ORAL ARGUMENT NOT YET SCHEDULED

No. 25-5109

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ASSOCIATED PRESS,

Plaintiff-Appellee,

v.

TAYLOR BUDOWICH, in his official capacity as White House Deputy Chief of Staff, et al.

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Columbia, No. 1:25-cv-532-TNM
Hon. Trevor N. McFadden, J.

PLAINTIFF-APPELLEE THE ASSOCIATED PRESS'S RESPONSE IN OPPOSITION TO EMERGENCY MOTION FOR STAY AND AN IMMEDIATE ADMINISTRATIVE STAY

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CERTIFICATE OF PLAINTIFF-APPELLEE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28, Plaintiff-Appellee the Associated Press certifies as follows:

A. Parties and Amici

Plaintiff-Appellee is the Associated Press.

Defendants-Appellants are Taylor Budowich, in his official capacity as White House Deputy Chief of Staff; Karoline C. Leavitt, in her official capacity as White House Press Secretary; and Susan Wiles, in her official capacity as White House Chief of Staff.

The White House Correspondents' Association, the Reporters Committee for Freedom of the Press, the Center for American Rights, the Knight First Amendment Institute at Columbia University, and the State Democracy Defenders Fund participated as amici curiae in the District Court.

B. Rulings Under Review

The ruling under review is a Memorandum Order issued by the Honorable Trevor N. McFadden on April 8, 2025, granting the Associated Press's Amended Motion for Preliminary Injunction. The ruling is available on Westlaw at 2025 WL 1039572.

C. Related Cases

This case has not previously been before this Court or any court other than the District Court. Undersigned counsel is unaware of any related cases within the meaning of D.C. Circuit Rule 28(a)(1)(C).

D. Rule 26.1 Corporate Disclosure Statement

The Associated Press is a news cooperative incorporated under the Not-for-Profit Corporation Law of New York and has no parents, subsidiaries or affiliates that have any outstanding securities issued to the public.

/s/ Jay Ward Brown
Jay Ward Brown (#437686)

PRELIMINARY STATEMENT

Earlier this week, the District Court entered a preliminary injunction requiring Defendants-Appellants ("the government") to "*immediately* rescind" an access ban imposed on Plaintiff-Appellee The Associated Press ("the AP") for the past two months. Prelim. Inj. Order at 41 (ECF 46) ("Injunction Order") (emphasis added).[1] The District Court correctly concluded, based on a largely uncontested record, that the AP is likely to establish that the government unconstitutionally discriminated against it on the basis of its viewpoint, and unconstitutionally retaliated against the AP for its exercise of First Amendment freedoms, by excluding AP journalists from events open to the White House press pool and White House press corps because of the AP's continued use of the name Gulf of Mexico. *Id.* at 29-30, 32, 36. The District Court therefore ordered the government to cease its unconstitutional behavior and "put the AP on an equal playing field as similarly situated outlets." *Id.* at 21, 40.

The government now asks this Court to let it continue what the District Court concluded is an ongoing First Amendment violation causing irreparable harm. Emergency Mot. to Stay Pending Appeal and an Immediate Administrative Stay ("Stay Mot."). The government offers this Court the same flawed arguments for a stay that it presented to the District Court, which concluded today that the

[1] ECF references herein are to the District Court docket.

government's nearly identical motion "fails on the law" and "misconstrues the facts." *See* Apr. 11, 2025 Mem. Order at 2 (ECF 55) ("Stay Denial Order"). Here, too, for the same reasons, the government fails to satisfy the demanding standard for a stay pending appeal. This Court should deny the Stay Motion.

FACTUAL BACKGROUND

A. The AP and the White House Press Pool

The AP is one of the world's oldest and most trusted news organizations, reaching four billion people every day. Am. Compl. ¶ 5 (ECF 26). The AP is also known for its Stylebook, in which it publishes standards for usage, spelling, and grammar to facilitate consistency in news writing. *Id.* ¶ 10.

The AP was a founding part of the group of journalists covering the White House and the President – a group today known as the White House press pool. *Id.* ¶¶ 6, 37. The press pool accompanies the President almost everywhere he goes, serving as the public's eyes and ears. *Id.* ¶¶ 6, 37. AP also attends events open to any journalist with a White House press credential, in large spaces such as the East Room, which can fit over 100 journalists. *Id.* ¶ 7.

The modern White House press pool traditionally included at least three wire reporters (recently, one each from the AP, Reuters, and Bloomberg), four photographers (recently, one each from the AP, Reuters, AFP, and The New York Times), three network television journalists, a radio correspondent, and at least one

print reporter. *Id.* ¶ 32. The wire services have the broadest reach – particularly among outlets that cannot afford to provide their own White House coverage.

By observing events in person, pool reporters gain insights that they simply cannot glean secondhand. *See* Decl. of George Condon ¶¶ 9-13 (ECF 27-9) (highlighting examples); Hr'g Tr. at 109:25-111:18 (same). When AP journalists cover presidential events, they publish wire reports and photos "in near real time." *See* Mar. 27, 2025 Hr'g Tr. at 101:14-102:8 (ECF 45); *see also id.* at 28:9-29:3.

B. The Gulf of Mexico and Mount McKinley

On January 20, 2025, President Trump issued an Executive Order renaming the portion of the Gulf of Mexico within the United States as the Gulf of America. Exec. Order No. 14172. In the same Executive Order, President Trump also renamed the mountain Denali as Mount McKinley. *Id.* ¶ 52. The AP addressed both of these name changes on January 23, 2025, when it released guidance specifying that it would refer to the Gulf of Mexico "by its original name *while acknowledging the new name Trump has chosen*" in its reporting and Stylebook. *Id.* ¶¶ 51-52. The AP explained that, "as a global news agency that disseminates news around the world, the AP must ensure that place names and geography are easily recognizable to all audiences." *Id.* ¶ 51. The AP announced that it would follow the Mount McKinley name change because the federal government has authority to rename locations within the United States. *Id.* ¶ 52.

C. The White House Tries to Coerce the AP into Changing its Journalism

On the morning of February 11, 2025, White House Press Secretary Karoline Leavitt summoned AP Chief White House Correspondent Zeke Miller to her office. *See* Hr'g Tr. at 111:22-25. Leavitt told Miller that AP journalists would not be permitted in the Oval Office as press pool members unless the AP revised its Stylebook to refer to the Gulf of America. *Id.* at 111:19-112:10.

The AP declined to reverse its editorial decision. *Id.* ¶ 53. As a direct result of that decision, White House staff barred an AP text journalist from attending an Executive Order signing and press conference with Elon Musk in the Oval Office that day. *Id.* ¶ 54. An AP text journalist was also barred that evening from an event in the Diplomatic Reception Room. *Id.* ¶ 56.

The AP promptly objected. AP Executive Editor Julie Pace published a statement explaining that "limiting our access to the Oval Office based on the content of AP's speech not only severely impedes the public's access to independent news, it plainly violates the First Amendment." *Id.* ¶ 55. Leavitt defended the White House's decision during a press briefing the next day by claiming that the AP was telling "lies" by using the Gulf of Mexico name. *Id.* ¶ 58. The access denials continued. *Id.* ¶¶ 59-60. Pace's strenuous objections did too, with a February 12 letter to White House Chief of Staff Susan Wiles. *Id.* ¶ 57.

On February 14, 2025, White House Deputy Chief of Staff Taylor Budowich posted online that the AP's journalists were now indefinitely barred from "access to limited spaces, like the Oval Office and Air Force One" due to the AP's refusal to make the Gulf of America the primary term used in its reporting and Stylebook, adding that the AP's "journalists and photographers will retain their credentials to the White House complex." *Id.* ¶ 63. Budowich further claimed, falsely, that the AP had a "commitment to misinformation" and published "irresponsible and dishonest reporting." *Id.*[2]

On February 18, 2025, Wiles responded to Pace's letter, stating that the White House's "view as to why we arrived in this point" is that the AP's Stylebook "has been misused, and at times weaponized, to push a divisive and partisan agenda" and that the AP should use the Gulf of America name "as an American guideline." *Id.* ¶ 68. At a Mar-a-Lago press conference (from which the AP was barred), President Trump confirmed that the White House would "keep [the AP] out until such time that they agree that it's the Gulf of America." *Id.* ¶ 69.

[2] Ironically, the record reflects that President Trump, for the cover of his new book *Save America*, chose a photo taken by AP photographer Evan Vucci, who testified in this case, *see* Hr'g Tr. at 21:11-19, and that the White House cited primarily to AP reporting in a press release about the President's address to a joint session of Congress, *see id.* at 152:15-24; *see also* 3d Decl. of Zeke Miller Ex. C (ECF 37-5).

D. The AP Files Suit to Vindicate its Constitutional Rights

The AP filed this lawsuit on February 21, 2025, to vindicate its rights to free expression under the First Amendment and to due process under the Fifth Amendment. *Id.* ¶ 73. The District Court promptly held a hearing on the AP's request for a temporary restraining order. The District Court declined that request to allow for additional briefing and fact-finding on an expedited basis, but instructed the government that the precedent "is uniformly unhelpful to . . . the White House when the White House has banned reporters in the past," such that "[i]t might be a good idea for the White House" to reconsider whether "what they're doing is really appropriate in light of the case law." *Id.* ¶ 80.

Flouting the District Court, Leavitt announced at a February 25, 2025, press briefing that, going forward, White House officials, rather than the White House Correspondents Association, would select the pool. *Id.* ¶ 81. After Leavitt's announcement, the number of pool spots for wire services shrank from three (AP, Reuters, and Bloomberg) to one or two (Reuters and/or Bloomberg, with the AP still banned), and the AP has remained barred from the four photographer spots. *Id.* ¶ 84. Since February 25, 2025, AP White House journalists have been excluded from all events open to the White House press pool and from many events open to all credentialed members of the White House press corps. *See* Injunction Order at 5.

E. The District Court Grants a Preliminary Injunction

Given the change in control over the press pool, the AP filed an Amended Complaint and Amended Motion for Preliminary Injunction on March 3, 2025. The District Court granted the AP's motion on April 8, 2025. *See* Injunction Order. The District Court largely based its findings on a six-hour evidentiary hearing, which included testimony from two AP witnesses – Miller and Vucci – but no government witnesses. After carefully considering the facts and the law, the District Court entered a 41-page order granting injunctive relief on the AP's First Amendment viewpoint discrimination and retaliation claims.[3] The District Court ordered the government to "*immediately* rescind" its access ban on the AP. Injunction Order at 41. It also entered a brief stay until April 13 "to provide the Government time to seek an emergency stay from a higher court and to prepare to implement the Court's injunction." Apr. 8, 2025 Order (ECF 47).

ARGUMENT

A stay is not to be granted lightly, especially in cases of great public importance like this one. *See, e.g.*, *WP Co. v. SBA*, 2020 WL 6887623, at *5 (D.D.C. Nov. 24, 2020) (denying government's motion for stay pending appeal). "To obtain such exceptional relief, the stay applicant must (1) make a strong

[3] The Court noted that it therefore "need not reach the AP's Fifth Amendment, right to petition, or compelled speech claims." Injunction Order at 39.

showing that [it] is likely to succeed on the merits; (2) demonstrate that it will be irreparably injured before the appeal concludes; (3) show that issuing a stay will not substantially injure the other parties interested in the proceeding; and (4) establish that the public interest favors a stay." *KalshiEX LLC v. CFTC*, 119 F.4th 58, 63 (D.C. Cir. 2024) (internal marks omitted) (denying stay).

The government does not make the necessary showing on *any* of these factors: the government is unlikely to prevail on appeal; the government will suffer *no* harm from the Order going into effect, while the AP will suffer *irreparable* harm absent a stay; and the public interest squarely opposes a stay. *See generally* Stay Denial Order. The Court should deny the Stay Motion.

I. THE GOVERNMENT IS NOT LIKELY TO PREVAIL ON APPEAL.

The government's claim that it is likely to prevail on appeal is at odds with controlling precedent, as well as the District Court's actual order. Stay Mot. at 12-21. The force of the District Court's logic, its detailed factual findings, and the narrow and reasonable relief that the Injunction Order provides the AP, demonstrate how unlikely the government is to succeed on appeal.

As the District Court held, "under the First Amendment, if the Government opens its doors to some journalists—be it to the Oval Office, the East Room, or elsewhere—it cannot then shut those doors to other journalists because of their viewpoints. The Constitution requires no less." Injunction Order at 2. That

applied a rule understood since the nation's "early centuries": "the First Amendment . . . safeguard[s the public's] natural right to heap honest criticism upon the Government without fear of official reprisal." *Id.* at 16 (citing Jud Campbell, *Natural Rights and the First Amendment*, 127 Yale L.J. 246, 280 (2017)).

The District Court thus followed the precedent that the press and public "have an interest protected by the first amendment in assuring that restrictions on newsgathering be no more arduous than necessary, and that individual newsmen not be arbitrarily excluded from sources of information." *Sherrill v. Knight*, 569 F.2d 124, 129-30 (D.C. Cir. 1977). Because here, the "Government has been brazen about . . . restricting the AP's access *precisely* because of the organization's viewpoint," the District Court held that "the AP is likely to succeed on the merits of its First Amendment viewpoint-discrimination and retaliation claims for both its press pool and East Room allegations." Injunction Order at 19, 21. For the same reasons, the AP is likely to prevail on appeal.

A. The Government Is Not Likely To Prevail On Appeal Against The AP's First Amendment Viewpoint-Discrimination Claims.

The government's exclusion of AP journalists is unconstitutional viewpoint-based discrimination and retaliation. "Viewpoint discrimination, whether by legislative enactment or executive action, violates the First Amendment." *Frederick Douglass Found., Inc. v. D.C.*, 82 F.4th 1122, 1146 (D.C. Cir. 2023).

Indeed, viewpoint-based discrimination "is uniquely harmful to a free and democratic society." *NRA of Am. v. Vullo*, 602 U.S. 175, 187 (2024).

The government has not shown that it is likely to succeed in persuading this Court to permit the White House's brazen viewpoint discrimination and retaliation. As the District Court correctly noted, "[i]n modern jurisprudence, forum analysis controls the extent to which the government may restrict access to public property for First Amendment activities." Injunction Order at 17 (citing *Price v. Garland*, 45 F.4th 1059, 1067 (D.C. Cir. 2022)). Indeed, just days ago this Court reinforced that, in a forum analysis, courts "first consider the level of First Amendment scrutiny that should be applied," which "depends on the type of forum for speech that has been created by the government." *Ateba v. Leavitt*, --- F.4th ----, 2025 WL 1036451, at *4 (D.C. Cir. Apr. 8, 2025). In determining here that the category of either nonpublic or limited public forum was appropriate, the District Court adhered to precedent, holding that the White House's restrictions must be "viewpoint neutral and reasonable" in light of "the forum's purpose." *Id.* at *6.

Based on uncontested facts, the Court found that because "the Government has chosen to open the Oval Office" and "other press pool locations and events," as well as larger spaces such as "the East Room" to "some reporters for newsgathering," these are "nonpublic for[a]," from which "[t]he Government . . . cannot exclude the AP from access based on its viewpoint." Injunction Order at

29-30. As the record makes clear, "the Government has discriminated against it based on its viewpoint, a claim the Government all but concedes." *Id.* at 29; *see also, e.g.*, Hr'g Tr. at 190:14-24; Stay. Mot. at 8 (confirming this "undisputed" fact). The government is unlikely to succeed in overturning the District Court's clearly correct First Amendment analysis.

The government baldly claims that forum doctrine does not apply because "the personal workspace of the President" cannot be "subject to forum analysis," relying on the Court's decision in *Price*, 45 F.4th at 1068, 1070. Stay Mot. at 13-14. As the District Court observed, this argument "is untethered from precedent, which is likely why the Government did not advance this notion at all in its merits arguments for the injunction briefing." Stay Denial Order at 2.

Moreover, unlike in *Price*, where the Court found the plaintiff had not engaged in actual expression, the District Court found here that "AP journalists are engaged in full-fledged expression when they report from the Oval Office" and other limited spaces. Injunction Order at 24. From these spaces, AP journalists "break the news," "use all five senses to craft a unique message for publication," and "ask questions" of the President and those around him—and the loss of these opportunities, as punishment for the AP's expression, "has unquestionably harmed the AP's reporting." *Id.* at 34-36. Moreover, "*Price* counsels that even if any of the reporters' actions are noncommunicative, the proper inquiry is still a nonpublic

forum analysis which *never* tolerates viewpoint discrimination." *Id.* at 25 (citing *Price*, 45 F.4th at 1071-72) (emphasis added).

The government attempts to manufacture a slippery slope by claiming the operative difference between this case and in *Price* is a mere "tape delay," allowing anyone with a smartphone to create a public forum by livestreaming. Stay Mot. at 15. This argument elides the fact that *Price* did not involve newsgathering, on *any* time delay. *Price*, 45 F.4th at 1072. As the District Court noted, "the statute [in *Price*] had an express carveout exempting newsgathering activities from its restrictions, so *Price* did not disapprove of applying forum analysis to journalistic endeavors." Injunction Order at 25 (citing *id.* at 1064, 1070). Here, the White House has opened the Oval Office, Air Force One, and other spaces to the press pool and other journalists for the express purpose of both gathering and communicating news about the President's official business.

Aside from misreading *Price*, the government asserts that the Oval Office, Air Force One, and Mar-a-Lago are the President's "personal office space" and thus exempt from forum analysis. Stay Mot. at 13-14. Yet the essence of forum doctrine is that "although the government is not required to open such spaces for any speech at all," once the government does so, it cannot restrict that access unreasonably or based on viewpoint. *Ateba*, 2025 WL 1036451, at *5 (citation omitted). The analysis is not triggered "merely because title to the building

reside[s] in the government," Stay Mot. at 13-14, but because the government has invited in certain speakers. That is how, even though the public has no general right of access to the White House, the White House still contains nonpublic fora. *Id.*; *see also Ateba*, 2025 WL 1036451, at *1 (noting the White House contains both "*the President's* private living quarters" and "*government* office space") (emphasis added).

The government cites no case law or record evidence to support the novel proposition that forum analysis goes out the window when the President deems a space "private." Moreover, the government "misconstrues the facts" regarding these "so-called intimate space[s]." Stay Denial Order at 2-3. The President uses the Oval Office and Air Force One to conduct official business – just as he uses Mar-a-Lago as his "winter White House"[4] – and he continues to open up all of these spaces to the press pool and other journalists to cover the President's work. *See* Stay Denial Order at 2-3 (explaining that the Oval Office "is not just 'a personal workspace,'" that claiming Air Force One "is an intimate space is simply not credible," and that Mar-a-Lago has "large public rooms open for rental" and

[4] *See* Marc Caputo, *Trump dubs Mar-a-Lago the new 'Winter White House'*, Politico (Jan. 18, 2017), https://www.politico.com/states/florida/story/2017/01/trump-dubs-mar-a-lago-the-new-winter-white-house-108841.

hosted "an Executive Order signing ceremony with many journalists and local officers in the audience"). Indeed, the Court can see this for itself:

President Trump and Elon Musk Speak to Press Pool in Oval Office (AP, Feb. 11, 2025)[5]



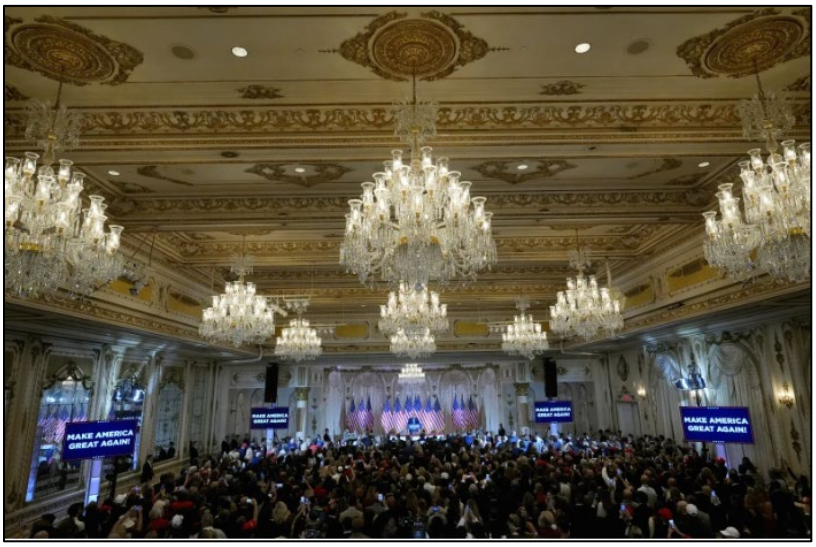
President Trump Speaks to Press Pool on Air Force One (AP, Jan. 26, 2025)[6]



[5] *See* Chris Megerian & Michelle L. Price, *Musk appears at White House defending DOGE's work but acknowledging mistakes*, AP (Feb. 11, 2025), https://apnews.com/article/trump-downsizing-federal-workers-doge-00683abc4de44a151f26aaa6cb0d0f30. This photo was taken before the White House extended its ban to AP photographers. Am. Compl. ¶ 54.

[6] *See* Will Weissert, *Trump's Q&A on Air Force One goes from the plane's color scheme to the fate of TikTok and Canada*, AP (Jan. 26, 2025),

President Trump Holds Super Tuesday Party at Mar-a-Lago (AP, Mar. 5, 2024)[7]



The First Amendment applies to all nonpublic fora, regardless of their location. *See, e.g.*, *Knight First Amend. Inst. v. Trump*, 928 F.3d 226, 235 (2d Cir. 2019) (holding President Trump's personal Twitter account was subject to forum analysis), *vacated on other grounds sub nom. Biden v. Knight First Amend. Inst.*, 141 S. Ct. 1220 (2021). Because the government opened the Oval Office, Air Force One, Mar-a-Lago and other spaces to the press pool and press corps, as the District Court correctly found, it cannot ban the AP based on its viewpoint.

https://apnews.com/article/trump-air-force-one-tiktok-canada-workers-06489fe4a05a352ce553e7da94a923a7.

[7] *See In case you missed it: Trump's estate was packed for a party*, AP (Mar. 5, 2024), https://apnews.com/live/super-tuesday-updates-results#0000018e-1293-d0c3-afee-ba9b00e00000.

Next, the government relies on the out-of-circuit decision in *Baltimore Sun v. Ehrlich*, 437 F.3d 410 (4th Cir. 2006). *See* Stay Mot. at 16-21. Yet *Ehrlich* did not involve forum analysis, so the District Court correctly found it "of little weight." Injunction Order at 26. There, the Fourth Circuit held that a governor did not violate the First Amendment in directing state officials not "to *speak with*" two Baltimore Sun reporters. 437 F.3d at 413 (emphasis added). Yet other Sun reporters retained access to press conferences and briefings. *Id.* at 413-14. Here, conversely, the entire AP White House team has been excluded on the basis of its viewpoint. Moreover, as the District Court found, *Ehrlich* "focused on *dialogue* with government officials," while this cases involves "restrictions on *physical access* to government property for newsgathering." Injunction Order at 26.

The government, in response to the District Court's well-reasoned interpretation of precedent, claims that challenges involving either an "interview or physical access lacks constitutional significance." Stay Mot. at 19. That claim ignores controlling case law. *See Sherrill*, 569 F.2d at 129 (holding that "the first amendment" requires that journalists' "access not be denied arbitrarily or for less than compelling reasons," but disclaiming restrictions on the "discretion of the President to grant interviews or briefings with selected journalists").

The government is unlikely to succeed on their appeal from this claim.

B. The Government Is Not Likely To Prevail On Appeal As To The First Amendment Retaliation Claims.

The government also is unlikely to succeed in establishing that the White House's retaliation does not violate the AP's First Amendment rights. *See* Injunction Order at 32-36. In fact, the government almost wholly overlooks this independent basis for injunctive relief. *See* Stay Mot. at 19-20 n.6 (addressing claim in two-sentence footnote). The government likewise ignores that the ban retaliates against the AP for its exercise of the right to petition the courts and attempts to compel the AP's speech. Indeed, the government failed to address – and therefore conceded – those arguments below. *See* AP's Reply (ECF 37).

"As a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions for engaging in protected speech." *Nieves v. Bartlett*, 587 U.S. 391, 398 (2019) (cleaned up). Even "[a]n ordinarily permissible exercise of discretion may become a constitutional deprivation if performed in retaliation for the exercise of a First Amendment right." Injunction Order at 32 (quoting *Toolasprashad v. Bureau of Prisons*, 286 F.3d 576, 585 (D.C. Cir. 2002)). Unconstitutional retaliation occurs when a plaintiff shows:

> (1) he or she engaged in conduct protected under the First Amendment; (2) the defendant took some retaliatory action sufficient to deter a person of ordinary firmness in plaintiff's position from speaking again; and (3) a causal

> link between the exercise of a constitutional right and the adverse action taken against him or her.

Ateba v. Jean-Pierre, 706 F. Supp. 3d 63, 86 n.10 (D.D.C. 2023) (cleaned up).

The AP "straightforward[ly]" satisfies each element of this test:

> The AP made an editorial decision to continue using "Gulf of Mexico" in its Stylebook. The Government responded publicly with displeasure and explicitly announced it was curtailing the AP's access to the Oval Office, press pool events, and East Room activities. If there is a benign explanation for the Government's decision, it has not been presented here.

Injunction Order at 33. This retaliation has "undoubtedly" had an "adverse" impact on the AP. *Id.* AP White House journalists are "getting 'absolutely [] slaughtered'" by the government's access denials. *Id.* (quoting Hr'g Tr. at 37:22). AP photographers are stuck with "qualitatively and quantitatively inferior" images taken by others, which they can only publish with a delay that leaves the AP "'dead in the water'" as compared to competitors. *Id.* at 33-34 (quoting Hr'g Tr. at 34:19). Likewise, the AP's text journalists are less able to receive and publish information in real time, and "the AP cannot reproduce" this reporting "by watching from afar." *Id.* at 34-35. The AP's "business model" is suffering, because its customers rely on, and pay for, "its ability to rapidly supply new photographs and breaking news," and may "flee to other news services absent" relief. *Id.* at 35, 38. One AP advertiser canceled a $150,000 contract. *Id.* "The AP has thus shown that the Government retaliated against it for an exercise of its

First Amendment freedoms, and that its speech has been adversely affected as a result." *Id.* at 36. The government cannot show it is likely to convince this Court otherwise, and in fact it has not attempted to do so.[8] *See id.* at 33-35.

Because the government has not shown any "likelihood" of prevailing on appeal, it has failed to carry its burden on the first element of the stay test.

