



October 29, 2008

Re: *Arizonans for Responsible Law Enforcement*

Dear Station Manager:

I have been retained to represent *Arizonans for Responsible Law Enforcement*. I understand that Jim Sharpe, of the Public Relations firm of Rose and Allyn, has demanded on behalf of the Andrew Thomas Campaign, that you remove an advertisement submitted by *Arizonans for Responsible Law Enforcement*. The demand by Mr. Sharpe and the Thomas Campaign is baseless and the advertisement – which details Mr. Thomas' abuse of power – should remain on the air.


Although the ad details a variety of abuses, Thomas' letter challenges only one instance: It claims that Mr. Thomas and his office had no involvement in, or responsibility for, the 2007 arrests of *NEW TIMES* journalists Michael Lacey and Jim Larkin.


Contrary to the Sharpe letter, the advertisement correctly states that Mr. Thomas is responsible for the arrests of journalists from the *NEW TIMES*. Mr. Hendershott now claims – a year after the events – that the decision to make these sensationalized and ill-conceived arrests was Hendershott's alone. This is an interesting assertion, but it is completely and flatly contradicted by the Sheriff's Department's statements at the time of the arrests.

At the time of the arrests, which were extremely public, the Sheriff's office stated – through its own spokesperson – that the arrests were effectuated with the consent and approval of Mr. Thomas and his office. These official statements by the Sheriff's spokesperson are well-chronicled. For example, *KTAR.com* reported, on October 19, 2007, that:

Captain Paul Chagolla, a spokesman for Sheriff Joe Arpaio, said the arrests were made at the request of County Attorney Andrew Thomas.

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Similar reports were made across the country. For example, CNN and MSNBC both quoted the Sheriff's Department as follows: "**Capt. Paul Chagolla, a sheriff's spokesman, said** Lacey and Larkin were arrested on suspicion of violating grand jury secrecy and **that the arrests came at the requests of the prosecutor.**"¹

It is beyond any question that a duly authorized spokesman of the Sheriff's Office made a very specific statement, which was reported nationwide by well-respected state and national media outlets contemporaneously with the events in question. It would be a terrible error to pull the ad because a different sheriff's employee now claims something different.

The advertisement is factually accurate and it should be aired as agreed.

Even if one could arguably disagree with the advertisement's conclusions, your station should still air it. The Federal Communications Commission has held that stations best meet their public interest obligations "by presenting contrasting views" and encouraging "robust, wide-open debate." In re Complaint by Hon. Ronald Reagan, 38 F.C.C.2d 314 (1972). It has consistently rejected invitations by political figures to "judge the truth or falsity of material being broadcast on either side of a currently controversial issue." Id. Accord In re Complaint by Alan S. Burstein, 43 F.C.C.2d 590 (1973); In re Complaint by Patton Echols, 43 F.C.C.2d 479 (1973).

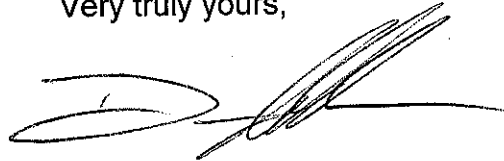
It is ironic that Mr. Thomas's campaign is resorting to threats against your station if you run an advertisement that details his abuse of power against journalists. This is merely an attempt to intimidate your radio station and other radio stations by coming up with an affidavit that contradicts other assertions made publicly by the Sheriff's Department. These threats are baseless. As a public figure, Mr. Thomas carries a heavy, heavy burden in proving such political speech problematic. As the U.S. Supreme Court ruled in the seminal case of New York Times v. Sullivan, public figures such as Mr. Thomas must not only establish that the publication is false, but that the false statement was made with a reckless disregard for the truth or actual malice. An affidavit from a friend of Mr. Thomas that contradicts the well established facts as set forth by an official spokesman contemporaneously with the facts as they occurred does not make the advertisement false.

¹ See <http://www.msnbc.msn.com/id/21376598/from/ET/> ;
<http://www.cnn.com/2007/US/law/10/19/newspaper.arrests.ap/index.html>.

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In the end, there exists no genuine question of accuracy, and both sides remain fully able to promote their contrasting points of view. For these reasons, your decision to accept the advertisement should remain undisturbed. Again, please contact me promptly at (480) 607-9166 before the status of the advertisement changes in any way.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Adelman', with a large, stylized flourish extending to the right.

Daniel J. Adelman
*Counsel to Arizonans for Responsible
Law Enforcement*

DJA/II