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Scholars Argue Defamation Suit Should Proceed

August 8, 2018 |

Spiegel & McDiarmid attorneys Katie Mapes and Kat O'Konski served as *amicus* counsel to First Amendment and media law scholars who urged the U.S. District Court for the Western District of Virginia to allow a defamation suit to proceed against Infowars' Alex Jones and others. The brief was featured in an August 8, 2018, *New York Times* article. *Gilmore v. Jones*, Case No. 3:18-cv-00017, arises out of the riots in Charlottesville, Virginia in August 2017, where Plaintiff Brennan Gilmore filmed James Alex Fields, Jr. deliberately driving into a crowd of peaceful protestors, killing Heather Heyer and injuring many others. After hearing that media outlets were suggesting that the attack was an accident or an act of self-defense, Mr. Gilmore shared his account of the attack with the public via Twitter. In response to Mr. Gilmore's eyewitness account, Defendants targeted Mr. Gilmore with publications alleging false and absurd conspiracy theories implicating Mr. Gilmore in the planning of the attack. Mr. Gilmore filed a defamation suit in federal district court in March 2018.

First Amendment and media law scholars Lyrissa Lidsky, Tamara Piety, David Strauss and Carlos Ball urged the court to reject the Defendants' motions to dismiss, and argued that the Defendants' publications are not protected by the First Amendment because they were written with the intention of destroying Mr. Gilmore's reputation for the benefit of their own political agenda. While they acknowledged that the protection of speech is "a priority of the first order," the First Amendment and media law scholars argued that the Supreme Court has never endorsed the view that knowingly false statements causing direct, legally cognizable harm to another should be protected. Not allowing the suit to proceed, they said, would create a dangerous precedent by granting undue privilege to malicious and false statements of fact at the expense of a private individual who stepped forward with newsworthy information in the wake of a troubling event.

A copy of the brief is linked below.

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