II. THE GOVERNMENT WOULD NOT BE HARMED ABSENT A STAY.

On the second stay factor, the government incorrectly asserts that it will be irreparably harmed without a stay because the Injunction Order "restricts the White House's discretion from making its own judgments about whom it will admit into some of the most restricted spaces on the planet." Stay Mot. at 25-26. This argument fails because the Injunction Order does no such thing: it expressly recites that the President need not open any given event to the press at all, need not speak to any particular reporter, and can restrict access based on security concerns, space constraints, or any other viewpoint-neutral and reasonable basis. *See* Injunction Order at 1; *Sherrill*, 569 F.2d at 129. All the First Amendment requires is that when the government *does* open spaces to the press, it cannot selectively exclude journalists based on their viewpoint. *Id.* Following this core First Amendment

[8] The AP's showing of *material* adverse impact further distinguishes this case from *Ehrlich*, where the Fourth Circuit noted the Sun had shown only a "*de minimis* impact." 437 F.3d at 419.

rule will cause no harm. *Karem v. Trump*, 960 F.3d 656, 668 (D.C. Cir. 2020) (the White House has no interest in the "enforcement of an unconstitutional law").

Nor could the government show that restoring the AP to the press pool rotation will cause harm. "[T]he AP had two permanent spots—one print reporter and one photographer," in the White House press pool "for over a century." Injunction Order at 2. As a wire service, the AP has long had "the broadest reach," with "subscribers across the country and the globe." *Id.* at 4. Maintaining the status quo and permitting the AP to attend events open to the press pool and press corps, to the benefit of billions of readers globally, would not harm the government in the slightest. This factor, too, weighs strongly in favor of denying the government's motion for a stay.

III. A LONGER STAY WOULD SUBSTANTIALLY HARM THE AP AND THE PUBLIC.

The public interest and the prospect of even more irreparable harm to the AP also weigh decisively against the Stay Motion. It is axiomatic that "'[t]he loss of First Amendment freedoms, for even minimal periods of time,' constitutes irreparable harm when the plaintiff demonstrates that its 'First Amendment interests are either threatened or in fact being impaired at the time relief is sought.'" Injunction Order at 37 (quoting *Nat'l Treasury Emps. Union v. United States*, 927 F.2d 1253, 1254 (D.C. Cir. 1991) (Thomas, J.) (cleaned up)).

The government brushes off the harms it has caused to the AP and the public by claiming that the AP "remains able to cover the White House" and can only show harm "per se." Stay Mot. at 22. This claim flies in the face of the extensive record evidence – developed during the six-hour evidentiary hearing – of the AP's significant and ongoing harms. The only evidence that the government cites is Mr. Miller's testimony, which they miscast to claim that the AP has had access to East Room events. Stay Mot. at 26-27 (quoting Hr'g Tr. at 145:7-13). As the District Court correctly found from the extensive record, the AP has been excluded from pool-only East Room events, the AP's *text* journalists have been "systematically and almost completely excluded" from the East Room, and its "photographers have suffered curtailed access." Injunction Order at 9; *see also* Hr'g Tr. at 117:23-118:2, 33:20-21; *see also* Stay Denial Order at 4 ("The Government's cherry-picked quote from the cross-examination of an AP witness does not undermine the Court's comprehensive findings of fact.").

As the District Court held, "[t]he AP provided abundant evidence that its First Amendment right to gather and quickly disseminate news about the President has been severely hampered by—and continues to be hampered by—the ban on press pool admission and the highly circumscribed access to limited-access events." Injunction Order at 37. This harm is irreparable because "there is no real replacement for the missed photos" and text reporting. *Id.* at 34. The AP also

faces significant financial harms, none of which are recoverable due to the government's sovereign immunity. *Id.* at 38.

The government also fails to confront that the public is suffering these harms along with the AP. "[T]here is always a strong public interest in the exercise of free speech rights otherwise abridged by an unconstitutional regulation." *Pursuing Am.'s Greatness v. FEC*, 831 F.3d 500, 511 (D.C. Cir. 2016). The AP's ability to report on presidential events informs the public about the activities of the President and other public officials, which is essential in a democracy. *See* Am. Br. of Amici Curiae State Democracy Defenders Fund & Former Public Officials at 14-15 (ECF 49). "Local news outlets are particularly reliant on wire services for news from Washington, D.C." Injunction Order at 4. Further delaying injunctive relief would irreparably harm not only the AP, but also everyone its journalism reaches.

Importantly, a stay would also "materially alter[] the status quo in an unprecedentedly injurious manner to the public as well as to" the AP. *Harris v. Bessent*, 2025 WL 980278, at *47 (D.C. Cir. Mar. 28, 2025) (Millet, J., dissenting) (calling for denial of stay), *vacated on reconsideration en banc*, 2025 WL 1021435 (D.C. Cir. Apr. 7, 2025) (denying stay). "The point of a stay is to preserve the status quo pending litigation," which is defined as "the last uncontested status which preceded the pending controversy." *Id.* (internal marks omitted). Here, the

status quo, for decades and preceding the February 11 White House decision that precipitated this controversy, is no access ban on the AP.

On balance, none of the four factors supports a stay, and all weigh strongly against any additional delay in implementing the injunction. The Court should therefore deny the government's motion and maintain the April 14 effective date for the injunction.

CONCLUSION

For the foregoing reasons, the AP respectfully requests that the Court deny the emergency motion for a stay pending appeal and an administrative stay.

Dated: April 11, 2025

Respectfully submitted,

BALLARD SPAHR LLP

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Counsel for Plaintiff The Associated Press

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 27(d), the undersigned counsel certifies that this document complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this Response was composed using Microsoft Word in 14-point Times New Roman font, a proportionally spaced font. The word count is 5,200 words.

April 11, 2025

/s/ Jay Ward Brown
Jay Ward Brown

CERTIFICATE OF SERVICE

I hereby certify that, on this 11th day of April, 2025, a true and correct copy of the foregoing was served on counsel for all parties via the Court's ECF system.

/s/ Jay Ward Brown
Jay Ward Brown

ORAL ARGUMENT NOT YET SCHEDULED

No. 25-5109

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ASSOCIATED PRESS,

Plaintiff-Appellee,

v.

TAYLOR BUDOWICH, in his official capacity
as White House Deputy Chief of Staff, et al.

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Columbia, No. 1:25-cv-532-TNM
Hon. Trevor N. McFadden, J.

APPENDIX IN SUPPORT OF PLAINTIFF-APPELLEE THE ASSOCIATED PRESS'S RESPONSE IN OPPOSITION TO EMERGENCY MOTION FOR STAY AND AN IMMEDIATE ADMINISTRATIVE STAY

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE ASSOCIATED PRESS, Plaintiff, v. TAYLOR BUDOWICH, et al. Defendants.	Case No. 25-cv-532-TNM

SECOND DECLARATION OF JULIE PACE

Julie Pace, pursuant to 28 U.S.C. § 1746, declares as follows:

I submit this declaration in support of the Amended Motion for Preliminary Injunction filed by Plaintiff The Associated Press ("the AP") in this matter. I have personal knowledge of the facts set forth herein and would be competent to testify to them.

1. I am Senior Vice President and Executive Editor for the AP. In that role I lead the AP's global news operations and oversee its news content in all formats. I have been employed by the AP since 2007.

2. On February 12, 2025, I sent a letter to White House Chief of Staff Susan Wiles objecting to the White House's exclusion of the AP from press events with President Trump. A true and correct copy of my letter to Ms. Wiles is attached hereto as Exhibit A.

3. On February 18, 2025, I received an email from Ms. Wiles in response to my February 12, 2025 letter. A true and correct copy of that email is attached hereto as Exhibit B.

4. On February 28, 2025, I sent an email to Wiles objecting to the continued exclusion of the AP. A true and correct copy of that email is attached hereto as Exhibit C. As of this filing, that email is my latest communication to Wiles, and she has not yet responded.

5. The AP has incurred significant expenses as a result of the White House's denial of access to press events. The AP's expenses include the cost of flying a Paris-based AP reporter to the U.S. to cover a February 24, 2025 press conference in the East Room with President Trump and French President Emmanuel Macron – an event from which the AP's White House journalists were barred. The White House thus forced the AP to incur significant costs, which the AP would not have borne but for this denial of access, to cover President Macron's visit to the U.S. for the AP's global readership.

6. The AP's expenses also include the cost of flying a London-based AP reporter to the U.S. to cover February 27, 2025 events in the Oval Office and the East Room with President Trump and UK Prime Minister Starmer – events from which the AP's White House journalists were again barred. The White House thus forced the AP to incur significant costs, which the AP would not have borne but for this denial of access, to thoroughly cover Prime Minister Starmer's visit to the U.S. for the AP's global readership.

7. The AP's expenses also include the cost of flying a Ukraine-based AP reporter to the U.S. to cover a February 28, 2025 event in the Oval Office with President Trump and Ukrainian President Volodymyr Zelenskyy – an event from which the AP's White House journalists were once more barred.[1] The White House thus forced the AP to incur significant costs, which the AP would not have borne but for this denial of access, to thoroughly cover President Zelenskyy's visit to the U.S. for the AP's global readership.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/3/2025

Signed by:
Julie Pace
339CD9AD3C3B40D...

Julie Pace

[1] The AP's Ukraine-based reporter also would have covered an event that same day in the East Room, from which the AP's White House journalists were barred, but that event was cancelled.

Exhibit A

As a global news organization, The Associated Press is committed to providing Americans and billions of people around the world with factual, nonpartisan journalism. The AP is prepared to vigorously defend its constitutional rights and protest the infringement on the public's right to independent news coverage of their government and elected officials.

We are available to meet with you to discuss this matter in person.

Respectfully,



Julie Pace
Senior Vice President and Executive Editor
The Associated Press

cc: Karoline Leavitt, White House Press Secretary

Exhibit B

From: Wiles, Susan S. EOP/WHO <[redacted]>
Date: Tuesday, February 18, 2025 at 8:49 AM
To: Pace, Julie <[redacted]>
Cc: Budowich, Taylor A. EOP/WHO <[redacted]>
Subject: Good morning

[EXTERNAL]

Julie,

Thank you for your feedback, and I hope this email addresses your concerns and provides some guidance on how we can best move forward.

We do not agree that this is a First Amendment issue-both as a matter of law and implementation.

President Trump and his administration has provided, and will continue to provide, tremendous access to reporters as he governs the nation. There is no event that the Associated Press is being barred from covering. When occupancy is limited, the Associated Press' journalists are still able to cover these moments alongside the hundreds of other journalists who are credentialed for the White House every day but do not access the President directly.

Instead, this is purely a privilege of access issue. There are certain areas, including the Oval Office and Air Force One, whereby the nature of their size, we are restricted as to how many people can physically be accommodated. The only person who has the absolute right to occupy those spaces is the President of the United States. For the rest of us, it's a privilege, and to suggest otherwise wrong.

It is also important to understand our view as to why we arrived in this point. The Associated Press' Stylebook is used by many as a standard for writing and editing. It advises journalists, scholars, and classrooms around our country. Unfortunately, the influence this Stylebook has acquired has been misused, and at times weaponized, to push a divisive and partisan agenda. I have taken the time to review the Stylebook and I personally observe a multitude of biases that are unfair and biased. The latest instruction which is to deny the renaming of the Gulf of America is yet another example of a guide that appears more like a political tool than a neutral guide for the writers of today and tomorrow.

While we believe there should be a full review of the Stylebook and its potential abuses, more immediately, the guidance relating to the renamed Gulf of America should be appropriately reflected, not denied. The renaming was done according to law and is binding. We, of course, recognize that this renaming may not formally apply yet internationally, but given the AP's role, it should also appropriately make the distinction as an American guideline. Denying such, denies the appropriate authority of the duly elected President.

We believe strongly that the American public deserves neutrality from those privileged enough to enjoy close up access to some of the most important moments of history. Sadly, at this time, the Associated Press is failing to meet that standard.

We look forward to further conversation and remain hopeful that the name of the water body in question will be appropriately reflected in the Stylebook where American audiences are concerned.

Susie Wiles

Exhibit C

From: Pace, Julie <[redacted]>
Date: Friday, February 28, 2025 at 3:23 PM
To: Wiles, Susan S. EOP/WHO <[redacted]>
Subject: From AP

Susie,

I write to object to the further retaliatory actions taken by the White House this week to take over the decades-long role of the WHCA to select members of the White House press pool.

The designation of a purported new pool continues to exclude the AP and again targets the AP for its refusal to adopt the administration's language directives. It was also a "doubling down," as Press Secretary Karoline Leavitt described it, on the viewpoint discrimination that the federal court had warned the White House about just one day earlier.

For over two weeks now, the AP has been excluded from covering virtually all events involving the President as a member of the White House press corps. The White House has made very clear that these decisions target the AP for its style guidance regarding the Gulf of Mexico and President Trump's executive order renaming a portion to the Gulf of America.

The Constitution does not permit the government to exclude news organizations based on how they report the news. The new press pool arrangement, however, does exactly that: it excludes the AP both from the press pool and from events open to the larger press corps because the President dislikes its editorial decision. The White House's unconstitutional retaliations threaten the freedom and independence of the press, both so essential to our democracy.

We strongly urge the administration to end its exclusion of the AP, from both the pool and events open to the larger press corps. The AP will continue vigorously defending its constitutional rights.

We also remain available to meet with you to discuss this matter in person.

Best,

Julie Pace

Julie Pace
The Associated Press
SVP & Executive Editor
202-379-8902
JPace@ap.org

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE ASSOCIATED PRESS, Plaintiff, v. TAYLOR BUDOWICH, et al. Defendants.	Case No. 25-cv-532-TNM

SECOND DECLARATION OF ZEKE MILLER

Zeke Miller, pursuant to 28 U.S.C. § 1746, declares as follows:

I submit this declaration in support of the Amended Motion for Preliminary Injunction filed by Plaintiff The Associated Press ("the AP") in the above-captioned matter. I have personal knowledge of the facts set forth herein and would be competent to testify to them.

1. I am the Chief White House Correspondent for the AP. I have been employed by the AP for more than seven years, first as a White House Reporter and then White House Correspondent. I have reported on the White House and other aspects of national politics for more than 13 years.

2. From 2020 to 2021, I also served as the President of the White House Correspondents' Association ("WHCA"), a non-profit organization that exists to promote excellence in journalism as well as journalism education, and to ensure robust news coverage of the president and the presidency. Until February 25, 2025 the WHCA administered the White House press pool and coordinated and advocated for independent news coverage of presidential and vice-presidential events. Additional information about the WHCA's programs, membership, leadership, and history can be found on its website at https://whca.press/about.

The White House Press Pool Prior To February 25, 2025

3. Journalists and news organizations from across the country and around the world endeavor to keep their readers, listeners, and viewers as informed as possible about the President of the United States, the single-most powerful public official in the world.

4. Because the President is often in locations that can accommodate only a limited number of journalists, a smaller group of journalists, known as the White House press pool, has long accompanied the President almost everywhere he goes, including to the Oval Office and Air Force One. The press pool has thus served as the eyes and ears of fellow journalists and of the public in small yet critically important spaces.

5. The White House press pool is over a century old, and until the events at issue in this lawsuit, the AP had participated in the pool for that entire time. Indeed, as my colleague recently reported, "The first known instance of a so-called pool reporter inside the White House was in 1881 after President James A. Garfield was shot. As the chief executive lay in bed, AP reporter Franklin Trusdell sat outside his sick room, listening to him breathe and sharing updates with other correspondents." *See* Laurie Kellman, *The relationship between the White House and its press corps is time-tested — and can be contentious*, AP (Feb. 12, 2025), https://apnews.com/article/trump-gulf-mexico-america-ap-first-amendment-4304433d73ad496f5308c9666cbe8e11.

6. Prior to February 25, 2025, the White House press pool's membership had been determined, since the Eisenhower administration, by the WHCA and the press corps itself – not by the President or the White House.

7. Prior to February 25, 2025, while there were different permutations of the White House press pool depending on the nature of the event, it consisted of, at minimum, three wire

reporters (one each from the AP, Reuters, and Bloomberg), four photographers (one each from the AP, Reuters, AFP, and The New York Times), three network television journalists (from a rotating group of news organizations), a radio correspondent (also from a rotating group of news organizations), and at least one print reporter (also from a rotating group of news organizations).

8. When White House officials opened limited spaces such as the Oval Office or Air Force One, they generally first provided access to the entire press pool, plus additional journalists if space permits.

9. In circumstances when severe logistical constraints further restricted the number of journalists who could enter a limited space, a subset of the White House press pool – again selected by the WHCA, not the White House – accompanied the President. For example, when President Biden made a secret trip to Kyiv in 2023, two press pool journalists – including an AP photographer – accompanied him and reported on the events. A limited pool also accompanied President Trump on his secret trip from Palm Beach to Joint Base Andrews to begin a secret trip to Afghanistan in 2019.

10. When AP text journalists covered presidential events, they were able to send wire reports out instantaneously to the AP's global readership. When they did so as part of the press pool, there were no customs, expectations, or requirements that the AP's text journalists share the information they gathered with other press pool members. To the contrary, AP text journalists have vigorously competed with the other wire service pool journalists to provide the fastest and most accurate news reporting at the very moment that the event was happening.

11. Of the 13-member pool, the designated "print pooler" was the only journalist who, according to WHCA rules, was obligated to or regularly did share information with the rest of the pool and the press corps. Since the February 25, 2025 takeover by the White House, the

print pool report remains the only freely and widely disseminated pool product. The journalists in the other 12 slots, including the wire service slots that previously included the AP, only freely share information to participants in their rotations – if applicable – or as part of licensing agreements.

12. A list of the various permutations of the press pool, with descriptions of each that I have prepared based on information available on the WHCA website and my own personal knowledge, is attached as Exhibit A.

13. The three wire services were granted permanent pool status by the WHCA because they were viewed as an essential source of news not only for other outlets at the White House, but also for a larger number of news outlets that could not afford the substantial costs to provide regular coverage of the presidency, and for those news outlets' readers and viewers.

14. The AP and other wire services maintained their high standards for speed, accuracy, and context in reporting on presidential events in large part because they relied on their own staffers in the pool. The AP's members, clients, and subscribers could therefore have high confidence in the quality of the AP's reporting in a breaking news situation and then choose whether to write their own version of a story after receiving the pool report.

The White House's Denial of Access

15. As a White House correspondent, I have a "hard pass" credential that permits me to freely enter certain areas of the White House, including the James S. Brady Press Briefing Room, and the AP's workspace located to the rear of the Briefing Room.

16. On the morning of February 11, 2025, shortly after I entered the White House to begin my work there for the day, White House Press Secretary Karoline Leavitt summoned me to her office.

17. Leavitt told me that AP journalists would not be permitted in the Oval Office as press pool members until and unless the AP revised its Stylebook to refer to the body of water known for hundreds of years as the Gulf of Mexico as the Gulf of America.

18. The only reason that Leavitt provided to me for this decision was to compel the AP to change the language of its reporting, which she said was at President Trump's direction.

19. Leavitt did not object to any other conduct by AP journalists.

20. The AP declined to reverse this editorial decision in response to Leavitt's February 11 demand.

21. White House staff subsequently barred one of my colleagues, an AP print journalist, from attending the signing of a presidential executive order and press conference with Elon Musk in the Oval Office, which was open to the press pool. Another of my colleagues, an AP photographer, was allowed to attend the event, which was otherwise open to the press pool.

22. That night, another AP reporter was barred from an event in the Diplomatic Reception Room, open to the press pool, as the President welcomed home an American freed in a prisoner exchange with Russia. The AP's photographer was not banned.

23. The access denials continued when, on February 13, 2025, I was barred from an Oval Office event with President Trump and Indian Prime Minister Narendra Modi, which was open to the White House pool and the Indian delegation press pool. I subsequently was barred from a White House East Room press conference held by the two leaders, which was open to other pool members and journalists with White House press credentials.

24. I had the night before received an invitation sent to White House-credentialed journalists to sign up to attend that February 13 East Room event, and I promptly signed up to

indicate that I would attend. On the day of the event, however, I was barred from entering the East Room. The East Room is one of the largest event spaces in the White House complex.

25. I understand at least one other journalist from another news organization who did not sign up in advance was admitted to the East Room.

26. After the White House's February 14 public statement banning AP reporters and photographers from "limited spaces," my colleagues and I have been and continue to be barred from participating in the White House press pool and from covering events that are open to all White House credentialed journalists. The spaces from which AP has been banned include not only physically small locations, such as the Oval Office and Air Force One, but also some of the largest rooms in the White House, such as the East Room.

27. The White House even banned an AP photographer from covering the arrival of Air Force One at Palm Beach International Airport, even though the event was open to other credentialed media, and despite there being no space constraints whatsoever on the airport tarmac.

28. A list of the events that AP White House journalists have been barred from covering since February 11, 2025, is attached as Exhibit B.

29. At each published "call time" or "gather time" for the White House press pool, AP journalists have presented themselves to join their colleagues from other outlets in coverage of the President, only to be excluded by White House Press Office staff members.

30. Being unable to attend and observe presidential events firsthand has meant that AP text reporters cannot report on key in-the-room context, such as the President's demeanor, appearance, tone, or expressions, and publish breaking news with that additional context in real time. Instead, the AP's text reporters – and by extension hundreds of other news outlets and

billions of readers around the world – must often wait for the print pool reports or the network television transmission to get out the news, and the AP's reporters are limited in their reporting based on the aperture of the camera's lens or a third party's sometimes limited perception.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/3/2025

Signed by:
Zeke Miller
5397895AE85141C...

Zeke Miller

Exhibit A

Types of Pools

The WHCA-run pool includes wire and print reporters, TV, radio and photojournalists. The size and composition depend on where the President is.

In-town travel pool – 14 members – Covers the President off-campus within driving distance, for instance when he goes to the Capitol or Walter Reed, or goes out to dinner. The pool includes writers from the Print Pool, AP, Reuters and Bloomberg; six photographers (AP, Reuters, AFP, NYT, Getty, photo agency); radio; and a network TV crew and correspondent. (Getty added to photo contingent in January, 2025, raising the total to 14.)

In-house pool – ~21 members – (Often referred to as "Expanded in-house pool") – In-town pool plus reporters from foreign press, AFP and Dow Jones, as well as a second network television crew for the "cuts" angle, and potentially additional photographers. Used for most on-campus pool events.

In-Town Print Pool Rotation – 32 outlets as of February 2025. Open to US print outlets that regularly cover the White House, have the proper credentials, and demonstrate a commitment to the beat and to journalistic standards. Poolers are responsible for filling every assigned shift, even on holidays, and agree to abide by WHCA guidelines.

Domestic Travel Pool (Often referred to as "Out-of-Town Pool" or "Out -of-Town Travel Pool") – The 13-person group that travels with the President outside the capital region. Sometimes referred to as the "protective pool," because

Air Force One has 13 seats allocated to the press. The WHCA has allocated them to three wire reporters (AP, Reuters and Bloomberg), four photographers (AP, Reuters, AFP and New York Times), three from network TV, a radio correspondent, and two print reporters (in the Print and WHCA seats). Each outlet pays the full cost of travel, except for the Print seat, where costs for each trip are shared 15 ways by the 16 members of that rotation (two outlets share one slot).

Six larger print pool outlets share the WHCA seat (formerly the "Magazine" seat), providing additional opportunities to be in the pool.

Foreign Travel Pool – The 13-person group that travels with the President outside the country. Also sometimes referred to as the "protective pool**."** Same composition as the Domestic Travel Pool except that only seven Print outlets participate, and costs are not split.

Supplemental Pool – Eligible to volunteer when poolers are needed to cover the Vice President or First Lady, including when they travel, and whenever extra poolers are needed. Outlets in any print pool are always eligible to volunteer. Other outlets, print and non-print, may join this pool, on approval by the WHCA board. A year of supplemental pooling is required before consideration for membership in the Print Pool.

Exhibit B

Events From Which AP White House Journalists
Have Been Excluded Since February 11, 2025

- **February 11:**
  - The President signs Executive Orders in the Oval Office (In-House Pool)
  - The President greets and welcomes Marc Fogel back to the United States in the Diplomatic Reception Room (In-House Pool)
- **February 12:**
  - The President participates in a Swearing-In Ceremony for Director of National Intelligence Tulsi Gabbard in the Oval Office (In-House Pool)
- **February 13:**
  - The President signs Executive Orders in the Oval Office (In-House Pool)
  - The President participates in a Swearing-In Ceremony for Secretary of Health and Human Services Robert F. Kennedy Jr. in the Oval Office (In-House Pool)
  - The President hosts a bilateral meeting with the Prime Minister of the Republic of India Narendra Modi in the Oval Office (In-House Pool and Indian press delegation)
  - The President hosts a Press Conference with the Prime Minister of the Republic of India Narendra Modi in the East Room (Pre-Credentialed Media)
- **February 14:**
  - The President signs Executive Orders in the Oval Office (In-House Pool and additional invited press)
  - Air Force One flight from Joint Base Andrews to Palm Beach International Airport (Out-of-Town Pool)
- **February 15:**
  - Drive to Palm Beach International Airport to tour Boeing airplane and coverage of West Palm Beach golf outing (Out-of-Town Pool)
- **February 16:**
  - Travel to and from Daytona 500 on Air Force One (Out-of-Town Pool)
- **February 17:**
  - Coverage of West Palm Beach golf outing (Out-of-Town Pool)

- **February 18:**
  - Drive to and from West Palm Beach golf course (Out-of-Town Pool)
  - The President signs Executive Orders at Mar-a-Lago (Expanded Out-of-Town Travel Pool)
- **February 19:**
  - Travel from Palm Beach to Miami on Air Force One (Out-of-Town Pool)
  - FII Priority Event at Faena Hotel & Forum in Miami (Out-of-Town Pool)
  - Travel from Miami to Washington, DC on Air Force One (Out-of-Town Pool)
- **February 20:**
  - Black History Month Reception in the East Room (Pre-Credentialed Media)
  - The President delivers remarks at the Republican Governors Association Meeting at the National Building Museum (In-Town Travel Pool)
- **February 21:**
  - The President delivers remarks at the Governors Working Session in the State Dining Room (In-House Pool)
  - The President participates in a Ceremonial Swearing-In for Secretary of Commerce Howard Lutnick in the Oval Office (In-House Pool and invited others)
- **February 22:**
  - Travel to and from National Harbor to attend CPAC and meet with President of Poland (In-Town Travel Pool)
  - The President and The First Lady participate in the National Governors Association Evening Dinner and Reception in the East Room (In-House Pool)
- **February 24:**
  - The President hosts a bilateral meeting with the President of the French Republic in the Oval Office (In-House Pool and French press delegation)
  - The President holds a press conference with the President of the French Republic in the East Room (Pre-Credentialed Media)
- **February 25:**
  - The President signs Executive Orders in the Oval Office (Press Pool)

- **February 26:**
  - The President participates in a Cabinet Meeting in the Cabinet Room (White House Press Pool)
- **February 27:**
  - The President participates in a bilateral meeting with the Prime Minister of the United Kingdom in the Oval Office (White House Press Pool)
  - The President holds a press conference with the Prime Minister of the United Kingdom in the East Room (Pre-Credentialed Media)
- **February 28:**
  - The President participates in a bilateral meeting with the President of Ukraine in the Oval Office (White House Press Pool)
  - The President holds a press conference with the President of Ukraine in the East Room (Pre-Credentialed Media) – Note that the AP's requests for credentials were never confirmed, though the event was ultimately cancelled.
  - The President arrives at Joint Base Andrews (Out-of-Town Travel Pool)
  - The President departs Joint Base Andrews en route to Palm Beach International Airport (Out-of-Town Travel Pool)
  - The President arrives at Palm Beach International Airport (Out-of-Town Travel Pool) – Note that the White House also opened Air Force One's arrival in Florida to media beyond the press pool to cover the plane landing from the tarmac. An AP photojournalist's RSVP was denied.
  - The President departs Palm Beach International Airport en route Mar-a-Lago (Out-of-Town Travel Pool)
  - The President arrives at Mar-a-Lago (Out-of-Town Travel Pool)
- **March 1:**
  - Coverage of West Palm Beach golf outing (Out-of-Town Pool)
- **March 2:**
  - Coverage of West Palm Beach golf outing (Out-of-Town Pool)
  - Travel from Palm Beach International Airport to Joint Base Andrews on Air Force One (Out-of-Town Pool)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE ASSOCIATED PRESS, Plaintiff, v. TAYLOR BUDOWICH, et al., Defendants.	Case No. 25-cv-532-TNM

DECLARATION OF JON ELSWICK

Jon Elswick, pursuant to 28 U.S.C. § 1746, declares as follows:

I submit this declaration in support of the Amended Motion for Preliminary Injunction filed by Plaintiff The Associated Press ("the AP") in the above-captioned matter. I have personal knowledge of the facts set forth herein and would be competent to testify to them.

