine publisher by a former Philadelphia mayoral candidate.

Amicus Briefs on Issues of Broad Impact

We recognize that, in this area of the law especially, our clients' interests are at stake even in cases where they are not parties.

Accordingly, an important part of our practice is the representation of individual clients and coalitions reflecting significant perspectives and principles in cases with the potential for wide-ranging impact. In this vein, we routinely prepare and submit amicus briefs in the Supreme Court of the United States and other appellate courts, including the following:

- Filed a brief in the U.S. Supreme Court on behalf of amici curiae in *Reno v. ACLU*, challenging the constitutionality of certain provisions of the Communications Decency Act.

- Filed an amicus brief in the U.S. Supreme Court and U.S. Court of Appeals for the Third Circuit in support of the American Civil Liberties Union (ACLU) in *Ashcroft v. ACLU*, 00-1293 (U. S.), challenging the constitutionality of certain provisions of the Child Online Protection Act.
- Filed an amicus brief in the U.S. Supreme Court on behalf of a television network in support of Philadelphia Newspapers, Inc., in *Philadelphia Newspapers v. Hepps*.
- Filed an amicus brief in the Supreme Court of Pennsylvania in an action seeking recognition of a privilege of neutral reportage.

Contacts

Stephen J. Shapiro - Chair

215-751-2259