1. I am a photo editor for the AP, a position I have held for more than 35 years. I began my career in Chicago, where I primarily covered professional sports (including the Michael Jordan-era Bulls). I then moved to Washington, DC, where I have edited photos from AP photographers covering the White House and Congress, as well as photos from AP photographers across the country covering national political campaigns.

2. For more than 15 years, I also served on the board of the White House News Photographers Association ("WHNPA"), a non-profit organization dedicated to promoting, protecting, and advancing the interests and intellectual property rights of its membership, which consists of still and video photographers assigned to cover the White House and other news events in Washington and beyond. Additional information about the WHNPA can be found on its website at https://whnpa.org/.

How AP Photographers Covered The White House Before The Access Ban

3. The AP is the only wire service in the White House press pool that covered the President, almost exclusively, with staff photographers. We did this because we wanted to ensure the highest and most consistent quality of photographs for the thousands of news outlets across the country and around the world that rely on our photographers to capture images of the news as it happens in the White House and wherever else the President goes.

4. Our role in the pool, and the White House press corps more broadly, has been to serve as the eyes and ears for our news organization customers and their readers. We send our photographers to presidential events large and small not only because of the space restrictions on the smaller events, but also because our news organization customers do not have the staffing and resources to cover even the larger events on a regular basis. Instead, they rely on the AP to cover the President for them and to deliver nearly instantaneous photos from the White House.

5. When AP photographers were in the press pool, no customs, expectations, or requirements obligated the AP's photographers to share the photos they took with the other press pool members. To the contrary, the photographers vigorously competed with one another to provide news organizations and others around the world with the fastest and best photographs of the event as it was taking place.

6. Indeed, when AP photographers covered a presidential event, they sent images directly from their camera, during the assignment, to AP photo editors. The AP photo editors looked at the images coming directly from the photographer at the event and, based on the needs of the AP's readership, published images in real-time as news emerged from the event.

7. In this way, the AP published photos within a minute of the photographers taking them. That publication process included the photo editors ensuring proper captioning, cropping, and toning to meet the AP's editorial standards.

8. The AP permits only minor adjustments to photos. Per our standards, these permissible adjustments "include cropping, dodging and burning, conversion into grayscale, elimination of dust on camera sensors and scratches on scanned negatives or scanned prints and normal toning and color adjustments," though such adjustments "should be limited to those minimally necessary for clear and accurate reproduction and that restore the authentic nature of the photograph." The AP does not allow "[c]hanges in density, contrast, color and saturation levels that substantially alter the original scene," and our standards dictate that "[b]ackgrounds should not be digitally blurred or eliminated by burning down or by aggressive toning." Even the mere "removal of 'red eye' from photographs is not permissible." *See Telling the Story: Standards*, https://www.ap.org/about/news-values-and-principles/telling-the-story/.

9. The AP further allows only straightforward photo captions: single sentence "who, what, where, when" descriptions with simple metadata that merely state where a person is, what they are doing, and when they are doing it. The AP does not editorialize in photo captions.

10. On February 11, 2025, in one of the last events that the AP's White House photographers were able to cover before the access ban extended to them, for example, an AP photographer transmitted 93 images from their camera during the course of the event and a photo editor provided a constant edited stream of photos as the event continued, making more than 50 photos of Elon Musk's much-reported-on joint appearance with President Trump in the Oval Office available to customers and clients in nearly real time:



11. By comparison, another photographer in the in-town pool, not from the AP, transmitted fewer than 30 photographs from the same February 11 Oval Office event. It was the AP's editorial choice, because of our customer needs, to move a wider edit of images from the same event.

12. The AP's photographs of presidential events were non-partisan and offered a straightforward visual report of presidential events. AP photographers, acting for the news outlets around the globe that the AP represents, were present to witness history, however it unfolded, and to show the truth of what happened – nothing more.

How The White House Access Ban Has Affected The AP's Photojournalism

13. The White House access ban has had a substantial impact on the AP's photojournalism. We no longer have a large and varied amount of content – updated in real time – to provide and use with our own editorial reporting and to distribute to the AP's subscribers.

14. Because of the access ban, the AP also cannot continue to develop and maintain its journalistically historic archive,[1] which serves clients, customers, and ultimately the public.

[1] *AP Newsroom: Editorial Photos & Videos*, https://newsroom.ap.org/editorial-photos-videos.

15. Though the AP can republish a small number of photographs taken by a couple of other photographers in the press pool, and has done so since the White House began banning the AP, those photographs are no substitute for the AP's own work. When relying on sporadic delivery of pool photos from other agencies, the AP is not able to deliver images to our customers and clients in real-time. Instead, we are being delayed by at least 20 minutes, and sometimes by almost 90 minutes, before we receive those images. Publication is then further delayed as, even after reaching the AP, these photographs need to be toned, cropped, and properly captioned to conform to our editorial standards.

16. As a result of these delays, and the limits on the photographs that the AP can still make available, AP customers – including U.S. newspapers that typically use AP photographs – are instead selecting photos from other sources for their front pages. The following composite image shows recent front pages from U.S., UK, and Australian newspapers, many of which would typically be expected to publish AP photos, with photos from sources other than the AP:



17. As a digital first news organization, the AP wants images to accompany as many text stories as possible and to have those photos available to be used in every way or format the AP provides our journalism. The AP's customers and clients likewise pay to have our

photographs to accompany their own reporting. We have been harmed, and continue to be harmed, by not being able to provide these photographs, or not provide them as quickly, for reporting on the President.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/2/2025

Signed by:
Jon Elswick
BE6A25F22BAC4D8...

Jon Elswick

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE ASSOCIATED PRESS, Plaintiff, v. TAYLOR BUDOWICH, et al., Defendants.	Case No. 25-cv-532-TNM

DECLARATION OF GEORGE E. CONDON JR.

George E. Condon Jr., pursuant to 28 U.S.C. § 1746, declares as follows:

I submit this declaration in support of the Amended Motion for Preliminary Injunction filed by Plaintiff The Associated Press ("the AP") in the above-captioned matter. I have personal knowledge of the facts set forth herein and would be competent to testify to them.

1. I am a White House correspondent for National Journal, which I joined at the beginning of the Obama administration. Prior to that, I covered the White House and national politics as Washington bureau chief for Copley News Service and the San Diego Union-Tribune. I led the team that won the 2006 Pulitzer Prize for National Reporting. Over the course of my career, I have interviewed 10 presidents and reported from 88 countries.

2. I have also served as president of the White House Correspondents' Association ("WHCA"), president of the Gridiron Club, and chairman of the National Press Foundation.

3. In 2014, I was honored to receive the first-ever President's Award for Exceptional Service to the WHCA for my work on the organization's history. A portion of that work can be found on the WHCA's website at https://whca.press/about/history/. I am now in the process of writing a book about the history of the WHCA and the White House press pool, for which I have

conducted extensive research into the origins of the WHCA, its founding purpose, and its development of the White House press pool in cooperation with the White House.

4. The White House press pool is an arrangement whereby a relatively small number of news organizations are provided access to the President in settings where the full press corps cannot be reasonably accommodated, effectively serving as representatives for the wider press corps.

5. The press pool developed as an institutional feature of the modern presidency during the administration of Franklin Delano Roosevelt, when interest in covering the White House grew to the point that it became logistically impractical for all journalists who wanted to attend his press conferences to do so. The first known instance of the WHCA organizing the pool occurred in 1937. That first pool consisted of the three wire services of the day, including the Associated Press.

6. The process by which the White House press pool operated became formalized during the Eisenhower administration in the 1950s, with the White House adopting a system whereby the pool's membership would be selected by the White House press corps itself, through the WHCA. Since then, and up until last month, the WHCA has organized the press pool.

7. In selecting members of the pool, the WHCA and the press corps have sought to ensure reliable, high quality, and broadly distributed coverage of presidential events in the White House and everywhere else the President might go. The AP satisfied these criteria. Indeed, the AP's membership in the pool helped to ensure that information about the President would get out near-instantaneously to hundreds of other news outlets in the U.S. and abroad that distribute the AP's reporting, and as quickly as possible through them to readers around the globe.

8. A news organization's participation in the press pool provides its journalists, and ultimately the audience it serves, with firsthand observation of presidential activities and important insights about the presidency that could not have been gleaned from secondhand reporting alone.

9. In 2001, when President George W. Bush met the new Russian President Vladimir Putin in Slovenia, AP journalist Ron Fournier, who accompanied the President as part of the White House press pool, asked President Bush whether Putin was "a man that Americans can trust." President Bush responded, "I looked the man in the eye. I found him to be very straightforward and trustworthy… I was able to get a sense of his soul." Because Fournier was present at the event, he could see National Security Adviser Condoleezza Rice gasp as the President's answer. A copy of the AP's reporting on the event is attached hereto as Exhibit A.

10. In 1995, on St. Patrick's Day, President Clinton spoke at the White House, in front of the press pool, of healing the wounds in Ireland and pledged the United States to the cause. But more telling was what the press pool saw in the East Room and State Dining Room that night. President Clinton had invited Irish Taoiseach John Bruton, Sinn Fein leader Gerry Adams, Social Democratic Labor Party leader John Hume, and Unionist Leader David Trimble of Northern Ireland. These were men who never had been in the same room at the same time back in their home country. Only the pool was able to see the interaction, and it informed the AP's reporting. A copy of such reporting is attached hereto as Exhibit B.

11. In 1989, an hour after President George H.W. Bush learned that East German troops were no longer guarding the border and the Berlin Wall had fallen, the President welcomed the pool into the Oval Office. It did not take long for the pool reporters to focus as much on the president's body language as on his words: this was a big victory in the Cold War,

yet President Bush seemed nonchalant, slouching in his chair. But the pool also saw what the cameras did not pick up: Secretary of State James A. Baker and National Security Adviser Brent Scowcroft both appeared worried about the Kremlin's reaction if President Bush were seen to be gloating. The pool thus gained that additional context to write reports about his pivotal day in world history. A copy of such reporting – my own reporting – is attached hereto as Exhibit C.

12. In 1984, the pool was invited to President Reagan's Santa Barbara ranch to see the President host the Apostolic Delegate to the United States. One of the pool reporters asked the President about getting the Soviets into arms control talks. When the President froze, First Lady Nancy Reagan, in what one reporter described as a "barely discernible voice," whispered "doing everything we can." President Reagan immediately repeated, "We're doing everything we can." The pool was close enough to hear the First Lady prompting the President and reported on it. A copy of such reporting is attached hereto as Exhibit D.

13. In each of these instances where the press pool covered presidential events, as in many others, journalists reported what they were able to see only by being present at these moments in history.

Executed on 3 MARCH 2025.

George E. Condon Jr.

George E. Condon Jr.

Exhibit A

Bush, Putin vow new bonds, hint at compromise in first talks

June 17, 2001, Sunday, BC cycle

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Section: International News

Length: 887 words

Byline: By RON FOURNIER, AP White House Correspondent

Dateline: BRDO PRI KRANJU, Slovenia

Body

Face to face for the first time, President Bush and Russian President Vladimir Putin pledged Saturday to deepen their nations' bonds and to explore the possibility of compromise on U.S. missile defense plans that Moscow has bitterly opposed.

Despite mixed signals from his Russian counterpart, Bush said, "We have a great moment during our tenures to cast aside the suspicions and doubts that used to plague our nations."

Putin showed a surprising "receptivity" to missile defense, particularly the need to conduct research that could violate the 1972 Anti-Ballistic Missile treaty, Bush said.

"Nothing was rejected out of hand," Bush told The Associated Press as he closed his first overseas trip and returned to Washington on Saturday night.

Putin himself hinted at the possibility of a "very constructive development" on the ABM issue. "I think we can work out a common approach," he said.

Still, he warned Bush that any effort to go it alone can only make U.S.-Russian relations "more complicated." Putin coldly declined to restate Russia's opposition: "The official position of the Russian government is known."

Emerging from more than two hours of inaugural talks at Brdo Castle, Bush stressed the positive by announcing that Putin will visit Bush's Texas ranch for an autumn summit. Bush, in turn, will visit Putin at his home in Russia.

Senior officials on both sides were ordered to begin talks, including military-to-military negotiations, designed to bridge differences on issues ranging from missile defense to NATO expansion - both opposed by Moscow.

"The differences in approaches do exist, and naturally in one short moment, it's impossible to overcome all of them," Putin said.

Both sides said no specific breakthroughs were reached, and none were expected in the short term.

The summit brought together two men - one a former KGB agent, the other the son of a former CIA chief - whose sprawling nations stood for years on the brink of nuclear destruction. They, as well as their nations, are adjusting to the shifting dynamics of the post-Cold War world.

"Can I trust him?" Bush said. "I can. And from that basis, we can begin a very fruitful relationship." He called Putin a family man, a patriot. "I was able to get a sense of his soul," Bush told reporters.

Such an unimpeachable endorsement caught Bush's advisers by surprise and some worried he may regret his words if Putin strays from democratic reforms.

Bush saluted his Russian counterpart as "an honest, straightforward man who loves his country."

Bush met Putin at the elegant 16th-century estate that was a favorite Alpine resort for the late Yugoslav dictator Josip Broz Tito. Sweeping green fields and a craggy mountain top formed the backdrop as Bush tried to put his signature charm to work.

"I was so impressed that (Putin) was able to simplify his tax code in Russia with a flat tax. I'm not so sure I'll have the same success with Congress," he joked.

Bush hoped to thaw the chill in U.S.-Russian relations over his plan to scrap the 1972 Anti-Ballistic Missile Treaty and pursue missile defense. Bush argues that the offensive capabilities of "rogue" nations such as Iran and Iraq gravely threaten the U.S. and its allies.

Putin called the ABM treaty the "cornerstone of the modern architecture of international security," and added: "Any unilateral actions can only make more complicated various problems and issues."

In the brief interview, Bush told AP, "We talked straightforward. Nothing was rejected out of hand."

Asked if that included missile defense, Bush repeated, "Nothing was rejected out of hand, and there was a receptivity that I was most pleased to see. … It became clear to me in our discussion that the Russians feel the same threats we feel."

At the news conference, Bush said he did not offer incentives to Putin to gain Russian acquiescence.

White House aides had said in advance that Bush hopes to eventually offer Putin inducements such as arms purchases, military aid and joint anti-missile exercises with Russia. But first, advisers must hammer out the details.

Bush asked Secretary of State Colin Powell and Defense Secretary Donald Rumsfeld to work with their Russian counterparts on a "new approach for a new era" in security arrangements. And Treasury Secretary Paul O'Neill and Commerce Secretary Don Evans will head to Moscow soon to work on economic and commercial ties.

Bush and Putin meet again next month in Italy at the G-8 summit of industrial powers.

Asked if Putin seemed open to U.S. research on missile defense, Bush said, "That's obviously the intent of the discussions."

A more muted Putin said the United States and Russia must work together to identify security threats and officials from both countries should sit down to "try to find a way together to solve these problems."

Bush's National Security Adviser Condoleezza Rice welcomed that as an invitation to further dialogue.

On another contentious issue, Bush reiterated his support for expanding NATO while Putin went to lengths to explain his apprehension about the Western alliance expanding toward Russia's borders.

Drawing chuckles from Bush, Putin fished around on his lectern for a declassified 1954 memo in which NATO, casting the Soviet Union as an enemy, rejected Soviet interest in membership.

"There is no need to fire up this whole situation," Putin said.

Load-Date: June 18, 2001

End of Document

Exhibit B

President Promotes Peace at St. Patrick's Gala

The Associated Press

March 18, 1995, Saturday, PM cycle

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Section: Washington Dateline

Length: 542 words

Byline: By DONALD M. ROTHBERG, AP Diplomatic Writer

Dateline: WASHINGTON

Body

A traditional St. Patrick's Day gala at the White House became a celebration of peace as President Clinton urged blood enemies from Northern Ireland to learn that "strength can be drawn from differences."

Applauding the president's remarks Friday night as they sat no more than 30 feet apart in the East Room were Irish nationalist Gerry Adams and loyalist leader Gary McMichael.

Their enmity is deep and personal.

McMichael's father was killed by the Irish Republican Army, which is allied with Adams' Sinn Fein party. McMichael heads the Ulster Democratic Party, a hard-line Unionist group allied with Protestant vigilante groups that, like the IRA, are outlawed.

Both men had a chance to shake Clinton's hand. But no guest could be found who recalled seeing the two men speak to each other. Earlier, McMichael had said he'd have difficulty being in the same room with Adams.

Adams smiled and chatted with other guests and joined in the singing of Irish songs. McMichael rarely smiled.

"I urge all our guests from Northern Ireland and all parties concerned to put aside all extremism for the common good of peace," said Clinton.

Irish Prime Minister John Bruton, the guest of honor at the annual celebration, prompted a prolonged standing ovation when he turned to Clinton and said: "I want to say how much we in Ireland particularly appreciate the role that you have played personally, Mr. President, in bringing peace to our country."

"There's been a whole weight lifted off our shoulders," he said. "We're a happy land now."

Clinton said he hoped the people of British-governed Northern Ireland would look at America's "example of what is possible when people find unity and strength in their diversity."

Americans know, he said, that "strength can be drawn from differences."

The evening was not all solemnity.

Tenor Frank Patterson set the audience clapping and singing with a selection of Irish songs that included "Danny Boy," and "When Irish Eyes Are Smiling."

Bruton said that after leaving Washington today, he and his wife, Finola, would visit Chicago and then go to "a place called Festus, Missouri."

The prime minister said he had a great grand-uncle who ended up as a prominent banker in the Missouri town.

He also used the occasion to invite the Clinton family to "come to Ireland - North and South."

The 350 guests dined from a buffet that included smoked Irish fish, soda bread, Dublin Bay prawns, and West Cork crabmeat, Irish breakfast canape, Limerick ham, Irish Whiskey truffles and strawberry shamrock pie.

For all the festiveness, it was clear that the parties in Northern Ireland remain a long way from a secure peace.

Clinton and Bruton have appealed to the parties, particularly the IRA, to give up its huge store of arms.

Adams told a news conference that Sinn Fein has "no authority or control over arms."

But Bruton said that even though Adams did not have technical influence over the IRA's arms, "he has tremendous influence over the IRA."

The official U.S. hospitality shown Adams, who has been on a fund-raising visit, has not set well with the British government. Over the past several days, Prime Minister John Major was unavailable to take two telephone calls from Clinton. Spokesmen for the two leaders said they would talk this weekend.

Load-Date: March 18, 1995

End of Document

Exhibit C

Bush praises E. Germany, orders U.S. troops to aid those leaving

The San Diego Union-Tribune

November 10, 1989 Friday

Copyright 1989 The San Diego Union-Tribune

Section: NEWS; Pg. A-21

Length: 655 words

Byline: George E. Condon Jr., Copley News Service

Dateline: WASHINGTON

Body

WASHINGTON -- President Bush, describing himself as elated and surprised, yesterday hailed the decision by East Germany's Communist rulers to permit free travel by citizens and to work toward free elections after four decades of one-party rule. "I can't say that I foresaw this development at this stage," the President told reporters in the Oval Office.

"I'm elated." He said that the Berlin Wall, which has served as a vivid symbol of the Cold War since its construction in 1961, "will have very little relevance" if the East German leaders make good on their promises. Mr. Bush's view on the wall was echoed by Senate Majority Leader George Mitchell, D-Maine, who called for the destruction of what he termed "the most tangible symbol of the failure of communism itself." The White House said last night that Mr. Bush had ordered U.S. forces in West Germany to provide assistance, including temporary housing, for East Germans traveling to the West. The U.S. action was in response to a request from the West German government, the White House said. "The President has instructed all U.S. military authorities in the Federal Republic, as well as our embassy in Bonn, to make available ... all possible assistance," said a statement issued by White House Press Secretary Marlin Fitzwater. The United States will provide temporary housing, for up to six months, at three American facilities in West Germany, the announcement said. However, the President said yesterday he was uncertain about whether a great flood of people would develop. "These are Germans," Mr. Bush said, "and Germans love their country, and at some point, I think, a lot of Germans who have felt pent-in and unable to move are going to say, `Look, we can move; but wouldn't it be better to participate in the reforms that are taking place in our own country?' "So I think it's too early to predict that because these openings are there, that that means ... everybody is going to take off," he said. The President was cautious on the topic of the eventual reunification of Germany, saying, "I don't know whether ... the development of today speeds up the day or not." The President learned of the developments in East Germany while meeting with Secretary of State James A. Baker III and other top advisers as part of his preparation for next month's shipboard summit in the Mediterranean Sea with Soviet President Mikhail Gorbachev. Stating that yesterday's announcement by the East German government leaves him in a stronger position heading into that summit, Mr. Bush said, "When you see citizens wanting to go and flee what has been an oppressive society, clearly that is a message that Mr. Gorbachev will understand." Mr. Bush predicted a "good, lively" discussion with Gorbachev about the changes washing across Eastern Europe. But the President

stopped short of predicting the imminent demise of the Warsaw Pact as a military force opposing NATO forces, preferring to see the change only in terms of "a loosening up in terms of travel." He defended his cautious reaction to the rapid changes in Eastern Europe, saying, "I think it's being handled by the West very well" and "in a proper fashion." He added: "We'll have some that will suggest more flamboyant courses of action for this country.

And we're, I think, handling this properly with allies, staying in close touch." Baker said one reason for administration caution was a desire to wait and analyze exactly what the East Germans are doing. Fitzwater described the announcement as "a surprise," adding, "We had no advance warning." On Capitol Hill, Mitchell praised the East German decision as well.

But he added: "The decision is not an act of democracy.

It is not an act to please or placate the West. It is, rather, a desperate act of survival by the East German government." He urged that government "to take the final step and tear that wall down. It is gone in substance.

It should be gone in form."

Load-Date: August 1, 2007

End of Document

Exhibit D

Reagan gets prompt help

The Globe and Mail

August 2, 1984 Thursday

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THE GLOBE AND MAIL

Section: NEWS; Pg. P1

Length: 73 words

Byline: Reuter News Agency

Body

SANTA BARBARA, Calif. (Reuter) - President Ronald Reagan got help from his wife when he became tongue-tied yesterday.

Reporters had asked the President how he could persuade the Soviet Union to overcome problems with space weapons talks.

After an appreciable silence, Nancy Reagan leaned toward her husband, and, without moving her lips, muttered, "Doing everything we can."

"We're doing everything we can," the President responded.

Load-Date: July 14, 2022

End of Document

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE ASSOCIATED PRESS, Plaintiff, v. TAYLOR BUDOWICH, et al. Defendants.	Case No. 1:25-cv-00532-TNM

DECLARATION OF KRISTIN HEITMANN

Kristin Heitmann, pursuant to 28 U.S.C. § 1746, declares as follows:

I submit this declaration in support of the Amended Motion for Preliminary Injunction filed by Plaintiff The Associated Press ("the AP") in this matter. I have personal knowledge of the facts set forth herein and would be competent to testify to them.

1. I am Senior Vice President and Chief Revenue Officer for the AP. I have been employed by the AP since 2022. Prior to joining the AP, I served as chief commercial officer for media and marketing solutions at Dow Jones.

2. The AP is a not-for-profit news cooperative. We invest hundreds of millions of dollars every year in newsgathering and distribution, and revenue from licensing this content, across formats, is our main source of funding.

3. Customers can license individual pieces of content from the AP on an ad hoc basis and obtain permission to use that specific content in a specific way, such as licensing a single photograph for use in a particular publication.

4. Customers can also enter multi-year subscription contracts with the AP to access and obtain permission to use the AP's content more generally for news and information

purposes. Those contracts with media organizations around the world provide the majority of the AP's revenue.

5. As a result of that subscription agreement, long-term customers rely on the AP for prompt and comprehensive access to news reports, photographs and other content. Those customers include all four major U.S. broadcast television networks, the two largest daily U.S. newspapers, the largest U.S. local television group, one of the U.S.'s leading radio groups, and similar counterparts outside of the U.S.

6. Since February 11, 2025, multiple long-term customers have expressed concerns about the limitations on the AP's coverage of the White House and the President that the administration's access ban has imposed.

7. Given the fierce competition between the AP and its peer organizations, a lasting ban on the AP's access to presidential events, or continued restrictions on such access, will negatively impact our ability to remain competitive with long-term customers whose contracts provide the AP with hundreds of millions of dollars of revenue annually.

8. The AP also generates revenue, like most news organizations do, by displaying advertisements on our website.

9. Since February 11, 2025, advertising customers have expressed concern about the White House's targeting of the AP and have expressed hesitation about entering into new contracts or continuing existing contracts with the AP for this reason. In early March 2025, for example, an organization that had previously advertised with the AP canceled an upcoming advertising contract "due to the current status of the White House AP ban." The contract would have provided the AP with $150,000 in revenue.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/17/2025.

Signed by:
Kristin Heitmann
CD87F481CA26413...

Kristin Heitmann

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE ASSOCIATED PRESS, Plaintiff, v. TAYLOR BUDOWICH, et al. Defendants.	Case No. 25-cv-532-TNM

THIRD DECLARATION OF ZEKE MILLER

Zeke Miller, pursuant to 28 U.S.C. § 1746, declares as follows:

I submit this declaration in further support of the Amended Motion for Preliminary Injunction filed by Plaintiff The Associated Press ("the AP") in the above-captioned matter. I have personal knowledge of the facts set forth herein and would be competent to testify to them.

1. My second declaration in this matter listed the events from which AP White House journalists were excluded between February 11, 2025 – when Press Secretary Karoline Leavitt told me that the AP's journalists would not be permitted in the Oval Office as press pool members until and unless the AP revised its Stylebook to refer to the Gulf of Mexico as the Gulf of America – and March 2, 2025. *See* Second Declaration of Zeke Miller, Exhibit B (ECF 27-7).

2. A supplemental list of the events from which AP White House journalists have been excluded since March 3, 2025 until today is attached as Exhibit A.

3. On March 4, 2025, President Trump delivered the first congressional address of his second term. Because the congressional press galleries, not the White House, controlled press access to this event, AP reporters and photographers were permitted to attend and cover the speech. AP journalists in the room were able to provide information in real time and better

inform my reporting – to thousands of news organizations and billions of readers around the world – by observing key in-the-room context, such as the President's demeanor, appearance, tone, and expressions, as well as the reactions of members of Congress and others in the audience. For example, our reporters in the House chamber noted that Democratic lawmakers remained seated and did not applaud or make eye contact with President Trump as he entered, while Republican lawmakers were boisterous and cheering. The AP produced more than a dozen versions of its text story, updated over the course of the night, including the near-real-time comments, context and photographs from the event. A true and correct copy of the final version of my article is attached as Exhibit B.[1]

4. The next day, March 5, 2025, I received a press release from the White House stating that "President Trump's speech was the focus of newspapers across America." The press release contained front-page images of 18 U.S. newspapers, 11 of which carried an AP-bylined article that I co-wrote, and 12 of which included AP-credited photographs. A true and correct copy of the White House's March 5, 2025 press release is attached as Exhibit C.[2]

5. Some of the front pages feature different versions of the AP article, reflecting the publications' earlier press times. News organizations rely on the AP to provide frequent updates to wire stories so their papers reflect the most up-to-date information – even if an event has not yet concluded – when they go to press.

6. As the White House's press release illustrates, when AP journalists are able to report live from presidential events, news organizations and their readership across the country

[1] The article is also available at https://apnews.com/article/trump-speech-congress-immigration-tariffs-guests-93f6107ede260854f90c65c4bde60de8.

[2] The press release is also available at https://www.whitehouse.gov/articles/2025/03/president-trumps-historic-address-captivates-america.

benefit. Many of the newspapers whose front pages were included in the press release – just like thousands of other news organizations around the world – do not have the resources to regularly cover presidential events. But because those events are important to their readers, they rely on the AP to attend, observe, and report on them instead. That is why they are AP members and customers.

7. The AP has served that same fundamental purpose for nearly two centuries. The AP was formed in 1846 when five New York City newspapers jointly funded a pony express route to bring news of the Mexican War north faster than the postal service could deliver it. The idea was that it would require too much time and resources, and otherwise be impractical, for each of the five newspapers to send a correspondent to the southern border themselves, so they pooled their resources and formed a news cooperative to gather news for all of them. That is the fundamental purpose of the AP, and it continues to this day – the AP acts as the eyes and ears for its thousands of news customers, who may not otherwise be able to attend and gather news from any particular event. Instead, the AP attends on their behalf, and distributes its journalism to member news outlets and customers around the world so that they can inform their own audiences.

8. For the past month, the AP's White House text reporters have been barred from covering events open to the press pool and larger events open to credentialed journalists, despite having submitted RSVPs each time. The access ban on the AP did not stop after February 25, 2025, when the White House took control of the press pool. The other wire services and photographers that were in the pool before February 25, by all appearances, have remained part of the pool; only the AP is barred. Attached as Exhibit D is a chart describing the structure of the pool from before February 11, 2025, to present.

9. I have read the declaration (ECF 33-1) that White House Deputy Chief of Staff Taylor Budowich submitted in this matter on March 11, 2025. In that declaration, Mr. Budowich stated that "Associated Press journalists are part of the group of journalists permitted to RSVP for East Room press conferences. Subject to the new press pool system, the Associated Press' journalists are eligible, at the President's discretion, to be admitted to those events consistent with the RSVP process . . . and subject to other general requirements for admission."

10. On March 12, 2025, President Trump hosted a St. Patrick's Day reception with the Taoiseach of Ireland in the East Room. The White House permitted an AP photographer to attend, but it excluded an AP text journalist. Both AP journalists timely submitted RSVPs, but the text journalist never received a response from the White House about whether his RSVP was accepted or declined. When he showed up to join other reporters at the event, he was turned away without explanation.

11. On March 14, 2025, President Trump gave a speech at the U.S. Department of Justice, held in the building's large Great Hall. The event was open to the White House press pool (which traveled with the President) and additional journalists with Department of Justice credentials. The AP's text reporter and photographer were both denied the opportunity to join the press pool, and two AP text reporters and a photographer were denied entry to the event despite having promptly submitted RSVPs. Department of Justice staff informed the AP reporters that the White House was overseeing credentialing for the event.

12. The White House's ban on the AP has also extended to other non-presidential events, and the AP is concerned it will extend further still. An AP text reporter, photographer, and videographer were barred from attending an event hosted by Vice President JD Vance in Eagle Pass, Texas on March 5, 2025, which took place in a large park near the U.S.-Mexico

border. AP reporters and photographers were also specifically not permitted to attend First Lady Melania Trump's event on Capitol Hill on March 3, 2025.

13. Aside from being permitted to observe the arrival of Air Force One on the tarmac in Palm Beach on March 7 and March 14, after having been prevented from doing so on February 28, the White House has not permitted me or any other AP White House text reporter to attend any event open to the press pool, or any event open to the larger White House press corps, since February 11, even though my colleagues and I have promptly submitted RSVPs each time the White House sent out notices of events to the press corps and presented themselves at the published call time for each event only to be turned away.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/17/2025

Signed by:
Zeke Miller
5397895AE85141C...

Zeke Miller

Exhibit A

Events From Which AP White House Journalists
Have Been Excluded Since March 3, 2025

- **March 3:**
  - The President makes an Investment Announcement in the Roosevelt Room (White House Press Pool)
  - First Lady Melania Trump participates in a roundtable on Capitol Hill promoting the *Take It Down Act.* (Pool organized by the First Lady's office and AP informed it could not join.)
- **March 4:**
  - The President and The First Lady depart The White House en route to The Capitol (White House Press Pool)
  - The President delivers his Joint Address to Congress at The Capitol (White House Press Pool)
  - The President and The First Lady depart The Capitol en route to The White House (White House Press Pool)
  - The President and The First Lady arrive at The White House (White House Press Pool)
- **March 5:**
  - Vice President JD Vance holds a Press Availability at the Southern Border (Pre-credentialed media)
- **March 6:**
  - The President signs Executive Orders in Oval Office (Initially closed to press, but opened to the White House Press Pool)
- **March 7:**
  - The President delivers remarks in the Oval Office (White House Press Pool)
  - The President signs Executive Orders in the Oval Office (White House Press Pool)
  - The President delivers remarks at The White House Digital Assets Summit in the State Dining Room (White House Press Pool)
  - The President arrives at Joint Base Andrews (Out-of-Town Travel Pool)

- The President departs Joint Base Andrews en route to Palm Beach International Airport (Out-of-Town Travel Pool)
- The President departs Palm Beach International Airport en route to Mar-a-Lago (Out-of-Town Travel Pool)
- The President arrives at Mar-a-Lago (Out-of-Town Travel Pool)

- **March 8:**
  - The President departs Mar-a-Lago to golf at Trump International Golf Club West Palm Beach and returns to Mar-a-Lago (Out-of-Town Travel Pool)

- **March 9:**
  - The President departs Mar-a-Lago to golf at Trump International Golf Club West Palm Beach and returns to Mar-a-Lago (Out-of-Town Travel Pool)
  - The President departs Mar-a-Lago en route to Palm Beach International Airport (Out-of-Town Pool)
  - The President departs Palm Beach International Airport en route to Joint Base Andrews (Out-of-Town Pool)
  - The President arrives at Joint Base Andrews (Out-of-Town Pool)
  - The President departs Joint Base Andrews en route to The White House (Out-of-Town Pool)

- **March 11:**
  - The President holds a photo op with Tesla vehicles at the White House (White House Pool)
  - The President departs The White House en route to the Business Roundtable Office (In-Town Travel Pool)
  - The President arrives at the Business Roundtable Office (In-Town Travel Pool)
  - The President delivers remarks at the Business Roundtable Quarterly Meeting (In-Town Travel Pool)
  - The President departs Business Roundtable Office en route to The White House (In-Town Travel Pool)
  - The President arrives at The White House (In-Town Travel Pool)

- **March 12:**
  - The President participates in a bilateral meeting with the Taoiseach of Ireland in the Oval Office (White House Press Pool)
  - The President departs The White House en route to The Capitol (In-Town Travel Pool)
  - The President arrives at The Capitol (In-Town Travel Pool)
  - The President participates in the Friends of Ireland Luncheon at The Capitol (In-Town Travel Pool)
  - The President departs The Capitol en route to The White House (In-Town Travel Pool)
  - The President arrives at The White House (In-Town Travel Pool)
  - The President participates in a St. Patrick's Day Reception with the Taoiseach of Ireland in the East Room (Pre-Credentialed Media) (Note: one AP photographer was allowed into this event, while the AP's text journalist was denied entry.)
- **March 13:**
  - The President participates in a meeting with the Secretary General of NATO in the Oval Office (White House Press Pool)
- **March 14:**
  - The President departs The White House en route to the Department of Justice (In-Town Travel Pool)
  - The President arrives at the Department of Justice (In-Town Travel Pool)
  - The President delivers remarks at the Department of Justice (In-Town Travel Pool and pre-credentialed reporters)
  - The President departs the Department of Justice en route to The White House (In-Town Travel Pool)
  - The President arrives at The White House (In-Town Travel Pool)
  - The President arrives at Joint Base Andrews (In-Town Travel Pool)
  - The President departs Joint Base Andrews en route to Palm Beach International Airport (Out-of-town Travel Pool)
  - The President departs Palm Beach International Airport en route to Mar-a-Lago (Out-of-town Travel Pool)

- The President arrives at Mar-a-Lago (Out-of-town Travel Pool)

- **March 15:**
  - The President departs Mar-a-Lago to golf at Trump International Golf Club West Palm Beach and returns to Mar-a-Lago (Out-of-Town Travel Pool)

- **March 16:**
  - The President departs Mar-a-Lago to golf at Trump International Golf Club West Palm Beach and returns to Mar-a-Lago (Out-of-Town Travel Pool)
  - The President departs Mar-a-Lago to attend a course championship awards dinner at Trump International Golf Club West Palm Beach (Out-of-Town Travel Pool)
  - The President departs Trump International Golf Club West Palm Beach en route Palm Beach International Airport (Out-of-Town Travel Pool)
  - The President arrives Palm Beach International Airport (Out-of-Town Travel Pool)
  - The President departs Palm Beach International Airport en route Joint Base Andrews (Out-of-Town Travel Pool)
  - The President arrives Joint Base Andrews (Out-of-Town Travel Pool)
  - The President departs Joint Base Andrews en route The White House (In-Town Travel Pool)

Exhibit B

AP SETS THE STANDARD FOR POLITICAL REPORTING.
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POLITICS

Trump vows to press ahead on reshaping America in speech to Congress as Democrats register dissent



BY ZEKE MILLER AND MICHELLE L. PRICE
Updated 6:58 AM EDT, March 5, 2025

WASHINGTON (AP) — President Donald Trump vowed to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an unyielding address before Congress that left Democratic legislators to register their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

Trump's prime-time speech Tuesday was the latest marker in his takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake America's place in the world.



President Donald Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (Win McNamee/Pool Photo via AP)



Republicans stand as Democrats sit as President Donald Trump addresses a joint session of Congress in the House chamber at the U.S. Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/Julia Demaree Nikhinson)

The president's address, clocking in at a record 99 minutes, added up to a defiant sales pitch for the policies that Trump promised during his campaign and leaned into during his first weeks back in office. Trump pledged to keep delivering sweeping change to rescue the nation from what he described as destruction and mistakes left by his predecessor. He seldom addressed his comments directly to the American people, who are trying to keep up with the recent upheaval, while repeatedly needling the Democratic lawmakers seated before him.

Michigan Sen. Elissa Slotkin, who delivered the Democratic response following Trump's speech, allowed that "America wants change, but there's a responsible way to make change and a reckless way, and we can make that change without forgetting who we are as a country and as a democracy."

Emboldened after overcoming impeachments in his first term, outlasting criminal prosecutions in between his two administrations and getting a tight grip on the GOP-led Congress, Trump has embarked on a mission to dismantle parts of the federal government, remake the relationship with America's allies and slap on tariffs that have sparked a North American trade war.

"It has been nothing but swift and unrelenting action," Trump said of his opening weeks in office. "The people elected me to do the job, and I am doing it."

Trump, who has billionaire adviser Elon Musk orchestrating his efforts to slash the size and scope of the federal government, said he is working to "reclaim democracy from this unaccountable bureaucracy" and threatened federal workers anew with firings if they resist his agenda.



Elon Musk stands and is recognized and applauded as President Donald Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/J. Scott Applewhite)

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Musk, who was seated in the House gallery, received a pair of standing ovations from Republicans in the chamber, as Trump exaggerated and shared false claims about alleged government abuse uncovered by the Tesla and SpaceX founder and his team of disrupters.

Trump repeated false claims that tens of millions of dead people over 100 years old are receiving Social Security payments, prompting some Democrats to shout, "Not true!" and "Those are lies!"

Trump spoke at a critical juncture in his presidency, as voters who returned him to the White House on his promise to fix inflation are instead finding economic chaos. All the gains the S&P 500 have made since Election Day are now gone, while consumer sentiment surveys show the public sees inflation as worsening.

Trump seemed prepared to double down on his trade policies, which experts have warned will raise prices for consumers.

"Whatever they tariff us, we tariff them. Whatever they tax us, we tax them," Trump said. At the same time, he tried to ease concerns about the resulting price increases, saying, "There'll be a little disturbance, but we're okay with that. It won't be much."



President Donald Trump speaks as Vice President JD Vance, from left, and House Speaker Mike Johnson, R-La., stand and clap as Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/Alex Brandon)



President Donald Trump arrives to address a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/Ben Curtis)

Trump said one of his “very highest priorities” was to rescue the economy and offer relief to working families. He promised to organize the federal government to lower costs on eggs and energy, blaming his Democratic predecessor Joe Biden for the situation and offering scant details of his own plans.

Trump also called for the extension of his first-term tax cuts and additional federal funding for his border crackdown, including for his promised efforts at “mass deportation” of people in the U.S. illegally.

He celebrated his crackdown on migration, saying, “But it turned out that all we really needed was a new president.”

Speaking about his promised tax cuts, Trump seemed to goad Democrats, saying: “I’m sure you’re going to vote for those tax cuts. Because otherwise I don’t believe the people will ever vote you into office.”

The backdrop was the new economic uncertainty unleashed after the president opened the day by placing stiff tariffs on imports from the country's neighbors and closest trading partners. A 25% tax on goods from Canada and Mexico went into effect early Tuesday — ostensibly to secure greater cooperation to tackle fentanyl trafficking and illegal immigration — triggering immediate retaliation and sparking fears of a wider trade war. Trump also raised tariffs on goods from China to 20%.



Republican members of Congress applaud as President Donald Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/Alex Brandon)

Read More

Republicans were boisterous as Trump stepped to the lectern in the House, chanting "USA! USA!" as the president basked in the cheers. The GOP lawmakers were jubilant, having won a trifecta of the White House, Senate and House in the elections. However, they face the challenging task of delivering on Trump's agenda as well as avoiding a government shutdown later this month.

Across the aisle, out-of-power Democrats set the tone early, with most remaining seated without applauding or making eye contact with Trump as he was introduced in the chamber.

After several interruptions, House Speaker Mike Johnson jumped in and called for decorum to be restored in the chamber as Republicans shouted "USA" to drown out the cries from the other side of the aisle. Johnson then ordered Texas Rep. Al Green removed from the chamber.

"It's worth it to let people know that there are some people who are going to stand up" to Trump, Green told reporters after being thrown out of the chamber.



Rep. Al Green, D-Texas, left, shouts as President Donald Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (Win McNamee/Pool Photo via AP) Read More

Other Democrats held up signs criticizing like “Save Medicaid” and “Protect Veterans” during Trump’s remarks, seeking to drive public awareness to elements of Trump’s agenda they believed might offer them a pathway back to the majority.

Some Democrats chose to highlight the impact of Trump’s actions by inviting fired federal workers as guests, including a disabled veteran from Arizona, a health worker from Maryland and a forestry employee who worked on wildfire prevention in California.

Trump also used his speech to address his proposals for fostering peace in Ukraine and the Middle East, where he has unceremoniously upended the policies of the Biden administration in a matter of just weeks. On Monday, Trump ordered a freeze to U.S. military assistance to Ukraine, ending years of staunch American support for the country in fending off Russia’s invasion.



Democrats hold signs as President Donald Trump addresses a joint session of Congress in the House chamber at the U.S. Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/Julia Demaree Nikhinson)



Rep. Nydia Velazquez, D-N.Y., holds a protest sign with fellow Democrats as President Donald Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (Win McNamee/Pool Photo via AP)

Trump recited a letter he received earlier Tuesday from Ukrainian President Volodymyr Zelenskyy, saying that the wartime president wants to come back to the table after a explosive Oval Office meeting last week broke down negotiations for a peace deal between Russia and Ukraine. “We’ve had serious discussions with Russia and have received strong signals that they are ready for peace,” Trump said. “Wouldn’t that be beautiful?”

He also announced the arrest of a suspect in the 2021 suicide bombing at the Kabul airport that killed U.S. troops during the withdrawal from Afghanistan.

Trump’s 1 hour and 39 minute speech was the longest annual address a president has ever delivered to Congress, breaking Bill Clinton’s record of 1 hour and 28 minutes.

Watching from the gallery with first lady Melania Trump were guests including 15-year-old Elliston Berry, of Aledo, Texas, who was the victim of an explicit deepfake image sent to classmates.

Other White House guests included relatives of Corey Comperatore, the former Pennsylvania fire chief who was killed as he protected his family during an assassination attempt on Trump last summer.

Republican lawmakers cheered the conclusion of Trump’s address with chants that echoed his words after he was struck in the ear by a bullet: “Fight! Fight! Fight!”

Associated Press writers Lisa Mascaro, Stephen Groves and Kevin Freking in Washington, Darlene Superville in Kissimmee, Fla., and Bill Barrow in Atlanta contributed to this report.



ZEKE MILLER
Miller leads coverage of the president and the presidency for The Associated Press. He is based in Washington.



MICHELLE L. PRICE
Price covers the White House. She previously covered the 2024 presidential campaign and politics, government and other news in New York, Nevada, Utah and Arizona. She is based in Washington.



MOST READ



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4 **New Canadian Prime Minister Mark Carney seeks alliances in Europe as he deals with Trump**

5 **NASA's stuck astronauts welcome their newly arrived replacements to the space station**

Exhibit C

President Trump's Historic Address Captivates America

The White House

March 5, 2025

President Donald J. Trump's address to a joint session of Congress last night was widely acclaimed as among his best — in which he touted his record accomplishments after just six weeks in office and laid out his compelling vision for four years of peace, strength, and prosperity for all Americans.

This morning, President Trump's speech was the focus of newspapers across America:

The Boston Globe
Serving our community since 1872
WEDNESDAY, MARCH 5, 2025

Trump has his moment

In address, he hails his 'swift and unrelenting action' remaking federal government



WIN MCNAMEE/POOL VIA ASSOCIATED PRESS

With the vice president and the speaker behind him, President Trump spoke to Congress on Tuesday night, eight years after his first address.

By Zeke Miller and Michelle L. Price
ASSOCIATED PRESS

WASHINGTON — President Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration, and foreign policy in an unyielding address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

Trump's prime-time speech was the latest marker in his takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake the country's place in the world.

The more than 90-minute address added up to a defiant sales pitch for the policies that he promised during his campaign and leaned into during his first weeks back in office. Trump pledged to keep delivering sweeping changes to the country, rescuing it from what he described as destruction and mistakes left by his predecessor while repeatedly needling Democratic lawmakers who protested his remarks.

Emboldened after overcoming impeachments in his first term and criminal prosecutions in between his two administrations and with a tight grip on the Republican-controlled Congress, Trump has embarked on a mission to dismantle parts of the federal government, remake the relationship with US allies, and spark a North American trade war that is compounding economic uncertainty.

"It has been nothing but swift and unrelenting action," Trump said of his opening weeks in office. "The people elected me to do the job, and I am doing it."

Trump, who has billionaire adviser Elon Musk orchestrating his efforts to slash the size and scope of the federal government, said he is working to "reclaim democracy from this unaccountable bureaucracy" and threatened federal workers anew with firings if they resist his agenda.

Musk, who was seated in the House gallery, received a pair of standing ovations from Republicans in the chamber, as Trump exaggerated and shared false claims about alleged government abuse uncovered by the Tesla and SpaceX founder and his team of disrupters.

Trump repeated false claims that tens of millions of dead people over 100 years old are receiving Social Security payments, prompting

TRUMP, Page A6

Wu prepped and ready for hearing today in D.C.

By Emma Platoff
GLOBE STAFF

As Boston Mayor Michelle Wu readies to testify Wednesday before the Republican-led House Oversight Committee, the city has turned to an outside law firm, Cahill Gordon & Reindel, to help her prepare, at the rate of $950 per hour.

Hiring outside attorneys — whose tab could rise as high as $650,000, according to city officials — is just one of many steps the mayor has taken to gear up for a hearing that is both a mine-

Insurer of disabled, elderly low on cash

Commonwealth Care Alliance had been model

By Jessica Bartlett
GLOBE STAFF

Financial turmoil has engulfed one of the largest insurers of Massachusetts' disabled, elderly, and low-income residents, potentially challenging that vulnerable population's access to care for complex health needs.

Should the organization fail, nearly 50,000 patients in Massachusetts could face disruptions in critical medical services.

Commonwealth Care Alliance has long been regarded as a visionary in the care of people simultaneously eligible for Medicaid, which serves mostly low-income people, and Medicare, which helps largely people over 65 and those with disabilities. Acting as both a health insurer and for some, a service provider, the nonprofit's model is one that is deeply involved in patients' care, often coordinating multiple specialists, appointments, and services.

But after years of multimillion-dollar operating losses, Commonwealth Care's cash reserves have fallen dramatically, triggering MassHealth, the state's Medicaid program, in November to block the insurer from acquiring new members. Disability advocates recently said in a letter to state regulators that they understood the company was looking to be acquired, but that those efforts have so far been unsuccessful.

Executives from Commonwealth Care declined to comment.

The organization's financial struggles come after a period of

INSURER, Page A10



Food writer Devra First checks out Somaek, a Korean restau-

The Boston Globe (Boston, MA)



Chicago Sun-Times (Chicago, IL)



BILL CLARK/CQ ROLL CALL/ZUMA PRESS

President Trump, with Vice President JD Vance and House Speaker Mike Johnson behind him, addressed Congress Tuesday night.

Trump Touts 'Swift and Unrelenting' Actions on Border, Budget, Economy

By Alex Leary

WASHINGTON—President Trump put his disruptive return to power on full display during a prime-time address to Congress on Tuesday night, offering a no-apologies assessment of his decisions to crack down on illegal immigration, slash the federal workforce and impose stiff tariffs on imports.

"I return to this chamber tonight to report that America's momentum is back, our spirit is back, our pride is back, our confidence is back," Trump said, standing in the House chamber five years after his last address to Congress, describing what he called a "swift and unrelenting" campaign to transform the country.

The one-hour, 40-minute address—the longest ever of its kind by a president to a joint session of Congress—gave Trump an opportunity to sell his combative brand of governing to tens of millions of Americans in what is expected to be his largest audience since his inaugural address.

Trump presented a swaggering view of his administration, boasting of the dozens of executive orders he has signed and casting his first month in office as the most successful in history. He made few entreaties for unity, instead attacking Democrats as "radical left lunatics" and blaming his predecessor, Joe Biden, for the country's problems.

"I look at the Democrats in front of me and I realize there is absolutely nothing I can say to make them happy," he said. Democratic lawmakers held signs that read "false" and "Musk steals," a reference to Trump's ally Elon Musk and the efforts he has led to slash government spending.

Seven minutes into the speech, Rep. Al Green (D., Texas) was removed from the House chamber after rising from his seat and shouting at the president. The disruption prompted Trump to momentarily pause his remarks. Green later told reporters that the outburst was "worth it to let people know that there are some people who are going to

Please turn to page A5

◆ Zelensky aims to mend ties with Trump..... A6

The Wall Street Journal **(New York City, NY)**

PRESIDENT'S ADDRESS TO CONGRESS

Trump claims credit for 'swift, unrelenting action'



Pool photo by WIN McNAMEE • The Associated Press

President Donald Trump addresses a joint session of Congress on Tuesday at the Capitol in Washington as Vice President JD Vance, left, and House Speaker Mike Johnson applaud.

He recounts his flurry of activity since being inaugurated.

By ZEKE MILLER and MICHELLE L. PRICE
The Associated Press

WASHINGTON – President Donald Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an unyielding address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

Trump's speech was the latest marker in his takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake America's place in the world.

The more than 90-minute address added up to a defiant sales pitch for the policies that he promised during his campaign and leaned into during his first weeks back in office. Trump pledged to keep delivering sweeping changes to the country, rescuing it from what he described as destruction and mistakes left by his predecessor while repeatedly needling Democratic lawmakers who protested his remarks.

Emboldened after overcoming impeachments in his first term and criminal prosecutions in between his two administrations and with a tight grip on

SEE TRUMP ON A4 »

"The people elected me to do the job, and I am doing it."

President Donald Trump



KENNY HOLSTON • The New York Times

Rep. Al Green, D-Texas, was ejected from the House chamber after yelling at Trump that he had "no mandate to cut Medicaid."

The Minnesota Star Tribune **(Minneapolis, MN)**

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TRUMP'S ADDRESS TO CONGRESS



Win McNamee/Getty Images
President Donald Trump arrives to address a joint session of Congress on Tuesday at the U.S. Capitol in Washington. Speaker of the House Mike Johnson, R-La., and Vice President JD Vance applaud behind him.

PRESSING FORWARD

President promises to keep up 'swift and unrelenting action'



Jim Watson/AFP via Getty Images
Oakmont teacher Marc Fogel, center, recently brought home to the U.S. after being held in a Russian prison, stands with his mother, Malphine Fogel, as he is recognized by President Donald Trump.

By Zeke Miller and Michelle L. Price
Associated Press

WASHINGTON — President Donald Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an unyielding address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

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SEE **SPEECH**, PAGE A-6

INSIDE
· In Democratic response, first-term Michigan senator assails Trump's policies, **A-6**
· Zelenskyy calls his spat with Trump "regrettable," **A-8**

PITTSBURGH POLICE

RAGLAND LEAVING, CITING ETHICS

Calls process for chief job 'political football'

By Megan Guza and Hallie Lauer
Pittsburgh Post-Gazette

Christopher Ragland, the acting Pittsburgh police chief and Mayor Ed Gainey's nominee to take over the position, is leaving the bureau altogether, citing "demands" made of him that he felt were unethical.

"As a leader, you have to have some bright lines," Chief Ragland said at a Tuesday afternoon briefing. "You have to do things that are moral, ethical and legal, and when you are faced or requested or demanded to do certain things that maybe go against your bright lines, you have to be prepared to walk away.

"That's what I'm doing today," he said.

Assistant Chief Martin Devine will step into the role of acting chief effective Tuesday.

Chief Ragland declined to elaborate on what demands were placed on him or who made them, saying only that "the mayor's office, the mayor himself, have never made any requests to me other than to lead the bureau with integrity and honesty."

SEE **RAGLAND**, PAGE A-3



Sarah Qu/Post-Gazette
Acting Chief Christopher Ragland: "All I'm going to say is that during this process, I

***Pittsburgh Post-Gazette* (Pittsburgh, PA)**

The Gazette
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MICROCHIP

200 in Springs to be laid off
Microchip cutting overall workforce, cites automaker issues. BUSINESS, B1



Scorpions sting Hawks
Late basket lifts Sand Creek boys to first Great 8 since 2014. SPORTS, C1

BONUS COVERAGE
See gazette.com for more news, photos and videos.

TRUMP: 'AMERICA IS BACK'

Colorado Republicans cheer, state's Dems scowl

BY ERNEST LUNING
ernest.luning@coloradopolitics.com

President Donald Trump's address to a joint session of Congress on Tuesday night was music to the ears of Colorado's Republican lawmakers, but the state's Democrats turned their thumbs down, with one walking out midway through and another skipping the speech entirely.

"President Trump was saved by God to SAVE AMERICA," tweeted U.S. Rep. Lauren Boebert, a Windsor Republican and vocal Trump supporter, as Trump neared the conclusion of his nearly two-hour speech.

"I've heard enough of the lies, fear mongering, and political attacks," tweeted U.S. Rep. Jason Crow, an Aurora Democrat, more than an hour into the address.

Added Crow, who departed the chamber: "I'm out – and getting back to work to protect Colorado."

Earlier, U.S. Rep. Diana DeGette, D-Denver, announced that she wouldn't attend the address, saying that since taking office Trump had been "(assaulting) the values we hold dear."

Trump delivered the speech flanked by Vice President JD Vance, who presides over the Senate, and House Speaker Mike Johnson, a Louisiana Republican.

Several members of Colorado's congressional delegation provided running

SEE COLORADO • PAGE 4



THE ASSOCIATED PRESS
President Donald Trump speaks as Vice President JD Vance, left, and House Speaker Mike Johnson listen Tuesday as Trump addresses a joint session of Congress.

President promises more vigorous change as Democrats protest

Reuters

WASHINGTON – President Donald Trump took a victory lap in an address to Congress on Tuesday, drawing catcalls and interruptions from some Democratic lawmakers who held up signs and walked out midspeech in protest.

The partisan rancor was reflective of the tumult that has accompanied Trump's first six weeks in office upending U.S. foreign policy, igniting a trade war with close allies and slashing the federal workforce.

The prime-time speech, his first to Congress since taking office on Jan. 20, capped a second day of market turmoil after he imposed sweeping new tariffs against Mexico, Canada and China.

"To my fellow citizens, America is back," Trump began to a standing ovation from fellow Republicans. "Our country is on the verge of a comeback the likes of which the world has never witnessed, and perhaps will never witness again."

Democrats held up signs with messages like "No King" and "This Is NOT Normal."

SEE TRUMP • PAGE 4

Ukraine and U.S.
After letter from Zelenskyy, Trump announces he's willing to sign deal with Ukraine on natural resources. A4

***Colorado Springs Gazette* (Colorado Springs, CO)**

LAS VEGAS REVIEW-JOURNAL
reviewjournal.com



NEVADA Henderson City Council meeting over Police Chief Chadwick gets heated **1B**

SPORTS Rishwain scores 26 as UNLV upsets San Diego State on senior night **1C** ▶

WEDNESDAY
March 5, 2025

MUST READS



The Associated Press

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- Mardi Gras, roofs, high schools all were affected by major storms nationwide. **6A**
- NASA's two stuck astronauts are finally closing in on their return to Earth after nine months in space. **6A**

SPORTS
- The Vikings did not place a franchise tag on QB Sam Darnold, opening the door for the Raiders. **1C**
- Knights coach loved his experience at the 4 Nations Face-Off. **1C**

WORLD
- Under Egypt's postwar plan, Gazans would not be displaced. **8A**

NEVADA & THE WEST
- Two offices in Elko serving Native Americans are subject to cuts from DOGE. **1B**
- Clark County Manager Kevin Schiller will continue to be the county's top executive for at least three more years. **1B**

WASHINGTON REPORT
- Trump vowed to leverage federal money to fight antisemitism. He's starting at Columbia. **4A**
- Supreme Court seems likely to block Mexico's $10 billion lawsuit against U.S. gun makers. **4A**

Trump makes waves

GOP lawmakers approve boisterously; Democrats sit silently



Win McNamee The Associated Press

President Donald Trump addresses Congress on Tuesday night in Washington. He vowed to keep delivering sweeping changes.

By Zeke Miller and Michelle L. Price
The Associated Press

WASHINGTON — President Donald Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

The more than 90-minute address added up to a defiant sales pitch for the policies that he promised during his campaign and leaned into during his first weeks back in office.

Trump pledged to keep delivering sweeping changes to the country, rescuing it from what he described as destruction and mistakes left by his predecessor while repeatedly needling Democratic lawmakers who protested his remarks.

Emboldened after over-

See **TRUMP** 2A

Inside
- Saunders: The tension between presidents Donald Trump and Volodymyr Zelenskyy goes back a few years. **2A**
- Zelenskyy calls the Oval Office spat "regrettable" and adds he's ready to work for peace. **8A**
- Trudeau slams Trump for starting a trade war with Canada while appeasing Putin. **8A**

Las Vegas Review-Journal **(Las Vegas, NV)**

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Chicago Tribune

QUESTIONS? CALL 1-800-TRIBUNE WEDNESDAY, MARCH 5, 2025 BREAKING NEWS AT CHICAGOTRIBUNE.COM

Illinoisans push for a new clean energy law

Lawmakers introduce bill with ambitious goal for large-scale storage

By Nara Schoenberg and Addison Wright
Chicago Tribune

With clean energy under siege in Congress and in the Oval Office, supporters continue to press forward in Illinois.

Lawmakers have introduced the Clean and Reliable Grid Affordability Act, with an ambitious new goal for large-scale energy storage, in which giant batteries absorb wind and solar energy when it's not needed, and release it when it is.

The bill makes it easier to construct high-voltage transmission lines, which bring the cleanest, lowest-cost energy to consumers.

There are also measures promoting energy efficiency, addressing electricity-guzzling data centers and establishing virtual power plants – networks of homes with EVs, solar panels and batteries that, working in tandem, can produce large amounts of energy and save customers money.

"Trump has made it clear he plans to roll back federal funding and programs that support clean energy progress," Democratic state Rep. Ann Williams of Chicago, a sponsor of the bill, said at a news conference Tuesday.

"This is of great concern to all of us in Illinois, but we are not going back. Illinois can and will continue to lead on climate policy," she said.

President Donald Trump's efforts to block funding for solar and wind energy and electric vehicles have hit Illinois hard in recent weeks, with environmentalists reporting chaos and confusion.

But there's also a sense of pride in the state's sweeping 2021 law, the Climate and Equitable Jobs Act, and a determination to meet new challenges.

"Our power grid is struggling to keep up with a surge in demand for energy, largely caused by new data centers," Illinois Clean Jobs Coalition lobbyist Kady McFadden said

Turn to Energy, Page 5



President Donald Trump addresses a joint session of Congress at the Capitol in Washington on Tuesday. WIN MCNAMEE/AP

Trump vows to remain 'swift and unrelenting'

GOP allies applaud pledge to continue disruptive policies

By Zeke Miller and Michelle L. Price
Associated Press

WASHINGTON – President Donald Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an unyielding address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies" and one legislator's ejection.

Trump's prime-time speech was the latest marker in his takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain him as he and his allies work to slash the size of the federal government and remake America's place in the world.

The address, more than 90 minutes long, added up to an defiant sales pitch for the policies that he promised during his campaign and leaned into during his first weeks back in office. Trump pledged to keep delivering sweeping changes to the country, rescuing it from what he described as destruction and mistakes left by his predecessor.

Emboldened after overcoming impeachments in his first term and criminal prosecutions in between his two administrations and with a tight grip on the Republican-controlled Congress, Trump has embarked on a mission to dismantle parts of the federal government, remake the relationship with America's allies and spark a North American trade war that is compounding economic uncertainty.

"It has been nothing but swift and unrelenting action," Trump said of his opening weeks in office. "The people elected me to do the job, and I am doing it."

Trump, who has billionaire adviser Elon Musk orchestrating his efforts to slash the size and scope of the federal government, said he is working to "reclaim democracy from this unaccountable bureaucracy" and threatened federal workers anew with firings if they resist his agenda.

Musk, seated in the House gallery, received a pair of standing ovations from Republicans in the chamber, as Trump exaggerated and shared false claims about alleged government abuse uncovered by Musk and his team.

Trump repeated false claims that tens of millions of dead people over 100 years old are receiving Social Security payments, prompting some Democrats to shout, "Not true!" and "Those are lies!"

Trump spoke at a critical juncture in his presidency, as voters who returned him to the White House on his promise to fix

Turn to Speech, Page 11

Chicago Tribune **(Chicago, IL)**

The Mercury News
The newspaper of Silicon Valley
WEDNESDAY, MARCH 5, 2025

ADDRESS TO CONGRESS

Trump lauds his 'swift' moves

'The people elected me to do the job, and I am doing it,' he says of whirlwind first few weeks

By Zeke Miller and Michelle L. Price
The Associated Press

WASHINGTON » President Donald Trump took credit for "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy Tuesday in an address to Congress and the American people about his turbulent first weeks in office, as Democratic legislators immediately registered their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

Trump's joint address to Congress was the latest marker in Trump's takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake America's place in the world. With a tight grip on his party, Trump has been emboldened after overcoming impeachments in his first term and criminal prosecutions in between his two administrations to take sweeping actions that have featured a dismantling of the federal government, tensions with America's allies and a trade war compounding economic uncertainty.

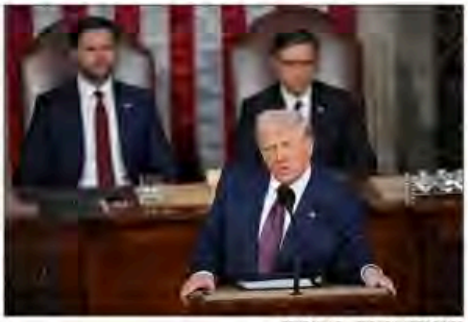
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Musk, who was seated in the House gallery, received a pair of

TRUMP » PAGE 5

INSIDE: Demonstrators across every state look to unify opposition to Trump's agenda. A2



DOUG MILLS — THE NEW YORK TIMES

President Donald Trump delivers an address to a joint session of Congress on Tuesday in front of a rowdy crowd of legislators.

***The Mercury News* (Silicon Valley, CA)**

The Washington Times
HIGH 64, LOW 43 WEDNESDAY, MARCH 5, 2025 ★★ washingtontimes.com $1.50



ASSOCIATED PRESS

BACK IN THE HOUSE: President Trump, addressing a joint session of Congress on Tuesday night, outlined his administration's flurry of accomplishments during the first six weeks of his term. "The American dream is unstoppable," he declared.

CONGRESS

Trump says American dream 'bigger and better than before'

President gives defiant speech amid Democratic outbursts

By Jeff Morsock, Alex Miller and Stephen Dinan
THE WASHINGTON TIMES

President Trump on Tuesday declared that Americans are regaining their confidence and the American dream is now "unstoppable" in an address before a joint session of Congress that was marked by interruptions from Democrats.

"America's momentum is back. Our spirit is back. Our pride is back. Our confidence is back," Mr. Trump said in his first address to Congress since returning to office six weeks ago.

"The American dream is surging — bigger and better than ever before. The American dream is unstoppable and our country is on the verge of a comeback the likes of which the world has never witnessed and perhaps will never witness again," he said.

Democrats wasted no time heckling the president, unleashing a chorus of boos as Mr. Trump began his remarks. They interrupted his speech, forcing Mr. Trump to pause from delivering remarks for a few minutes.

"You have no mandate," Rep. Al Green, Texas Democrat, shouted at the president as his speech got underway. Other Democrats held up signs saying "false" or "lie after lie."

At one point, Mr. Green became so disruptive that House Speaker Mike Johnson, Louisiana Republican, ordered him removed from the chamber.

Mr. Trump admonished the Democrats for their hyperpartisanship.

"There is nothing I could say to make the Democrats happy. Nothing," he said. "It's very sad and it shouldn't be that way."

Mr. Trump immediately zeroed in on the economy amid criticism from

» See TRUMP | A5

***The Washington Times* (Washington, D.C.)**

Trump touts 'unrelenting action' in speech to Congress



Jim Watson / Getty Images

President Donald Trump's theme in his address to Congress on Tuesday was the "renewal of the American dream." He laid out his achievements and appealed to Congress to provide more money to finance his aggressive immigration crackdown.

President says he's doing what he was elected for in busy opening weeks

BY ZEKE MILLER
AND MICHELLE L. PRICE
Associated Press

President Donald Trump on Tuesday took credit for "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy as he updated Congress and the American people on his turbulent first few weeks in office, which have featured a dismantling of the federal government, tensions with America's allies and a trade war compounding economic uncertainty.

His joint address to Congress was the latest marker in Trump's takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake America's place in the world. With a tight grip on his party, Trump has been emboldened to take sweeping actions after overcoming impeachments in his first term and criminal prosecutions in between his two administrations.

"It has been nothing but swift and unrelenting action," Trump

Please see Trump, Page 5A

AT DETROITNEWS.COM:
SCAN THE QR CODE FOR SEN. SLOTKIN'S RESPONSE.



Saul Loeb / Getty Images

Texas Rep. Al Green, a Democrat, was ejected from the chamber after yelling that Trump had no mandate. Republicans, meanwhile, shouted "USA" to drown out the cries from the other side of the aisle.

The Detroit News **(Detroit, MI)**

'Swift and unrelenting'

In combative, lengthy address, longest in history, Trump calls rivals 'radical left lunatics,' says more coming



DOUG MILLS/THE NEW YORK TIMES

President Donald Trump delivers an address to a joint session of Congress on Tuesday at the Capitol. Trump accused Democrats of ignoring the "commonsense revolution" that he and his administration had begun to implement. He addressed his opponents in the audience with contempt, gloating about his election victory, and called former President Joe Biden the worst president in American history.

By Michael D. Shear and Luke Broadwater
The New York Times

WASHINGTON

President Donald Trump faced heckling from Democrats on Tuesday as he declared "America is back," delivering an address to Congress in which he boasted about his efforts to reshape the government and taunted his adversaries with references to his political and legal triumphs.

In the longest presidential address to Congress in history, Trump appeared to cool tensions from a blowup last week with President Volodymyr Zelenskyy of Ukraine, reading aloud a message of gratitude Zelenskyy had posted on social media earlier in the day. Trump said he appreciated the message, and that he had also received "strong signals" from Russia that they were eager for peace with Ukraine.

Please see story on Page A-5

INSIDE

◆ Trump trade war draws swift retaliation. **PAGE A-2**
◆ Slotkin warns of potential recession in Democrat response. **PAGE A-5**
◆ Zelenskyy calls Oval Office spat regrettable, says he is ready to talk peace. **PAGE A-5**

***Santa Fe New Mexican* (Santa Fe, NM)**

Altoona Mirror

$1.50 WEDNESDAY March 5, 2025

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Bellwood rallies to support family

Fundraiser planned to aid Hostlers after fire ravages home

By Conner Goetz
cgoetz@altoonamirror.com

BELLWOOD — The Bellwood community is pulling together to support a family after their home was ravaged by a fire on Sunday.

According to Leah Hostler, the fire began about 2 a.m. toward the back of the two-story home at South First Street and Martin Street.

Excelsior Fire Department, along with mutual aid fire companies, were dispatched to the scene shortly after the blaze was discovered, but the structure had already sustained substantial damage by the time they extinguished the blaze.

Hostler, her younger brother Ryan, father Ryan, stepmother Lisa and two stepsisters, Emma and Ella, have been staying with friends and family nearby since Sunday, she said.

According to Hostler, the family lost the majority of their possessions in the fire, as well as their three pet cats. Thankfully, their two dogs escaped unharmed, she said.

When Katie Grager, who lives down the street from the Hostlers, heard about the fire, she sprang into action.

Now, Grager has arranged a spaghetti dinner fundraiser to support the family.

The dinner will be held from 1 to 4 p.m. March 16 at the Fraternal Order of Eagles Lodge on South First Street, Grager said.

There will be 350 tickets available, which can be bought over the phone from Grager or at the door on the day of the dinner.

All tickets will cost $12, with the proceeds going directly to the Hostler family.

Grager said she expects the tickets to sell out quickly, so potential attendees should call her at 814-381-4771 to reserve their tickets in advance.

In addition to the dinner, there will be a basket raffle during the event, with the proceeds added to the donation pool for the Hostlers, Grager said.

See Support/Page A2



Associated Press photos

President Donald Trump addresses a joint session of Congress at the Capitol in Washington, D.C., on Tuesday.

Trump addresses Congress

President promises to keep up 'swift and unrelenting action'

By Zeke Miller and Michelle L. Price
The Associated Press

President Donald Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an unyielding address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies" and one legislator's ejection.

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The more than 90-minute address added up to a sales pitch for the policies that he promised during his campaign and leaned into during his first weeks back in office. Trump pledged to keep delivering sweeping changes to the country, rescuing it from what he described as destruction and mistakes left by his predecessor, while repeatedly needling Democratic lawmakers who protested his remarks.

Emboldened after overcoming impeachments in his first term and criminal prosecutions in between his two administrations, and with a tight grip on the Republican-controlled Congress, Trump has embarked on a mission to dismantle parts of the federal government and remake the relationship with America's allies.

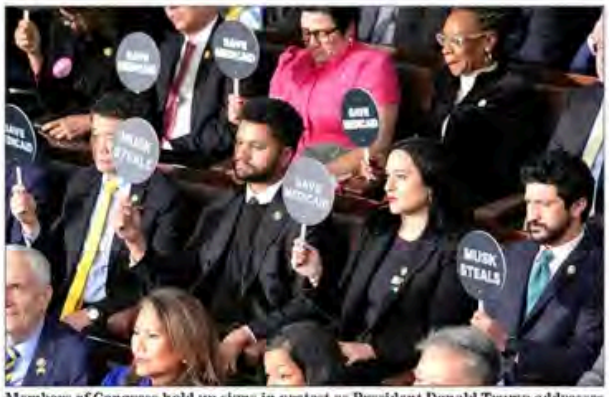
"It has been nothing but swift and unrelenting action," Trump said of his opening weeks in office. "The people elected me to do the job, and I am doing it."

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Musk, who was seated in the House gallery, received a pair of standing ovations from Republicans in the chamber, as Trump shared claims about alleged government abuse uncovered by the Tesla and SpaceX founder and his team.

Trump repeated claims that tens of millions of dead people over 100 years old are receiving Social Security payments, prompting some Democrats to shout, "Not true!" and "Those are lies!"

See Trump/Page A5



Members of Congress hold up signs in protest as President Donald Trump addresses a joint session of Congress at the Capitol in Washington, D.C., on Tuesday.

Altoona Mirror (Altoona, PA)

Arkansas Democrat Gazette
ARKANSAS' NEWSPAPER
Printed at Little Rock • March 5, 2025 ArkansasOnline.com ★★ 40 Pages • 6 Sections $3.00

In the news

■ **Alexis Wohl**, director of veterinary medicine at the Ramona Wildlife Center in San Diego, said in a news release a gray fox "was left defenseless with life-threatening wounds from the Airport fire ... but in the end, he ultimately overcame his injuries so he could return home."

■ **Maurya Bharwad**, an Indian citizen charged with making a false statement during the purchase of a firearm, admitted to investigators in Kentucky that he planned to use a bomb in New York tunnels to "shut the city down," according to court documents.

■ **Maximillian Yanofsky**, 30, was disarmed and jailed on several charges, including aggravated assault, after police say he shot and wounded a security guard in the emergency room at HonorHealth Scottsdale Shea Medical Center in Scottsdale, Ariz.

■ **Amanda Frances**, a Los Angeles-based financial influencer known as "The Money Queen," said in a statement "burglars ransacked my closet, damaging my home in the process, but they dropped nearly everything, prioritizing the prop money when confronted by a neighbor's security guard."

■ **Umaro Sissoco Embaló**, president of the African nation of Guinea-Bissau, announced that he "will be a candidate for my own succession," seeking reelection amid calls for legislators to expel him.

■ **Evelyn Torres**, 35, pleaded innocent to charges of murder and possessing a gun as a felon in the July 2023 shooting death of a woman who Torres' late uncle, a convicted Mexican Mafia member, referred to as his wife in San Fernando, Calif.

■ **Truong Huy San**, a Vietnamese journalist known



President Donald Trump addresses a joint session of Congress at the Capitol on Tuesday. (AP/Win McNamee)

Speech, president lauded by Arkansas' delegation

ALEX THOMAS
ARKANSAS DEMOCRAT-GAZETTE

WASHINGTON — Members of Arkansas' congressional delegation spoke highly of President Donald Trump's Tuesday evening address to Congress, optimistic about Trump's second tenure in the White House.

Trump marked the 44th day of his presidency with a 100-minute speech touting his stream of executive actions, including tariffs affecting imports from the nation's top trading partners; rescinding steps addressing diversity, equity and inclusion efforts; and orders addressing illegal immigration.

"Six weeks ago, I stood beneath the dome of this Capitol and proclaimed the dawn of the Golden Age of America," Trump told lawmakers, standing at the front of the House of Representatives chamber. "From that moment on, it has been nothing but swift and unrelenting action to usher in the greatest and most successful era of the history of our country."

Rep. Steve Womack, R-Ark., said Trump's first six weeks in office show he is "determined to make good on his promise."

"I'm optimistic for America's future under President Trump's leadership. He's working to defeat the status quo in Washington and chart

See **DELEGATION**, Page 5A

Trump vows to hold steady reforming US

Elected to do job, am doing it, president tells Congress

COMPILED BY DEMOCRAT-GAZETTE STAFF FROM WIRE REPORTS

WASHINGTON — President Donald Trump vowed Tuesday to keep up his campaign of "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy in an unyielding address to Congress and the nation that left Democratic legislators to register their dissent with stone faces, placards calling out "lies," and one legislator's ejection.

Trump's prime-time speech was the latest marker in his takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake America's place in the world.

The more than 90-minute address added up to a defiant sales pitch for the policies that he promised during his campaign and leaned into during his first weeks back in office. Trump pledged to keep delivering sweeping changes to the country, rescuing it from what he described as destruction and mistakes left by his predecessor while repeatedly needling Democratic lawmakers who protested his remarks.

Emboldened after overcoming impeachments in his first term and criminal prosecutions in between his two administrations and with a tight grip on the Republican-controlled Congress, Trump has embarked on a mission to dismantle parts of the federal government, remake the relationship with America's allies and spark a North American trade war that is compounding economic uncertainty.

"It has been nothing but swift and unrelenting action," Trump said of his opening weeks in office. "The people elected me to do the job, and I am doing it."

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See **TRUMP**, Page 5A

AVOID TOWN HALLS' CRITICS
Johnson tells lawmakers
Page 6A.

***Arkansas Democrat Gazette* (Little Rock, AR)**

Trump touts 'swift and unrelenting' action



PRESIDENT DONALD Trump addresses a joint session of Congress at the Capitol in Washington, Tuesday, March 4, 2025. (AP Photo/Ben Curtis)

Border security, tariffs highlight address to Congress

By ZEKE MILLER and MICHELLE L. PRICE
Associated Press

WASHINGTON (AP) — President Donald Trump on Tuesday took credit for "swift and unrelenting action" in reorienting the nation's economy, immigration and foreign policy as he updated Congress and the American people on his turbulent first few weeks in office, which have featured a dismantling of the federal government, tensions with America's allies and a trade war compounding economic uncertainty.

His joint address to Congress was the latest marker in Trump's takeover of the nation's capital, where the Republican-led House and Senate have done little to restrain the president as he and his allies work to slash the size of the federal government and remake America's place in the world. With a tight grip on his party, Trump has been emboldened to take sweeping actions after overcoming impeachments in his first term and criminal prosecutions in between his two administrations.

"It has been nothing but swift and unrelenting action," Trump said of his opening weeks in office. "The People elected me to do the job, and I am doing it."

Out of power, Democrats made an immediate display of dissent with stone faces, placards calling out "lies," and Texas Rep. Al Green's ejection from the House chamber after heckling Trump that he had "no mandate to cut Medicaid."

After several interruptions, House Speaker Mike Johnson jumped in and called for decorum to be restored in the chamber as Republicans shouted "USA" to drown out the cries from the other side of the aisle. Johnson then ordered Green be removed from the chamber.

Trump spoke at a critical juncture in his presidency, as voters who returned him to the White House on his promise to fix inflation are instead finding economic chaos. All the gains the S&P 500 have made since Election Day are now gone, while consumer sentiment surveys show the public sees inflation as worsening. For a president who believes that announcements of corporate investments can boost attitudes about the economy, the speech was suddenly a test of his ability to rebuild confidence in his economic leadership.

"Among my very highest priorities is to rescue our economy and get dramatic and immediate relief to working families," Trump said. He promised to organize the federal government to lower costs on eggs and energy, though he offered scant details.

Trump also called for the extension of his first-term tax cuts and additional federal funding for his border crackdown, including for his promised efforts at "mass

See TRUMP, A6

***Daily Inter Lake* (Kalispell, MT)**

The Herald
WEDNESDAY
March 5, 2025
Sharon, Pennsylvania
2 sections 16 pages
Volume 161, Number 278
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sharonherald.com



AP file

President Donald Trump addresses a joint session of Congress in the House chamber at the U.S. Capitol in Washington, Tuesday.

'America is back'

Trump promises to keep up 'swift and unrelenting action' in speech to Congress

By ZEKE MILLER and MICHELLE L. PRICE
Associated Press

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See TRUMP, page A-2

***The Herald* (Sharon, PA)**

Chattanooga Times Free Press
VOL. 156 | NO. 81 | $2.00 TIMESFREEPRESS.COM WEDNESDAY, MARCH 5, 2025

Trump boasts of 'swift and unrelenting' action



AP PHOTO/JULIA DEMAREE NIKHINSON

President Donald Trump addresses a joint session of Congress on Tuesday in the House chamber at the U.S. Capitol in Washington.

In address to Congress, Republicans applaud while Dems shout and hold signs in protest

BY ZEKE MILLER AND MICHELLE L. PRICE
THE ASSOCIATED PRESS

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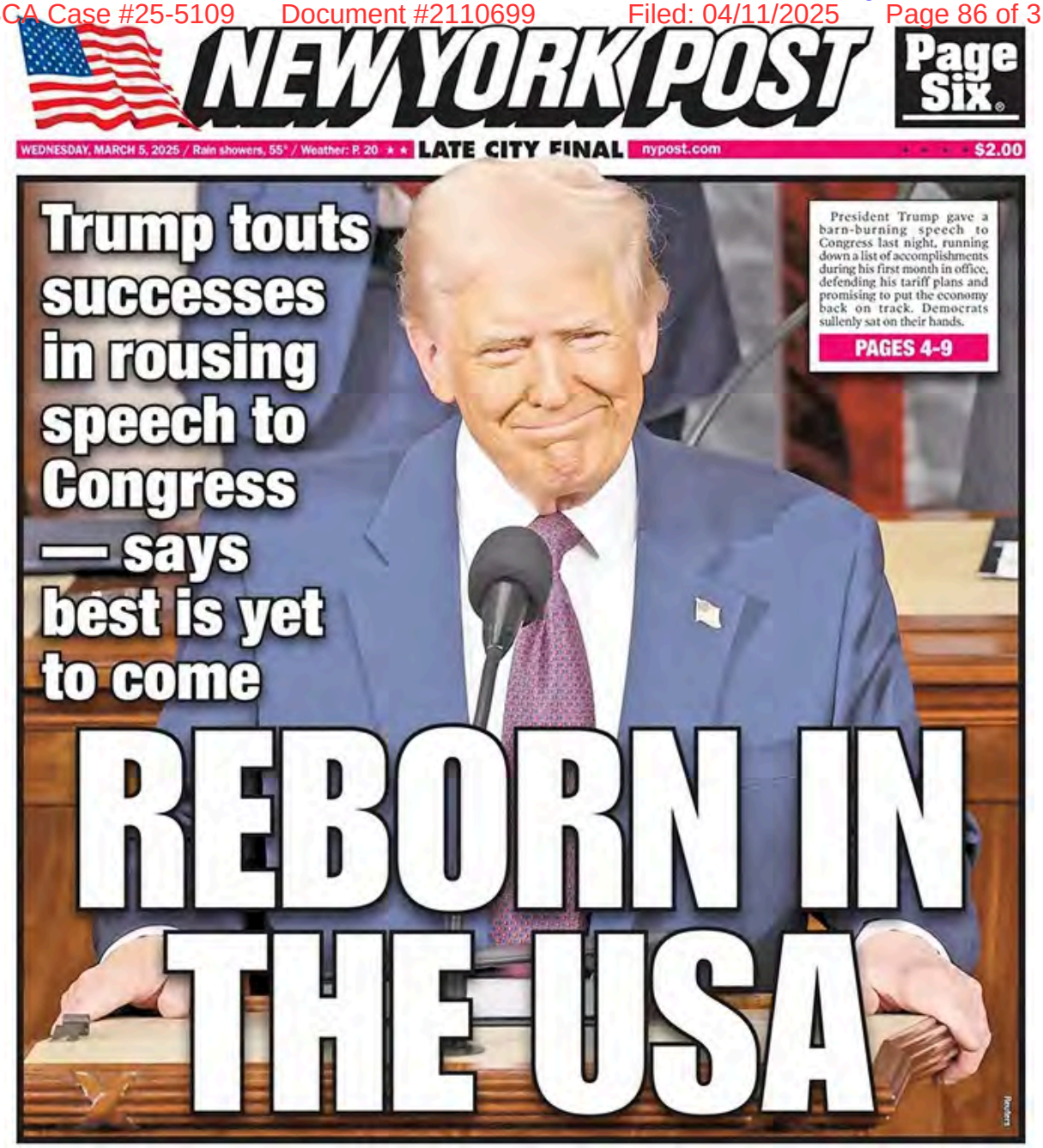
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See ADDRESS › A5

***Chattanooga Times Free Press* (Chattanooga, TN)**



New York Post **(New York City, NY)**



WEDNESDAY
03.05.25

THE HILL

POLITICS & POLICY

News

Unpacking the MAGA World Uproar Over Pam Bondi's Epstein Files Dud

Reporting by Brett Samuels / p.10

News

Stephen A. Smith? Mark Cuban? More Democrats Are Looking for an Outsider

Reporting by Amie Parnes / p.11

While Trump has argued success during his administration would unite the nation, there was noticeable tension in the room.

Trump to Congress: America Is Back

President Trump's address Tuesday came as he has spent the first six weeks of his second term drastically reshaping the federal government and using executive authority to enact his agenda, largely sidelining Congress in the process. Trump struck a triumphant note in his speech, touting again a "Golden Age of America."

Reporting by Brett Samuels and Alex Gangitano / p.8

The Hill

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THE WHITE HOUSE

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Washington, DC 20500

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Style Guide

Exhibit D

Structure of the White House Press Pool

The White House press pool includes wire service text journalists, print journalists, television journalists, radio journalists, and photojournalists. Although the size and composition of the pool depend on where the President is, the pool at a minimum contains the spots described in the below chart. This chart shows the pool's structure during three recent time periods: (1) before White House Press Secretary Karoline Leavitt informed me on February 11, 2025 that AP journalists would no longer be permitted in the Oval Office as pool members unless the AP revised its Stylebook to refer to the Gulf of Mexico as the Gulf of America; (2) after Ms. Leavitt's initial announcement but before February 25, 2025; and (3) as it appears to function after Ms. Leavitt announced on February 25, 2025 that the White House was taking control of the pool:

	WHCA-run Press Pool before Feb. 11	**WHCA-run Press Pool (with White House ban on AP) Feb. 11-25**	**White House-run Press Pool after Feb. 25**
Wire Services	3 spots (AP, Bloomberg, and Reuters) (non-rotating)	2 spots (Bloomberg and Reuters) (non-rotating)	1-2 spots (Bloomberg and/or Reuters) (sometimes rotating at the insistence of the White House)
Photo	4 spots (AFP, AP, Reuters, and NYT) (non-rotating)	3 spots (AFP, Reuters, and NYT) (non-rotating)	3 spots (AFP, NYT, Reuters) (non-rotating)
TV	1 three-person network crew (rotating)	1 three-person network crew (rotating)	1 three-person network crew (rotating)
Radio	1 spot (rotating)	1 spot (rotating)	1 spot (White House-selected)
Print	1 spot (rotating)	1 spot (rotating)	1 spot (White House-selected)
Other (now "New Media")	1 spot (rotating)	1 spot (rotating)	3 spots (White House-selected)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

* * * * * * * * * * * * * * * * * *	)	
ASSOCIATED PRESS,	)	Civil Action
	)	No. 25-00532
Plaintiff,	)	
	)	
vs.	)	
	)	
TAYLOR BUDOWICH, et al.,	)	Washington, D.C.
	)	March 27, 2025
Defendants.	)	9:38 a.m.
	)	
* * * * * * * * * * * * * * * * * *	)	

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING
BEFORE THE HONORABLE TREVOR N. McFADDEN
UNITED STATES DISTRICT JUDGE

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THE COURTROOM DEPUTY: Your Honor, this is Civil Case 25-532, Associated Press versus Budowich, et al.

Counsel, please come forward to identify yourselves for the record, starting with the Plaintiff.

MR. TOBIN: Good morning, your Honor. It's a pleasure. Charles Tobin on behalf of the Associated Press from the law firm of Ballard Spahr. With me are co-counsel Maxwell Mishkin and Sasha Dudding.

I'd introduce -- reintroduce the Court to Zeke Miller at counsel table, chief White House correspondent for the Associated Press. Chief White House photographer Evan Vucci is also with us. And again, to just reintroduce the Court to Karen Kaiser and Brian Barrett from the in-house legal department at the Associated Press.

THE COURT: All right. Good morning, folks. Thanks for being here.

MR. HUDAK: Good morning, your Honor. Brian Hudak from the U.S. Attorney's Office on behalf of the United States.

THE COURT: Good morning, Mr. Hudak.

All right. We're here for a preliminary injunction hearing and evidentiary hearing.

I've reviewed the late-filed declaration from the Government and the Plaintiff's motion to strike.

I'm going to deny the motion to strike. I think

this is -- I disagree that the local rules cover this situation. I think the local rules speak to briefing, not necessarily a declaration, especially in an emergency preliminary hearing context.

I will say that I suggested an evidentiary hearing because I feel like there are material disputes of fact between the parties, and I think I need to try to resolve them. And I thought that having live testimony would be a helpful way to do that.

I, of course -- and, you know, to the extent that there are disputes here, I think I'll be able to -- being able to hear testimony from a live witness that has gone through the adversarial process of cross-examination may well, at the end of the day, be more convincing than a declaration standing alone, especially a declaration that may well be in conflict with at least the broader record.

But I'm certainly not going to force anybody to testify today. I more wanted to provide an opportunity for both parties to provide additional evidence that I could rely on in making my determination for this preliminary injunction phase.

Of course, Mr. Tobin, you have the burden. So nobody is being forced to testify today; but if you would like to present evidence, now is your chance.

MR. TOBIN: I appreciate it, your Honor.

THE COURT: All right. With that, feel free to call a witness if you wish.

MR. TOBIN: Sure.

Your Honor, Mr. Hudak and I discussed, you know, the order of activities today and wanted to run it by the Court and see if the Court is okay with it.

THE COURT: Sure.

MR. TOBIN: We each wanted to make a brief opening statement just to frame the evidence that you'll hear today.

THE COURT: Okay.

MR. TOBIN: Then we'll present -- we're going to present two live witnesses. As the Court knows, the Government has declined the Court's invitation for live witnesses.

In light of Mr. Budowich not being here to be cross-examined, we have prepared a series of exhibits that I'd like to present after we have the witnesses testify.

THE COURT: Okay.

MR. TOBIN: And we have an agreement as to the admissibility of the evidence. And then we'll do a brief summation and call it a day.

THE COURT: All right. It might not be brief. But I'm happy to generally go in the order that you suggested.

MR. TOBIN: You've worked with me before, your

Honor. It's an apt observation.

THE COURT: I'm not suggesting that you wouldn't be brief. But I'll have questions.

MR. TOBIN: Certainly. And I didn't mean to predetermine that, obviously, your Honor.

Your Honor, again, we appreciate the expedited briefing. The AP considers this a matter of urgency, and so we recognize that the Court has given us the opportunity to do this on an accelerated basis, and we really are sincerely grateful for that.

Your Honor, AP has now spent 44 days in the penalty box. We hope to persuade you that -- to remove today the unconstitutional retaliatory roadblocks and let the AP rejoin the press pool.

You know, as far as the record, your Honor, since it's opening day of baseball season, I'll quote Yogi Berra: It's déjà vu all over again.

We have a situation now that's fairly identical to the last hearing in terms of the facts. The AP has not been admitted to the press pool for 44 days. And we've had sporadic admissions, with no pattern and randomness, to a few of the east room events for our photographer and none for our print reporter.

So, your Honor -- we also have now the added constitutional violation that the White House changed its

policy instead of adhering to the Court's admonishment. We read the Court at the last hearing as asking the Government to seriously reconsider its position because, in the Court's words, the precedent is uniformly against it in this circuit. And instead, the Government doubled down on things and they have created some kind of an opaque system, if you want to call it that -- that's what Mr. Budowich calls it in his declaration -- some kind of opaque system that has some rotation process to it that happens to exclude the AP every single time.

And as the Court noted, there are -- or suggested, there are contradictions in Mr. Budowich's declaration. On the one hand, he says that the AP will only be admitted at the president's discretion. On the other hand, he says in the second declaration that there is no ban, that the AP is just part of the regular system.

We ask the Court to pay attention to the record, which shows that in the past 44 days we have not gotten into any Oval Office events and we have only sporadically had our photographer admitted to east room events with no published guidelines, no pattern, no chance to appeal.

Your Honor, again, they changed the system in response to this litigation. That's one reason we filed an amended complaint, in order to state a cause of action for retaliation, not only for the right of free speech and

freedom of the press, but for the right to petition the government for grievances.

And so, in our amended complaint, we've asserted now four counts, one each for the First Amendment and Fifth Amendment claims over the exclusion from the press pool, and one each from the First Amendment and Fifth Amendment for exclusion from the east room.

THE COURT: Mr. Tobin, there's obviously a couple of different constitutional amendments at play here and, as I understand it, a few different constitutional theories.

How do you see this? What's the clearest way to understand the constitutional right that you're most focused on?

MR. TOBIN: The clearest path to me, having done this work in the previous cases and with this Court, and being part of the *Acosta* litigation, is that there is an underlying liberty interest. Once you're in the White House, you're being included in any group events. And there's no denying the pool is still the pool; the east room is still the east room. The events are opportunities afforded to all of the White House journalists or all of the pool journalists that the AP has been excluded from.

So there is a liberty interest under *Sherrill*, under *Acosta*, under *Ateba*, under the First Amendment. That liberty interest cannot be deprived without due process of

law. Due process of law requires a system in place that is published, that everybody knows that they can follow, that does not include any viewpoint discrimination whatsoever. It has to be reasonable.

Number two, there has to be an opportunity to object in writing. And number three -- or orally.

And number three, there must be a written response from the Government, and the reasons for the denial, again, must be non-viewpoint discriminatory.

Here, we clearly have that liberty interest. There's no question the pool is still the pool. The east room events are the same system, according to Mr. Budowich's declaration. Conveniently, the AP just never gets in.

And so we have that same liberty interest from *Sherrill* and the other cases. And then we have an abject retaliation on the basis of viewpoint that the White House hasn't hidden. The Court noted that in our earlier hearing, and they've doubled down on it. We're going to show some evidence today that they have doubled down on the retaliatory motive.

That gives rise to a First Amendment liberty interest and a deprivation of Fifth Amendment rights under due process.

I do not want to denigrate or give a backseat to our First Amendment argument. We also have been deprived,

retaliated against in ways that have an adverse impact, not only on the Associated Press, but a chilling effect on the entire journalism industry. And since there is a First Amendment interest in the pool and what we're all calling east room events, that can't be deprived for retaliatory reasons that have an adverse impact on the expression of our First Amendment rights, whether it's the right to free speech, right to free press or right to petition this Court for our grievances.

So those are the paths that we see. And we'd ask the Court to --

THE COURT: I want to pick this up afterwards, arguments.

But it will be helpful for me if you help me think through how that liberty interest and *Sherrill* interact with the government speech doctrine; and if I were to believe that at least what happens in the Oval Office is government speech, how do those two interact? So maybe you can help me remember. I'd like to hear from you --

MR. TOBIN: I will pick that up, if you'd like, in the summation perhaps.

THE COURT: Yes.

And then just so you all know how I'm tentatively thinking about this, I've kind of been thinking about four different scenarios. On the one end is what happens in the

Brady room. And as I understand it -- I want to get Mr. Hudak to confirm for me here in a minute, but I think the parties agree that the government could not kick the AP out of the Brady room on the basis of concerns over Gulf of America. I think that's common ground.

On the other end, I see an interview with the president, and I think you agree that he can refuse to ever sit for an interview with your client again on the same grounds.

Do you agree with me on that?

MR. TOBIN: I can affirm that we are not seeking an order compelling the president to give an interview with the Associated Press.

THE COURT: And so I feel like we're dealing here with what -- maybe this is overly simplistic, but I see two middle grounds. One is closer to that situation with what is happening in the Oval Office, these press pool visits.

And then the next one, which I see as closer to the -- what happens in the Brady briefing room, as these larger events in the east room where I think you agree that there are, you know, several hundred reporters RSVPing. Not all of them can get in. I think the White House can, and probably must, pick and choose among them. But I think your argument is you can't be excluded on retaliatory grounds.

MR. TOBIN: And that we have been excluded on

retaliatory, unconstitutional grounds.

THE COURT: And again, my instinct is that is not exactly the Brady press briefing room, but feels to me closer to that end of the continuum.

So I more just wanted to let you know that's kind of how I've been understanding where I see -- the case law is pretty clear and I think the parties are in agreement on the extremes; and as I'm seeing this, we have kind of two middle scenarios.

MR. TOBIN: And I appreciate and understand that my burden today is primarily to persuade the Court that the Oval Office is closer to the *Acosta* and *Karem* case than an *Ehrlich* one-on-one interview type of situation. I do understand that, your Honor.

THE COURT: Thank you, sir.

MR. TOBIN: Thank you.

THE COURT: And, Mr. Hudak, am I correct that you would agree that your client could not exclude the AP from the press room on -- over concerns about what they call the Gulf?

MR. HUDAK: I think under the current factual scenario and the current case law, I think that that is correct.

But, you know, for instance, if there was -- I'm going to throw out a wild hypothetical, just to prove the

point -- that if somehow the press routinely stormed the White House press secretary's stage and there was additional security concerns about hard pass holders, and they had to revisit the hard pass system and they made the Brady room more similar to the Oval Office, then I think the factual underpinnings of *Sherrill* and other cases that have discussed that right kind of -- there would be a change in circumstance that we would have to evaluate.

But I think, under the D.C. Circuit's law as I understand it, under *Sherrill*, under *Acosta*, I believe that the Court [sic] has that right.

THE COURT: And do you agree with kind of my conception here of these four different scenarios, and that we're in the -- Scenario 2 and 3?

MR. HUDAK: I think that's right.

I think, in our minds, the Oval Office is very clearly like the sit-down interview. In fact, *Snyder* from the Fourth Circuit expressly contemplated the White House Oval Office as being very much akin to the sit-down interview when it ruled that there was no First Amendment violation there.

The east room events are larger. And so -- but they're still selective. So I think that presents some different challenges and probably is a closer question.

But I think you will hear from the evidence today,

as I understand it, your Honor -- you don't need to reach that question on the PI, because there's a clear showing of no irreparable harm. The AP has been in every east room event since the TRO hearing. Every single one. They have been at every tarmac event since March 1st, as I understand it.

So there's simply no irreparable harm that a preliminary injunction is necessary to compel the government to give the AP access. Whatever -- you know, there isn't a right for the AP to have the White House agree with its views or not, express dismay over its reporting. You know, people will agree or disagree and like or dislike reporting at times.

But they have had access. And so they cannot show that an injunction from this Court is necessary at this stage for them to continue to have access to the east room.

I think it's undisputed in the record that they have not had access to the Oval Office. And, you know, our argument there is there simply is no liberty interest. The Supreme Court's holdings in both *Houchins* and in *Zemel* clearly identify that there is no First Amendment right to access facilities by the press beyond what is enjoyed by the general public.

The D.C. Circuit in *Sherrill* has created one very narrow exception. And that is where all general press are

provided access even if the general public is not. Then there is a liberty interest for that class, because it's all of the press.

And that has been extended to the current circumstances in the Brady briefing room. But it certainly has not in the Oval Office.

And so we think, your Honor, your Honor has -- is approaching this the same way that we are. But I think that it doesn't need to really address the east room claims here because there is no showing of irreparable harm. There's no showing of exclusion, which is necessary, I think, for both likelihood of success on the merits and for the irreparable harm here.

THE COURT: All right. Thank you, Mr. Hudak.

MR. HUDAK: And one point on witnesses, your Honor.

The United States did not bring witnesses not out of a lack of respect for the Court. Obviously, when we got the Court's questions and were trying to come up with a way to address them while dealing with the practical realities of a very busy White House, we thought submitting a declaration to ensure that the Court had the understandings of the United States was the appropriate way to go.

Again, we've been scrambling. There's a lot going on. And so my apologies that we did not submit that

supplemental declaration earlier.

THE COURT: I'm not offended. I'm here to try to determine the facts, and I will determine the facts with the evidence that I have.

MR. HUDAK: Great. Thank you, your Honor.

THE COURT: Mr. Tobin.

MR. TOBIN: Yes, your Honor. We're going to present two witnesses today, Mr. Miller and Mr. Vucci. I will examine Mr. Vucci first and then Mr. Mishkin, my colleague, will examine Mr. Miller. I don't have any exhibits as such to show Mr. Vucci, but we prepared a set of exhibits that we're going to present today at other stages.

For efficiency, might I give the Court the entire set now?

THE COURT: Sure. And are you familiar with our high-tech system here?

MR. TOBIN: The ELMO.

THE COURT: Yes.

MR. TOBIN: I am not, your Honor.

THE COURT: Okay. Well --

MR. TOBIN: I was going to flip, old school.

THE COURT: That's fine. Your fans in the audience may like to get to see what we're saying.

MR. TOBIN: We're going to show some video.

THE COURT: All right. Great.

MR. TOBIN: Your Honor, the Plaintiff calls Evan Vucci.

THE COURTROOM DEPUTY: Please raise your right hand.

EVAN VUCCI, PLAINTIFF WITNESS, SWORN.

THE COURT: Good morning, sir.

THE WITNESS: How are you?

THE COURT: I'm well. Have a seat. We've got water.

THE WITNESS: Very good. Can you hear me?

DIRECT EXAMINATION

BY MR. TOBIN:

Q. Are you comfortable?

A. Yeah. I'm nervous as can be.

Q. Just where you want to be, I know.

A. Sure.

Q. I understand.

Mr. Vucci, what do you do for a living?

A. I am the chief photographer for the Associated Press in Washington.

THE COURT: Sorry. Can you state and spell your name for the record.

THE WITNESS: Yes. It's E-V-A-N. Last name, V-U-C-C-I.

THE COURT: Vucci?

THE WITNESS: Vucci, yes. V as in Victor. Yes, sir.

THE COURT: Good morning, sir.

BY MR. TOBIN:

Q. Mr. Vucci, what are the duties of the chief photographer in Washington, D.C., for the AP?

A. Well, I cover the news of the day. For the last ten years or so, I've been primarily at the White House, although I will go out on, you know, bigger assignments around the country. But the vast majority of my time I spend at the White House.

Q. Are you a hard pass holder for the White House?

A. Yes, sir.

Q. How long have you been a hard pass holder?

A. Twenty-one years, probably.

Q. How long have you held the position at the Associated Press as a photographer?

A. An AP photographer?

Q. Yes.

A. For 21 years.

Q. That's a long time to be with one company.

A. Yeah. I'm old now, man.

Q. It's relative. I'm not saying that about you. Just in my mirror.

But, Mr. Vucci, does it mean something to you to

be a photographer for the Associated Press?
A. Yes, sir. So from the flag-raising at Iwo Jima to napalm girl in Vietnam to the fist-raising in Butler, Associated Press photographers are the gold standard. And every single day I go to work, I carry that burden with me and I'm expected to uphold that standard. And it's a huge responsibility and a public service, and I take it very seriously.
Q. So you mentioned the fist-raising at Butler. I think we all know what it is, but for the record, what are you referring to?
A. Yes, sir. I was there the day that an assassin tried to assassinate President Trump. And the photograph of him being led offstage by Secret Service agents, he put his fist in the air with a flag in the background, and the image that has sort of gone around the world and become viral is an image that I captured.
Q. That was your photograph?
A. Yes, sir.
Q. Mr. Vucci, I'm going to hold something up and show it to you and the Court and counsel. What is this photograph that we're looking at?
A. That's the assassination attempt photo in Butler, Pennsylvania.
Q. This is the photograph that you took?

A. Yes, sir.
Q. All right. Would you consider this photograph to be an iconic piece of history?
A. I mean, I would hate to say that because I took it, but, I mean, other people have said it.
Q. All right. We'll waive the hearsay exception and your humility.
A. I've been told it's an iconic photograph, but, you know, I'm trying to keep my ego in check here, sir.
Q. Understood. And I appreciate that.
Where does this photo appear that I'm holding in my hands?
A. That is President Trump's book called *Save America*. And he used an AP photo on the cover.
Q. He used your photograph on the cover. Is that right?
A. Yes, sir.
Q. The chief White House photographer's photograph of an iconic moment in American history.
A. Yes, sir.
Q. That's what the president of the United States chose to put on the cover of his book: an Associated Press photograph. Is that right?
A. Yeah. I mean, it's a pretty good photo. So yes, sir.
Q. Yeah. I would say it's an excellent photo.
A. Thank you, sir.

Q. How many photographers does AP have working on any given day at the White House?
A. So usually, sir, we have two photographers. I'm the morning shift and I'll be there from 8:00 a.m. until, you know, 4:30 or so. And then we'll have an evening shift that -- so they can react to any sort of late-breaking news. They come in at 10:00. And then, if we have big events coming -- going on or anything like that, we'll have extra photographers come in, depending on the news of the day.

So every day there's two photographers. We're the only organization that will have two full-time photographers at the White House all the time. And then, you know, like I said, we'll bring in extra help when we need it.

Q. Prior to February 11th, 2025, how often did you serve as the photographer for the AP in the White House press pool?
A. Every day, basically, unless I was on another assignment or on vacation.
Q. And would you travel with the president for events outside of the White House as part of the pool?
A. Yes, sir.
Q. Is there a separate travel pool as opposed to the "in the White House" pool?
A. Yes, sir. Air Force One -- well, so if we're going on an out-of-town trip, Air Force One only has 13 seats for journalists. And then the in-town pool has more seats

available to us.

THE COURT REPORTER: I'm sorry?

THE WITNESS: The Air Force One travel pool versus the in-town pool.

BY MR. TOBIN:

Q. Does any presidential travel stand out that you've accompanied the president on stand out to you over your 21 years with AP?

A. Yeah. For sure.

Q. Which one or ones?

A. Yeah. I was on a secret trip to Iraq with then-President George W. Bush, and I was in the front of a room during a news conference and a journalist threw a shoe at the president. So I was there for that, and I captured the image of this Iraqi journalist throwing a shoe at the president.

Q. We have all seen the image of President Bush skillfully ducking the shoe.

A. Yes, sir.

Q. That's the image I remember. What image did you say you captured?

A. The actual shoe thrower. I got two or three frames off of him actually throwing the shoe, and that actually became one of my more memorable photographs.

Q. Was that a pool event?

A. Yes, sir. That was a pool.
Q. And did -- how many other photographers were there in the room that time, if you remember?
A. As part of the pool or in general?
Q. First as part of the pool and then --
A. Yes, sir. So as part of the pool, there would have been three other photographers. And then, in general -- I don't know -- dozens.
Q. And of those dozens, perhaps, of photographers, how many captured the same image of the guy throwing the shoe?
A. No one.
Q. You caught the only photograph of the guy throwing the shoe?
A. Yes, sir.
Q. At a pool event?
A. Correct.
Q. Accompanying the president?
A. Yes, sir.
Q. Do you have any other moments you can share with the Court of pool events where you captured a unique moment?
A. Well, I mean, does Butler count? I mean, you know, that was another --
Q. Other than Butler, since we've talked about that.
A. Yeah. I mean, so, you know, every single day that we do this, it's -- you know, as a photojournalist, you're looking

to show the world, you know -- show the world through my eyes. So I'm always looking for moments in the Oval Office or the east room or the Roosevelt Room that, you know, stand out, that tell the story of the day.

So -- and the wonderful thing about photography is you can have four photographers within five feet of each other and you'll have four different sets of images. So the goal -- my goal every day that I go to the White House is to give the American public a better understanding of what's happening in front of my lens, who's in the room, what's going on around me, and try to give you the feel of what's going on in front of me.

So, you know, there could be days where, you know, the photos might not stand out. But sure, I'll capture a moment that is the moment for that day, and it is over in a flash.

So -- you know, I've been on the losing end of that, too, where, you know, another photographer made an amazing image and I am like, Oh, man, I can't believe I missed that. And that's what we're always looking for, is -- you know, when you're covering politics, the image that happens is like that. It happens in the blink of an eye. And if you miss it, you miss it.

So it's vitally important that the people in that room are on guard at all times, ready to do the job, and

that they're good photographers.

Q. When you're working with AP in, say, the Oval Office, are you operating in isolation from everybody or do you coordinate with anybody?

A. No. Absolutely, sir, I'm working with a team of people. I rely on Zeke and our other reporters to give me a heads-up on, like, Hey, we're doing a story about this particular aide or we're doing a story about, you know, someone that might be coming to visit. You know, sometimes I might not know who these people are, so these guys will say, Hey, do us a favor; look in the corners. Who's hanging out in the Oval? Who's in this meeting?

So a lot of times it's -- not only am I showing you what's happening in front of me, but I'm always, like, Well, who's behind the Resolute Desk? Why are they there? Who's over there in the corner? You know, has anything in the Oval Office changed? Is there new artwork up? Is there -- you know, all these things, I'm always looking at just to see, is there something different going on?

Like I always talk about the photographer's Spidey sense. Right? I'll walk into a room and something just feels a little bit different. Like, what's going on here, man?

THE COURT: What happened to the ivy? Right?

THE WITNESS: So, you know, those are the things

I'm always looking for. And I rely on Zeke and those guys to help me out because, you know, I'm pretty focused on what's going on in front of me and I'm pretty good about my news judgment but, you know, those guys are far superior than I am.

BY MR. TOBIN:

Q. And how many photographs might you take at a given event?

A. I always joke. I say, if it's a good event, you know, hundreds. If it's a bad event, thousands. It's just to try to get the right ones.

Q. Understood.

Do the photographs that you take only have value that day?

A. Absolutely not, sir. It's important that I'm gathering a historical record. The AP has a wide global reach. So if I am a photo editor in Des Moines or if I'm a photo editor in Los Angeles or if I'm a photo editor, you know, in Europe somewhere, I would expect that the Associated Press provides a broad edit of things that are happening that day.

So it's not just like -- you know, their news needs are very different. Right? So I'm expected to give you a wide variety of photographs, and those photographs are not only good for the news of the day, but those photographs are good down the line in future stories you might be

working on.

So today, I might take a picture of some guy in the corner and, you know, a week or two later, I find out that that's very important, who that person is and why that person was in the Oval. But at the time, I might not know who they are or what they're doing. But like I said, sometimes it just goes off in my head: Hey, I need a picture of that guy.

Q. And when you're taking pictures at an event, what's happening with those photos after you take them?

A. Yes, sir. So the name of the game in photojournalism now is speed. It's all about speed. So if I'm late, a minute or two or three minutes, on a big story, I'm dead in the water. It's pointless actually, sir.

So if my competitors can get an image out a minute before me or three minutes before me on a major story, then I might as well delete my entire take because it's worthless.

So with that said, what I'm doing is I'm hard-wired directly into a transmission device, a MiFi. It's like, you know, a portable internet, a MiFi device.

So I'm hard-wired directly into the MiFi device. And then I will take an image and I'll look through my camera and I'll pick the image that I really like and I'll send it to my editor. So by the time -- when I take an

image, by the time I take it, it goes to my editor and is on the wire, the AP wire, it could be, you know, a minute or two. It's basically realtime.

So -- and that speed is vitally important for our clients and, like -- speed is so important, sir, that I carry three devices with me for transmission purposes. And the reason I do is one is on the T-Mobile network, one is on a Verizon network and one is on an AT&T network. It's not that I like carrying all this crap. It's that, you know, I have to send these photos out or -- sorry, sir. You know, I have to send those photos out quickly. So the biggest stress of my entire job is getting pictures out quickly to my editors.

Q. Do you carry a cellphone into the Oval Office?

A. Of course. Yes, sir.

Q. Do you monitor your cellphone?

A. Absolutely, yeah, because I'll get text messages from an editor or a reporter or someone telling me, Hey, I need a photo of this. Can you give me this? I need -- you know, or they'll be like, What are you doing, man? Like, get it together; take better pictures.

Q. Do you ever see the photos that you have just taken posted on your phone?

A. Sure. Yeah. Yeah. Of course.

Q. So it's that instantaneous --

A. Yeah. Yeah.
Q. -- while the event is still going on, you're posting photos and you're seeing them in realtime?
A. Yeah. Yeah, of course. And not only that; if it's a big event and -- I know pretty instantly whether or not I'm going to have a good day or a bad day, because if I see a website -- a news website that has someone else's photo, I'll be, like, Oh, man.

But it's that fast. Yes, sir.

Q. And --

THE COURT: So I've got a question.

You're describing sending photos that are going online simultaneously. My guess is your print journalist colleague is not also sending stories simultaneously.

THE WITNESS: So I can't speak to that, because I don't know, like, what they do, or I couldn't do what they do.

But that's not entirely true, sir. If there's huge news, they'll send, like, an alert. And they also will send a text message to an editor that they're working with so they can send out alerts in realtime. So -- and it's really, really important that it's quick.

So if we hear something about, like, tariff news or something else that the president says that's, you know, big news, you know, those guys have to get that out

immediately. And they have to be in the room to -- to do that. They can't rely on, like, someone else.

So -- I think Zeke will speak to this, but since you asked the question, I'll give you my little take. If our journalist isn't in the room and the president says something about tariffs or some major news, well, then, our reporters are going to have to wait until the meeting in the Oval Office ends. Then it goes to get played out on a television monitor for everyone to see. So by the time he says it and, you know, when we can report that news, it could be, you know, 30, 40 minutes. So we're that far behind our competitors.

Does that make sense, sir?

THE COURT: I guess I was saying just -- kind of a year ago, you and your colleague are both wherever; you can send things out almost immediately.

THE WITNESS: Yes, sir.

THE COURT: I wouldn't think the story is going out that quickly.

THE WITNESS: Yeah. But there's quotes that go out that quickly that can be added to a story.

THE COURT: Okay.

THE WITNESS: But, sir, I'm, like, the wrong person to ask about that. Zeke will be able to answer those questions for you.

MR. TOBIN: Mr. Miller will be the next witness, your Honor.

THE COURT: Okay.

BY MR. TOBIN:

Q. So, Mr. Vucci, you touched on this a little bit. To put a fine point on it, if there are two or three other photographers in the room at the Oval Office, why does it matter whether the AP is there?

A. Well, so --

Q. Or does it matter?

A. It matters greatly, because -- speed, number one. We don't want to rely on someone else that -- where speed isn't their main, you know, issue. So speed.

The -- communication. They might not be looking for what we need for the day. They might not be giving a broad edit of everything that we need or our clients need. We're not only serving, like I said -- we are serving, like -- I think 4 billion people or something like that see our news. So it's vitally important than an AP photographer is in that room.

And, you know, here's the other thing I'd say: You know, there's a reason that you're an AP photographer. There's a reason that you're selected. There's a reason that you got that job. We are -- I mean, I will say, because I'm a company guy, but it's the gold standard of

photojournalism. So there's a reason that an AP photographer is in that room. And it's not just -- see, the thing about photography is it's not just like -- you can't just give someone an expensive camera and walk into a room and be like, Oh, they're going to get the pictures. That's not how it is at all. It's like you don't go to a chef and say, Oh, man, those are really great pots and pans. You know, it's the person behind the camera. So we hire the best.

Q. That's why every photograph is subject to its own independent copyright. It's an original piece of work.

A. Yes, sir.

Q. What about the pace of the distribution of photos by other photographers? Are they comparable to yours?

A. Yeah. I mean, we all are doing our best to get the pictures out as quickly as we can.

Q. But what about the distribution to AP members or subscribers? Is the process equally as fast if you're not in the room?

A. So since we've been excluded, we're really, really struggling to -- to keep up. And our members are really struggling because we don't -- we're not getting a wide variety of images. And also, those images are taking a long time to get to our members.

Q. Okay.

A. So it's hurting us big time.
Q. Since the AP was banned -- you're talking about since the AP has been banned?
A. Yes, sir.
Q. So what has the AP done to provide photographs to its members of, say, Oval Office events or east room events where you're not present?
A. Yes, sir. We've had other organizations that are absolutely heroes that have been helping us with -- getting us photos, sharing photos with us. And while we -- it's greatly appreciated, and they're amazing, we're not getting the full take.

So if I go into a room, I'm going to move 20 to 50 photos. And we're just getting a selection of those photos because, you know, they're our competitors and they're not going to give us their best, you know, pictures.

And then the other thing is, we are waiting for -- you know, there's a time delay. So as I established earlier, we're basically dead in the water on major news stories.

Q. Can you give the Court some idea of the comparable time between when you would be in the Oval Office transmitting a photo and, say, one of your competitors who's graciously providing photos to the AP?
A. Yes, sir. So if I'm in the Oval Office and I'm -- and

the president walks into the room and sits down, or he's at the chair, I will have photos to my editor within 30 seconds to 45 seconds.

We're now waiting on our competitors' photos to go to their desks, and then they send their stuff to their clients or members and then they'll send us a selection of those images. So I'm not 100 percent sure, but it's -- you know, we're -- as far as, like, news time, we're way, way behind.

Q. And what is the last time that you were made part of the pool for a trip into the Oval Office?

A. It's been a while, sir. I'm not sure 100 percent, but it's been, you know, a while.

Q. If we said a month, a month and a half --

A. Yeah.

Q. -- would we be far off?

A. A month and a half. It's been a rough stretch for a photographer to sit around and not do anything.

Q. And in all that time, you've had to rely on the other photographers -- AP has had to rely on the other competitor photographers?

A. Yes, sir.

Q. And has had to experience the delay in the transmittal of photographs?

A. Yes, sir.

Q. And does that matter?
A. Big time. Yes, sir. I mean -- so if you have, like I said, a major news event and, you know, an editor for the *Des Moines Register* or whatever is waiting to update their page, they're going to go with, you know, the first images that come.
Q. Now, you are a White House press corps photographer for the AP and you have not had access to a pool event in the Oval Office for several weeks. Right?
A. Yes, sir.
Q. The AP did have a photographer in the Oval Office at President Trump's now-famous meeting with Ukranian President Zelensky. Is that right?
A. Yes, sir.
Q. Can you tell the Court the circumstances of that?
A. Yes, sir. So Zelensky was meeting with Trump. Obviously, we weren't allowed in. But one of our -- he's a filmmaker from Ukraine. He's an AP journalist. He's absolutely amazing. The guy won an Oscar. And he somehow got access through Zelensky's office.
The issue is, he's the most --
Q. Let me stop you there. He was not part of the White House press pool?
A. Yes, sir.
Q. So he was not admitted by the White House through the

press pool process?

A. No, sir. He got his access through Zelensky's office.

Q. All right.

A. The White House would not let me in, or AP, into the meeting.

Q. So what's the problem as to that event, if there is one?

A. So the guy is amazing. He's absolutely incredible. He's one of the best journalists in the world. But he's a filmmaker and he's a video journalist. So his first thing is not photography, still photography.

So while he's an amazing person and human and journalist, when he went into that room, he's not only trying to do still photographs, but he's also trying to take video.

Also, I don't know if you guys have ever seen video of, like, what it's like when journalists arrive to the Oval Office, but it's like an all-out sprint -- sort of fight to get into position and...

So he wasn't really well-versed in, like, what's going on and how everything works.

So I hate thinking about this day, because we just absolutely got slaughtered in the play. Like, we got destroyed. But, you know, the images that, you know -- fine. He made images of Trump and Zelensky. But the very famous meeting, what my competitors got, and what I would

have gotten, is so far superior to what we were able to get out that day.

Q. How?

A. The -- so I always talk about -- when you talk about photography, you talk about, like, peak moments. Right? I describe it to people that -- saying, like, if we're doing a Hail Mary in a football game, what does that look like?

Well, it's -- the ball is at the top. The receivers and the defenders are jumping for it. It's at that peak moment where -- it's the anticipation. You don't know exactly what's going to happen. But that's the moment. Right?

So for politics, it's very similar. But -- it could be a look. It could be a gesture. And some of the photos that were made that day are absolutely amazing. Like, of --

Q. Not by AP?

A. Not by AP. No, sir. Don't remind me.

Q. Why?

A. Oh --

Q. I don't mean to cause you pain.

A. -- it's the worst.

THE COURT REPORTER: Sir, please let counsel finish with his questions before answering.

THE WITNESS: Yes, ma'am. Sorry.

BY MR. TOBIN:

Q. But just to be clear for the Court and the record.

A. Yes.

Q. -- what did you not get that you saw in other --

A. So --

Q. Competitors' feeds?

A. So I --

THE COURT REPORTER: Sir, please.

THE WITNESS: Yes, ma'am. He told me that, too. I keep --

BY MR. TOBIN:

Q. That's all right. We'll get through.

A. Yes, sir.

Q. Thank you.

A. Yeah. I looked at what my competitors got, and they made amazing images of, like, these interactions between Zelensky and Vice President Vance and Trump and the faces and the gestures. And I was like, man, I just was -- it was just the most amazing images you've ever seen, and we just didn't have it.

And not only that, but the issue was -- you know, he wasn't transmitting live. So -- and the meeting ran long. So my competitors, their images went out, you know, within minutes of this happening, and they were constantly feeding the wire. And by the time I got his disc, you know,

we're probably 30 or 40 minutes later, and then it took me another, you know, few minutes to start moving picture.

So not only did I have, like, one of the wildest meetings in the history of the Oval Office, but, you know, I'm 40 minutes behind. And then I don't have the images that I need to have because it's just -- you know, it's just a matter of, like, not having the person in the room that understands, like, what's happening, what's going on.

Q. Speed and quality seem to be the underlying theme of what the AP has been missing out on since you've been excluded from the pool?

A. Yes, sir. It's what we're all about, is speed and quality.

Q. And that puts you at a competitive disadvantage?

A. It kills us, sir. I mean, we -- I don't know if we had one front page. I don't know -- I don't remember seeing any news sites that had our photos. And it's, like, again, one of the wildest things to ever happen on the Oval Office and we just didn't -- we had nothing.

Q. Was that a presidential interview in the Oval Office that day with the press?

A. No, sir. No.

Q. And you heard my discussion with the Court about interviews versus other things. When you're called into the Oval Office as part of the pool, is that an interview

situation?
A. No, sir.
Q. How do you distinguish that? What's behind your "no" answer?
A. That is -- that's a press opportunity. An interview would be when -- we had -- the AP had a one-on-one interview with President Biden a year or so into his term. It was me and an AP, you know, writer, and that was it.
Q. Was it an exclusive?
A. Yes, sir.
Q. It was by special invitation?
A. Yes, sir. And, you know, look, if Bret Baier has an interview with the president of the United States, I don't expect them to let me into the Oval Office. I'm not going to be like, Hey, man, Bret, why aren't I in there? You know, I get it. I understand how the game works.
Q. Understood.

Does it matter to the public -- we talked about that it matters to AP. In your 21 years of experience in serving the public as a journalist, does it matter to the public that the AP has now been excluded from White House pool events?

MR. HUDAK: Your Honor, I know we're not bound by the Rules of Evidence necessarily here in this hearing. But asking a witness to speak on behalf of the entire public

seems to be quite speculative to me. So we would object to the question to the extent the Court is entertaining objections during this.

MR. TOBIN: Public interest is part of my burden.

THE COURT: So I am entertaining objections, but I'll overrule the objection.

You may continue.

MR. TOBIN: Thank you, your Honor.

THE WITNESS: Of course it matters to the public. You know, the AP is seen by, like, 4 billion people around the world. And not only that; we're -- I hate to keep beating a dead horse, you know, but, sir, we are the gold standard as far as like fact-based, non-partisan news. And, like, what we do is vitally important. I take it very seriously. And the fact that it's -- you know, our journalism isn't being seen by the people it was before, yeah, of course it affects the public. It's a huge, huge burden. It's awful.

BY MR. TOBIN:

Q. You have not been admitted into any pool events in the Oval Office, or anywhere else, since the period of time we've been talking about?

A. No, sir.

Q. What about the other set of events? We've all adopted the euphemism the east room events, the non-Oval Office

opportunities. Has the AP been admitted to any of those?
A. Yes, sir. I believe we've been admitted to a few here and there. One or two, I believe.
Q. And do you have any understanding of what the White House system for picking you for those was?
A. No idea.
Q. Have you been admitted to as many since this all began -- "this" being the White House announcement that it was banning the AP -- than you did before?
A. Sir -- so, like I said, I've been doing this job for 21 years, and I've been basically at the White House full-time for ten years. And not only would I be in every single event, but I'm literally the first person through the door. There is a pecking order as far as, like, how we walk into the east room, how we walk into the Oval Office. And the Associated Press photographer is the first person through the door.

So I've gone from being in every single event to not being allowed to do anything.

Q. Understood.

Just very briefly, we didn't talk about traveling with the president on Air Force One. Have you accompanied presidents on Air Force One?
A. Yes, sir.
Q. Is that a unique opportunity for a journalist?

A. Yeah. I mean, I would say it's a responsibility for a journalist.

Q. Have you -- are there events that happen either on Air Force One or in getting on or off Air Force One that you would miss if you weren't there?

A. Yeah, for sure. I mean, oftentimes the -- President Trump especially, he loves to talk, and he'll come back to the press cab and he'll talk. You know, there was another time where I was on a trip and Reince Priebus got fired while -- he was fired, like, literally via tweet on the plane. So he had to walk down the back steps. And -- you know, we were there for that.

So things happen that isn't necessarily what's happening in front of you. Right?

So it's not always just the president walking down the steps to get into the vehicle. It's like, well, who's walking down the back steps? Well, not only that. Who just got fired?

So as far as, you know, journalism goes, it's a 360. And yeah. You've got to be there.

Q. Do you have any idea what the current system is for picking people for pool events at the White House?

A. I am clueless, sir. I have no idea what -- there's no rhyme or reason. All I know is the only thing that seems to be consistent is that the AP is not allowed.

Q. And you spend your days still at the White House?
A. Yeah. I think it's important that we show up every day and that they turn us away, because it's -- you know, it's our duty as journalists to continue to show up to do the job, or try to do the job. Otherwise, I'd be letting, you know, myself down and the readers down.
Q. And then all these days since the ban began and you've been spending time still at the White House -- you have been. Right?
A. Yeah. I'm pretty grumpy.
Q. Understandable. We feel your pain.

In all that time, has anyone at the White House explained to you what the system is for picking people for the White House pool?
A. No. No, sir. I don't think anyone knows.

MR. TOBIN: Your Honor, I have no further questions at this time.

THE COURT: Thank you, sir.

Mr. Hudak.

MR. HUDAK: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. HUDAK:
Q. Good morning, Mr. Vucci.
A. Hey, good morning.
Q. Nice to meet you.

A. Nice to meet you. Thank you.
Q. My name is Brian Hudak. I'm an assistant U.S. Attorney in the U.S. Attorney's Office here in D.C. And I appreciate a long tenure. I've been with the office 18 years, so I appreciate you being with your job for 21 years.
THE COURT: Mr. Hudak is also being modest. He's the chief of the civil division.
THE WITNESS: Awesome.
BY MR. HUDAK:
Q. As with you, I don't like to inflate my ego.
I'm going to be showing you exhibits on the monitor in front of you --
A. Okay. Sure.
Q. -- if I do this correctly.
And I also have my notes on my laptop, so I just need to arrange here. Okay.
A. I'm seeing this, so you're good.
Q. Good. Before we get to the image on the screen, just to set the state of play, as I understand it, up until, let's say, the beginning of February, you had a standing seat in the White House press pool. Correct?
A. Yes, sir.
Q. And you didn't have to rotate in like some other media organizations did. Correct?
A. No, sir.

Q. Other hard pass journalists at the White House did not have a similar seat in the press pool. Correct?
A. Correct. Yes, sir.
Q. And you previously said, I think, on direct examination that even within the press pool, there was kind of a pecking order, if you will. Is that correct?
A. Yes, sir. It's based on -- so the idea would be to amplify the president's words as broadly as possible. So the organizations with the most reach would be the ones that are, you know, in those pools. And the pecking order would be based on the reach of those organizations.
Q. Got it.
And part of being a member of the press pool is to amplify the president's speech in the Oval Office. Correct?
A. Absolutely; and serve the American public.
Q. Now, in addition to -- in your work, in addition to getting photos out to use in immediate news stories, you also mentioned that part of your job is to take photos to kind of preserve for history the events. Correct?
A. Yes, sir.
Q. Okay. Like the Butler photo that we saw, that's an example of it. Correct?
A. I hope so. Yes, sir.
Q. The Butler photo, just for clarification, you took not because you were part of the White House press pool.

President Trump at that time was a candidate for office. Correct?

A. Yes, sir.

Q. And as part of preserving history, like any money-making organization, the AP sells photographs on its websites. Correct?

A. I would assume so. That they license images, yes, sir.

Q. Okay.

A. I would be the exact wrong person to speak to that. I have no idea how the business side of things works.

Q. Okay. But have you seen -- referring you to Government Exhibit 2 on the screen here, have you seen the editorial photos and videos page on AP's news room before?

A. Yeah. I'm seeing what you're seeing. But -- yeah, of course I have. Yes, sir.

Q. And this is a -- kind of a storefront where AP sells images that it has taken during -- from its reporters and others through licensing agreements. Correct?

A. Yeah. I mean -- yeah. Of course. Yes, sir.

Q. And we just have a few screen grabs from this website as we discuss your testimony here today.

So flipping to Exhibit 3-A, have you ever clicked on a photo on the AP news room and see what information pops up?

A. Yeah. I mean, I'm looking at this now. Sure.

MR. HUDAK: And just to orient the Court, this is what one of the photo pages looks like, but we've chopped them in to make it a little more readable for the Court and for the witness here today as we move forward.

BY MR. HUDAK:

Q. So this is an example of the chopping, if you will. And you see this was a photo, it appears, from February 25th in the Brady press room. Correct?

A. Yes, sir.

Q. And just pausing there for a second, when you still go to the White House, as you said, even though you're not part of the pool, you still have access to the Brady briefing room. Correct?

A. Yes, sir.

Q. And the other kind of press facilities that are adjacent to the Brady briefing room you still have access to?

A. Yes, sir.

Q. And you have access to what I think is called Pebble Beach?

A. Yes, sir. Yes, sir. That's correct.

Q. And kind of the driveway along where media -- both photojournalists and videographers set up to encounter the president meeting foreign dignitaries as they arrive to the White House?

A. Yes, sir. And not only that, but I'll spend time there

looking for people that are doing interviews with, like, say, Fox News or anything like -- because I'm not allowed into these events, so I have to try to, you know, get people any other way I can. So oftentimes I'll take pictures of, you know, the press secretary or someone that's doing an interview on Pebble Beach. So, you know, I'll work in those areas as well, sir.

Q. Got it.

And you sometimes take photos of, you know, cabinet members walking into the White House? Yes?

A. Yes, sir. That's exactly what I'm trying to do.

Q. Yeah. And also, you know, Elon Musk and his child walking towards the -- Marine One?

A. Yes, sir.

Q. And -- but those type of events in and around the White House you're still able to access with your hard pass. Correct?

A. Yeah. I am still able to access those events.

Q. On the AP's news room page, if you see that this photograph was taken by a photographer named Aaron Schwartz -- do you see that on the screen?

A. Yes, sir.

Q. And do you know Mr. Schwartz?

A. Probably by face.

Q. And it appears that he is a member of an organization

called Sipa USA. Do you see that?
A. Yes, sir.
Q. Okay. And does the AP have licensing agreements with other photojournalists that are covering the White House?
A. I have no idea, sir. So I believe that Sipa uses AP for distribution. But it doesn't go to, like, our -- all of our members. It doesn't go to our wire. So these images wouldn't go to, like, the *Des Moines Register*, I don't think, sir. But I don't know. But there is some sort of distribution deal, I would imagine.
Q. And does -- I think, as the AP advertises on its website, it has partnership and licensing agreements with several different photojournalist and videographer outlets. Is that right?
A. If you saw it, I wouldn't dispute that. Yes, sir.
Q. All right. And you see that, as part of the preserving history and making money -- preserving history, I don't fault anyone for that, but you see that this is for editorial use only and please contact your AP representative for commercial use. Do you see that on the screen?
A. Yes, sir. I do see that.
Q. And on these screens that pop up when you look to go onto the AP news room, there's a, you know, ability to purchase photos. Is that customary in your industry?
A. I would imagine, yeah. Of course.

Q. Do you see this at all whenever someone buys licensing rights to a photo from the AP's site?
A. No. I'm just doing the day-to-day work of actual journalism. I have no idea about the business side.
Q. You're paid a salary, not on commission. Is that correct?
A. Yeah. Although, after Butler, I mean -- well, I didn't -- we didn't license that image, but -- yeah, I'm paid a salary, sir.
Q. And you might have some side activities where you receive commission or you do other work, but from the AP at least --
A. I'm paid a salary. Yes, sir.
Q. And it appears that the AP is selling this image through some licensing rights deal with Sipa, even though the AP photojournalist didn't take it themselves?
A. Correct. That's what it looks like, sir. But again, I'm not the business guy.
Q. May I pause here just for a second that -- you talked about your equipment and your ability to kind of push out photos almost instantly over the internet to photo editors and other folks at the AP.
A. Yes, sir.
Q. Do you remember that?
A. Yes, sir.

Q. And your counterparts from Reuters, they have the same capabilities. Is that correct?
A. Yes, sir.
Q. And from *The New York Times*. Is that correct?
A. Of course. Yes, sir.
Q. And from AFP. Is that correct?
A. Yes, sir.
Q. Do you know -- what about Sipa USA? Does the AP have licensing rights deals with them?
A. I don't know. I don't know how that works. And I'm not -- so I'm speculating here, so I don't know if you want me to say this or not. But I think oftentimes this stuff from Sipa, it could be days later before it's uploaded to our distribution networks.
Q. Okay.
A. So I'm not 100 percent sure, sir. But I believe that, you know, it could -- you know, they could upload their take days after an event.
Q. All right. We'll get to that, because I think you might be wrong on that based upon what I'm seeing on your website.
A. Okay.
Q. But fair to say you don't have any real understanding of how Sipa's photos make their way into kind of the AP catalog on the website?
A. That is the perfect way of putting that, sir. Yeah. I

have absolutely no clue how all that works.
Q. Now, were you in the Brady press room on February 25th, 2025? And just to refresh your recollection, that is when the press secretary announced that there would be a change in the pool selection process.
A. Yes, sir. I believe I was there with another AP photographer.
Q. And AP -- even though you were there taking photos, AP still, it appears, posts photos from other media organizations for sale on its website. Is that correct?
A. I'm not sure. I believe you, sir. You know, I just don't know.
Q. In February 2020, you were part of the press pool at the White House. Correct?
A. Yes, sir.
Q. And you regularly attended east room events at that period of time?
A. Yes, sir.
Q. And the AP's practice -- flipping to Government Exhibit 4 -- of posting photos from other media organizations through licensing rights deals appears to have been common back in that period of time as well. Do you see that?
A. Yes, sir. I'm looking at an image from February 27th, 2020.
Q. Do you know who Oliver Contreras is?

A. Yes, sir.
Q. And is he a good photojournalist?
A. Yeah. And a great human.
Q. And he worked, it appears, at least at the time, for Sipa USA?
A. He's a freelance photographer. So he probably got a day rate from them.
Q. Can you explain what you mean by "day rate," just the --
A. Yes. Of course, sir.
Q. -- for the Court and myself?
A. So Sipa doesn't really have staff photographers, so they'll hire people for a day. So they'll say, Hey, Oliver, there's going to be this African-American History Month reception in the Oval Office and a few other things. Can we hire you for the day to work for us?
Q. Fast-forwarding five years, on the same day, February 27th, you see that this is another photo from AP's website from a photojournalist at Sipa USA. Do you see that?
A. Yes, sir.
Q. Do you know who Samuel Corum is?
A. Yes, sir.
Q. Who is Samuel Corum?
A. He's a former Marine -- there's no former Marine, but he's a Marine, became a photojournalist. Great guy.
Q. Is he a good photojournalist?

A. Yes, sir.
Q. Switching gears a little bit, I want to go through some of the east room events that have occurred recently and your understanding of what AP members were in attendance during those events. Okay?
A. Sure.
Q. All right. Can we start with -- on February 24th, the White House east room event with President Macron. Do you recall that one?
A. Yes, sir.
Q. And would you generally describe how you were able to cover that event for the AP?
A. Well, we weren't in it. Is that...
Q. And my question is you personally. Were you in the east room during that event?
A. This is -- which -- is this in 2020 or is this --
Q. No. In February 2025 --
A. This year.
Q. -- February 24th of this year.
A. I was not.
Q. And you were not in the Oval Office for this event. Correct?
A. No, sir.
Q. But you were, as we discussed earlier, or a member of your staff, was in the area where the French president came

to be admitted into the west wing?
A. Yes, sir. We were -- we have not been banned from taking photos out there.
Q. And you were able to observe President Macron and the surrounding circumstance when he arrived. Correct?
A. Yeah. I wasn't there that day, but an AP photographer was.
Q. And in the Oval Office that day, do you understand that an AP text journalist was admitted to the Oval Office as part of President Macron's press detail?
A. I'm not -- so that would be something for Zeke -- I don't know who was in the room. I'm sorry, sir.
Q. Do you know if any AP photojournalist, whether they were Washington-based or otherwise, was admitted to the Oval Office for that day?
A. I'm not 100 percent sure, sir. I would imagine that there was -- we probably got photos through Macron's side of -- through some sort of pool agreement on that side. I'm not sure.
Q. And in addition to maybe licensing agreements or photojournalists that the AP has from foreign areas, the AP also receives photos from pool photojournalists as part of the White House press pool. Correct?
A. Well, no. I mean we're not part of the pool now.
Q. But you receive -- so if AFP, for instance, takes a

photo as part of the pool, it pushes it out to the other hard pass holders at the White House. Correct?

A. No.

Q. Well, let me show you Government Exhibit 8. Do you see this is from the Oval Office meeting with French President Macron and President Trump on February 28th -- 24th?

A. Yes, sir. So -- I'm sorry. I was thinking of the American side of things.

So yeah. So there was a pool established that -- they traveled with Macron here. There was one photographer. So that one photographer shared with those other organizations.

Q. So Ludovic -- L-U-D-O-V-I-C -- Marin, M-A-R-I-N -- he was part of a foreign pool for this event?

A. Yes, sir.

Q. And the AP had an arrangement to receive photographs from this pool?

A. Yes, sir. That's what it looks like. Yes, sir.

Q. And do you know Mr. Marin?

A. I don't. Well, I mean, I may have met him somewhere before. It's a very small community. But...

Q. Okay. And AFP's photojournalists are of high quality as well?

A. Sure.

Q. I think, as you testified on direct examination, part of

what a photojournalist wants to capture are, you know, the moments with facial interactions and things like that. Correct?

A. Yes, sir.

Q. And in this one, maybe that's an example of it, with the French president grabbing President Trump's hand and having a big, beaming smile, it appears?

A. Yeah. It's a great photo. I wish I took it.

Q. In the east room of that event, the AP similarly received images -- looking at Government Exhibit 9 -- from its pool relationship with Mr. Marin in the foreign pool. Is that correct?

A. That's what it looks like. Yes, sir.

Q. And again, if you see the pricing information on there, the AP is currently selling this photograph from between $35 and $495, depending on the license?

A. Yes, sir. That's what it says. Yes, sir.

Q. And the way that the AP sells photographs and documents history at this event is similar to the way it's covered other events between President Trump and President Macron. Is that correct?

A. Ask that question again. I'm not sure what you're asking me.

Q. Sure. The way that AP is selling this photo on its website is similar to the way that the AP sells other photos

of President Macron and President Trump during other events?
A. Sure. I guess.
Q. So, for example, looking at Government Exhibit 12, there was a meeting between the presidents at the U.S. ambassador's residence in Brussels on May 25th, 2017. Do you see that?
A. Yes, sir.
Q. Once again, we see that this is a photo that was taken by an unaccredited photojournalist at Sipa USA?
A. Yes, sir.
Q. And once again, we see that the AP is selling this photo on its website for between $35 and $495, depending on the license. Do you see that?
A. Yes, sir.
Q. And similarly, on April 24th, 2018, at the White House east room, referring to Government Exhibit 13, you see that there's a similar photo taken by Sipa USA with -- that is available for purchase on the AP's website for similar pricing?
A. Yes, sir.
Q. You see here on this one it is noted that the photographer is the Abaca Press. Do you see that?
A. Yes, sir. I see that.
Q. And do you know who the Abaca Press is or what it is?
A. I mean, I guess it's another photo agency. It is

another photo agency, sir.
Q. And it appears, at least because this is being sold on the AP's website, that there's some sort of licensing agreement between Abaca Press and the AP?
A. That's what it looks like. Because it's, like, slash, Abaca, slash, Sipa USA, slash, you know, via AP images. So that's what it looks like, sir.
Q. Okay. And if you note in the by-line it has the photojournalist that took this, Eliot Blondet, B-L-O-N-D-E-T?
A. Uh-huh.
Q. Do you see that?
A. Yes, sir.
Q. And do you know Mr. Blondet?
A. I mean, probably by face. But no, sir.
Q. And you would say that this photograph -- as a professional photographer, it is a fairly good one, capturing the event, good -- good facial expressions, good, you know, movement, if you will?
A. You're going to make me --
Q. I do not -- well, if you don't want to, I do not want to --
A. No, no. The -- the exposure is clearly off, sir. I'm sorry.
Q. Your eye is so good.

A. I'm sorry. And it could have been his editor; it wasn't him. I mean, you know -- I don't know.

Q. It also could be Microsoft PowerPoint, through the court's technology as well. My apologies.

A. Sir, I'm pretty certain that there's no detail on those highlights. So...

Q. Okay.

A. I would be a subject-matter expert in this. Just not the business side of things, sir. I wish I could be more help there.

Q. No, it's all good. It's all good.

All right. That's enough discussion about President Macron. Why don't we move to the east room event with the -- Prime Minister Starmer from the United Kingdom.

A. Yes, sir.

Q. Do you recall that event?

A. I was not there, but yeah, sure. I've paid attention to the news.

Q. But similarly, you were able to observe the prime minister enter the west wing with President Trump. Correct?

A. Yes, sir. We are not banned from taking photos there.

Q. And do you know if any AP journalist, photojournalist or text journalist was permitted access to the Oval Office for this event?

A. I'm not sure, sir.

Q. Do you know who Carl Court is, looking at Government Exhibit 15?
A. He's a photographer from the U.K. I just -- so I would imagine that this came from the U.K. side of the pool.
Q. And do you know what the Press Association is?
A. It's a news organization.
Q. And is it an affiliate of the AP or is there a licensing arrangement?
A. I don't know, man.
Q. Is -- do you know Mr. Court?
A. Yeah. I've seen him all over the world. Sure.
Q. And is he a reputable --
A. Yes.
Q. -- photojournalist in your mind?
A. Yes, sir. I'm sorry. I keep cutting you off. Yeah. For sure, he's a great photographer.
Q. And again, the AP appears to be selling this photo from President Trump's interaction with Prime Minister Starmer in the Oval Office on its website. Is that correct?
A. Yes, sir. That's what it looks like.
Q. Now, as part of these licensing agreements -- and I'm assuming your answer is going to be "I don't know," but I'm going to ask it anyway. As part of these licensing agreements, do you know if the AP has the right to not only sell but also to use the photos generated in its news

stories?
A. I have no idea.
Q. Okay.
A. I couldn't speculate, sir. I'm sorry.
Q. Now, the east room event with the prime minister, you see in Government Exhibit 16 that the AP also is selling on its website a photo from a Sipa USA photojournalist. Correct?
A. Yes, sir.
Q. And then flipping to Government Exhibit 17, you also see that they're selling a photo from a journalist from Abaca Press, Yuri Gripas, G-R-I-P-A-S. Do you see that?
A. Yes, sir.
Q. But you don't know whether any AP photojournalist was admitted to the east room or the Oval Office --
A. I --
Q. -- for this event?
A. I'm not 100 percent sure. I'd have to look at the wire to see.
Q. Moving on to February 28th, an event with Ukranian President Zelensky -- you testified about that during your direct examination. Correct?
A. Yes, sir.
Q. And at that event, you and your colleagues were able to witness Mr. Zelensky enter the White House through the west

wing doors?
A. Yes, sir.
Q. And I think, as you testified on direct examination, there was a foreign-based photojournalist from the AP that was admitted to the Oval Office for that event. Correct?
A. Yeah.
Q. And that was Mr. Chernov. Is that correct?
A. Yes, sir.
Q. And he is the award-winning moviemaker that you referred to in your direct testimony?
A. He's amazing. Yes, sir. He is an incredible video journalist.
Q. And this is one of the photographs that he captured. Correct?
A. Yes, sir.
Q. And I think you testified on direct examination that you don't see this photo being used in major news publications. Correct?
A. I think I was talking about the broader -- you know -- the vast majority of news sites that I saw, I did not see many AP photos.
Q. National Public Radio, you're familiar with them?
A. Of course.
Q. And they regularly use AP stories on their websites. Is that correct?

A. Yes, sir.
Q. And they regularly use AP photographs on their websites. Is that correct?
A. Of course.
Q. So while you were talking with my friend Mr. Tobin, I just went online to see if I could find a use of it. You see that this is a story from NPR on March 2nd, 2025. Do you see that?
A. Yes, sir. It looks like an NPR -- you're showing me an NPR news page.
Q. Yes.
A. It has the photo that we were talking about.
Q. Yes.
And it's also -- if you look at the by-line, it's attributed to the AP photojournalist. Correct?
A. Yes, sir.
Q. So when you were talking with Mr. Tobin earlier about, you know, whether the photographs that AP took in this interaction with President Zelensky, whether they were used by the AP's customers, you really don't have one way or another of knowing how many customers use that content versus other content. Correct?
A. No, sir. I mean, there's no -- correct. I don't. But it's just -- I've been in the news business for a long time, and when we get our butt kicked, I know immediately when

that happens. And that happened this day.
Q. When you -- you haven't talked with any of the businesspeople at the AP to know whether or not the usage of your photographs or the AP's photographs from that day was down compared to other photographs?
A. The businesspeople?
Q. Yes.
A. No, sir. We don't -- no, sir.
Q. You haven't talked to any of the data analytics people at the AP to understand whether the usage of your -- the photos from that day was down compared --
A. No.
Q. -- to other events?
A. No, sir.
Q. The same question for all these photos that we've been looking at that are being licensed from other media companies: You don't know whether the reach of those photos from the AP's website has caused it financial harm because of the licensing agreements with the other photojournalists that we've been looking at?
A. No, sir.
But can I add something? The majority of our clients aren't going to our website to get these images. They're not going to download or purchase images. They're taking a photo stream. It's a completely separate service,

sir. It's a different service.
Q. I understand. But --
A. Okay.
Q. -- but as far as what the actual financial impact to the AP was --
A. Yeah, I don't know. I'm sorry, sir. I don't know. I couldn't answer your question.
Q. And as far as the actual impact from kind of a data analytics perspective, that of actual usage, you don't have that information either?
A. I'm sure someone does.
Q. But you do not?
A. I don't. No, sir. I take the pictures.
Q. That day, it's my understanding there was an east room event that was planned but was canceled at the last minute. Is that your understanding?
A. Yes, sir.
Q. And did the AP, to the best of your knowledge, either through an AP photojournalist or a licensed partner have access to the east room event that day or was going to have access to the east --
A. I --
Q. -- room?
A. I'm not sure, sir. It didn't happen. Sorry to cut you off. My bad.

Q. My apologies.

Just looking at Government Exhibit 20, do you see that is a photograph of the east room on February 28th, 2025? Do you see that?

A. Yes, sir.

Q. And do you see that this was taken by Mr. Corum from Sipa USA? Do you see that?

A. Yes, sir.

Q. And again, on these photos that we've been looking at, on the credit line that I'm assuming people are directed to use, in reporting the by-line, it has Sipa USA via AP.

Do you see that?

A. Yes, sir.

Q. Can we talk about the tarmac for a second?

A. Sure.

Q. It's my understanding that photojournalists from the AP were not permitted on the West Palm Beach International Airport tarmac on February 28th. Is that correct?

A. I would say that's accurate, sir, if you're saying it. I wouldn't argue with you.

Q. But on March 7th, when the president arrived at West Palm Beach International Airport, the AP had both a text journalist and a photo reporter there. Correct?

A. I'm not sure. But I would -- I'd have no reason to dispute that, sir.

Q. And on March 14th, when the president arrived at West Palm Beach International Airport, the AP had both a text journalist and a photojournalist there. Correct?
A. Again, I'm not 100 percent sure, sir. I'd have to see the photos.
Q. And on March 22nd, when the president arrived at Philadelphia International Airport, the AP had both text and photojournalists at that event?
A. Yeah. Again, yes, sir. I would believe what you're saying.
Q. Are you aware of any tarmac event since March 1st where the AP has been denied photojournalist access on a tarmac event like these with the -- Air Force One arriving?
A. Well, yeah. I mean, the majority of the ones when he lands in West Palm. We always apply to see the landing and are usually denied.
Q. Right.
Are you aware of any events besides the 7th, the 14th and the 22nd where Air Force One has landed and the AP has not been there at -- not had a photojournalist there?
A. Sir, I just don't know. I'm not sure off the top of my head. But -- I don't want to speculate. But if -- I would say that they would allow us to do, you know, one here and there. But certainly not what we were doing before, which was every single one.

Q. Right.

Well, that's what my question is. Every single one since March 1st, the AP has been there. Correct?

A. I don't --

Q. You don't know?

A. I don't know. I don't think that's true, though, but I would have to look. I'm not calling you a liar, sir.

Q. Do you recall any landing tarmac event that the AP has not been at since March 1st?

A. Again, I'm not -- I'm not sure. Here's the thing, man. I don't work weekends. So this guy goes -- so --

THE COURT: Seniority does have its privileges.

THE WITNESS: So it's someone else's deal. I wish I could help you. I just don't know.

You know, I get, like, the text messages saying: Look, we were denied; they're not letting us do this; they're not letting us do that. But, you know, I'm sure we could sit down and get together and figure out what we have been invited and what we have not, what we've been allowed to do and what we haven't been allowed to do. We would love to do all of them. That would be ideal. That's our role.

BY MR. HUDAK:

Q. Sitting here today, you cannot testify on behalf of the AP that they have been excluded from a tarmac event since March 1st?

A. I mean, I wouldn't be the person to tell you that, sir.
Q. If we look at Government Exhibit 24, you see this is a photo from the Philadelphia International Airport landing on March 22nd. Do you see that?
A. Yes, sir, I do.
Q. And you see the photographer here is Chris Szagola, S-Z-A-G-O-L-A? Do you see that?
A. Yes, sir, I do.
Q. And my apologies if I'm butchering his name. But --
A. I don't know him either, so you can say it however you want.
Q. Is Mr. Szagola an AP photojournalist?
A. No, sir. He's a freelancer.
Q. But he appears to have been hired by the AP for this event?
A. Yeah. Yes, sir. For that day. And where it says by-line title, it says FRE. That means freelancer. So you can tell a staff photographer versus a freelancer versus -- FRE versus STF. So -- for your future, you know, research.
Q. That's very helpful. Thank you so much.
A. Yes, sir.
Q. But you see the copyright here is owned by the Associated --
A. Yes.
Q. -- Press?

A. Yes, sir. I'm sorry. I keep cutting you off. I'm sorry. I'm so eager to answer your questions.

Q. You're all good. I'm not going to be the one that yells at you. She's going to be the one that yells at you. So it's fine.

But if you would allow me to finish, because it does make it easier on the court reporter.

Flipping back to a few more east room events where --

THE COURT: Mr. Hudak, let's --

MR. HUDAK: We're almost done. I just want to cover the landscape. We're almost done. I will speed up.

BY MR. HUDAK:

Q. Do you recall the -- an event celebrating St. Patrick's Day at the east room on March 12th, 2025?

A. I was not there, so I'm not 100 percent sure.

Q. Do you know if an AP photojournalist was there?

A. I don't. We have all this information somewhere -- oh, it looks like Alex Brandon was there. There is an AP staff photographer.

Q. Right.

A. He's amazing.

Q. Moving to March 20th, there was an east room event with -- for a signing of an executive order on education. Do you recall that?

A. Yes, sir. I saw the news. I believe I may have been on vacation.
Q. Okay. And do you know if an AP photojournalist was there?
A. Yeah. Ben Curtis. Legendary photographer.
Q. Moving forward to March 24th, there was a Greek Independence Day celebration at the White House in the east room. Do you recall that?
A. Again, I was -- I believe I was on vacation.
Q. But do you recall whether an AP photojournalist was present at that event?
A. Yes, sir. I'm looking at a photograph by Jacquelyn Martin, who is an AP staff photographer.
Q. Just yesterday, there was a Women's History Month event in the east room of the White House. Do you recall that?
A. I wasn't at the White House yesterday. I was preparing for this. So -- but yes, sir, I believe you. Let's see. Who is it this time?
Q. Was there a --
A. Jacquelyn again.
Q. -- a photojournalist there from the AP?
A. Yeah. So I'm looking at a photo by an AP staff photographer, Jacquelyn Martin. So we were allowed into that event.
Q. Okay. And I think you testified on direct examination a

little bit of this -- and this is my last line of questions. As a photojournalist, you're not just simply capturing an image of the room. That's not just your job, is to take random photos. Correct?

A. Yes, sir.

Q. It is to -- you've been trained as a photojournalist to observe and capture moments such as the one on the screen here that have to do with events surrounding the main activity that is going on in the event. Correct?

A. The idea as a photojournalist is to show our members, our viewers, what's happening, what's going on here, what's -- you know, everything in this room is important. And of course what the president is saying is extremely important as well.

Q. And through images, you're trying to capture the mood of the room. Correct?

A. Yes, sir.

Q. And you have the ability to communicate those things to your counterparts at the AP in realtime. Correct?

A. Yes, sir. Ideally, it would be realtime.

Q. You also want to capture what notable people are at these events. Correct?

A. Yes, sir.

Q. And you want to capture things like even when a sleepy child is thinking about women's history in their dreams as

opposed to listening to the president's speech. Correct?
A. Yes, sir.
Q. Again, you have the ability to communicate all that to your AP colleagues, both on the text side and on the photojournalist side. Correct?
A. Yes, sir.
MR. HUDAK: Your Honor, no further questions. Thank you.
THE COURT: I actually had a couple questions for you, sir.
First, it's fair to say that you can take flattering pictures of someone or unflattering pictures. Right?
THE WITNESS: Absolutely, sir. And that's an extremely important point, actually, sir. I can go into an event and I can make someone look like a buffoon or I can make someone look like a hero. So the idea is that a professional photojournalist that has, you know, a good heart, a good soul, and an idea of, like, what's happening in front of them, to be fair, be accurate, be fast -- that's the role of the photojournalist, is to be fair, be accurate and be fast.
THE COURT: And so I understand you have had different access since, well, the last month and a half. Has that caused you to change how you take the photos that

you do have access to? In other words, are you taking more pictures of the president picking his nose or more pictures of the president smiling as a result of this ban?

THE WITNESS: No, sir. My approach hasn't changed. I'm a professional. So I do my job the same now as I would before.

THE COURT: And I think you had a question from Mr. Tobin about, you know, you haven't been able to go into the east room as often as you did in the last administration.

How frequently would you say there were east room events last year that you went into?

THE WITNESS: Sir, every single event that ever happened with the president of the United States, I was there or an Associated Press photographer was there.

THE COURT: I understand that. I'm asking how often. How many times were there?

THE WITNESS: Depending on the president's schedule. So if he had five east room events, I would be in five. Is that what you're asking me, sir? I'm sorry.

THE COURT: I'm asking -- I mean, Mr. Hudak has gone through -- I don't know -- four or five events, just east room events, just in the last few weeks. Were there four or five events in the east room per month last year?

THE WITNESS: I mean, I believe there's probably

way more than that. We do have a sheet that would have all the events that we were denied access to. So you would be able to look at that and say, Hey, they were allowed into three and there were -- and 15 were held, or whatever the numbers are, sir. I wouldn't be able to speak to that. I'm sorry.

THE COURT: I'm asking about last year.

THE WITNESS: Last year?

THE COURT: Yes. Were there a lot of events last year in the east room?

THE WITNESS: With President Biden?

THE COURT: Yes.

THE WITNESS: Sure. I mean, yeah. I guess a normal amount. I don't know -- I would have to look at the numbers, sir. I'm not 100 percent sure. But he did use the east room.

THE COURT: Okay. And how about the Oval Office? How many Oval Office events would you say there were in 2024 a month?

THE WITNESS: Gosh, I don't know, sir. I guess it all depends on the news of the day. I wish I had this prepared for you. I would have been better at this.

THE COURT: No, that's fine.

THE WITNESS: But I mean, sort of -- it depends on the news of the day, what's happening. You know, so it

could be a really busy week and we see him five times, or it could be -- you know, we're not in the Oval Office; you know, he's working behind the scenes. So it really depends on the president's schedule.

THE COURT: Okay. Thank you.

Redirect.

THE WITNESS: Does that help, sir?

THE COURT: Yes.

THE WITNESS: Did I answer your question?

THE COURT: You did.

REDIRECT EXAMINATION

BY MR. TOBIN:

Q. Mr. Vucci, I think the Court is trying to get some empirical understanding of whether there is a real decrease, a real chill, in your ability to get into the rooms. So as best as you can, can you talk about the empirics before and after? As specifically as you can.

A. Yeah. I mean, like I said before, if there was ten events that week, we would be in all ten. Now, it's -- it's a win for us to get into one event a week. And, you know, we're talking about -- you know, he pointed out, like, you know, three or four east room events, but that's over, like, a monthlong period. I mean, you know, my colleagues are going into these things every single day. And we're not.

Q. By your colleagues, do you mean --

A. My competitors. I'm sorry.
Q. And have you ever shown up since the ban -- just call it the ban, to mark the calendar. Since the ban, have you shown up for events and asked to be admitted?
A. Every single time, sir.
Q. Even when your RSVP isn't accepted?
A. Yes, sir.
Q. And what have you been told?
A. "No."
Q. You've been told that by the White House staffers?
A. Correct.
Q. Have you been given a reason?
A. No, sir.
Q. Have you ever been given a reason why others were allowed in and you weren't?
A. No, sir.
THE COURT: Can you just explain that process? What's the RSVP?
THE WITNESS: Yes, sir. So the night before, the White House will put out a daily schedule for the next day's events. And if there's an east room event, they'll put an RSVP link on there and they'll say, "Please RSVP by this time."
So AP photographers will -- we will RSVP for tomorrow's event.

And then you'll get an email back from the White House saying whether or not you're approved or denied or, you know, logistics of a call time -- what time to show up. So we always fill out the RSVPs and then we will also show up if we're -- if we don't hear back on the RSVP, we will also show up to the meeting point. So then the White House will tell us face to face that we have been denied access.

BY MR. TOBIN:

Q. And when you say "the meeting point," what do you mean by that?

A. Yes, sir. So if you go into the east room, you meet at, like, the palm room doors, it's called. And that's where we'll be escorted through the White House up the stairs and to the east room. So the meeting point will be at the palm room doors.

Q. That's where journalists collect when they're going to an event?

A. Yes, sir. So if it's a 10:30 call time, meeting time, we'll be there at, you know, 10:15, waiting. The White House will show up and they'll escort everyone upstairs. And at that point we'll ask, Hey, can we cover this event today? They'll say no. And we'll move on.

Q. Do you know whether the capacity of the east room for press people was filled to capacity for the events that you were excluded from that you showed up for?

A. I'm not sure, sir.

Q. That's fair.

A. It's a big room.

THE COURT: And so -- thanks for explaining how it works for the east room.

How about for the Oval Office?

THE WITNESS: So the Oval Office, it would be -- the pool would gather at the briefing room doors, we call it. And so if they say the White House -- that the in-town pool is going to meet at the briefing room doors at 10:00 a.m., I would show up at 10:00 a.m., hoping to get into the event that day in the Oval. And then they would deny me access.

THE COURT: So that process, has that been the same process both this year and last year?

THE WITNESS: Yes, sir. It's the same process. It's just -- and it's mostly the same organizations. It's just that the AP has been removed.

So -- and not only that, sir, but, like, what I talked about earlier, like how we line up, so even -- it's kind of like school. You know, so we'll go to the doors and --

THE COURT: You're the line leader?

THE WITNESS: Yes, sir. I'm the line leader. But there is an order in which we line up. So once we go to the

doors, we'll be in that order before the White -- the people from the White House will show up to escort us in. But we're ready to go in that order.

BY MR. TOBIN:

Q. Just a couple of quick questions.

The photographs that my friend Mr. Hudak showed to you from the tarmac, those all appear to me to be the president's arrival at a certain location. Did you note that?

A. Yes, sir. That's what it looked like to me.

Q. Do you know if -- are departures -- when the president leaves, say, from Andrews Air Force Base or from West Palm Beach Airport, are those pool events as well?

A. The Air Force One pool would cover those.

Q. And have you been -- has the AP had an opportunity to cover any of the president's departures since the ban began?

A. I don't believe so, sir.

Q. Has the AP asked and been denied the opportunity to cover them?

A. I'm sure anytime that a signup went out to cover anything with the president of the United States, the AP begged to be included.

Q. And was not included, to the best of your knowledge, in the --

A. Correct.

Q. -- departures?
A. Correct.
Q. I'll also remind you that Mr. Hudak showed you an NPR website cover that had an AP photograph on it. You saw that?
A. Yes, sir.
Q. And you expressed your views about --
A. Well, seeing an AP photo from that day on one website doesn't make me feel better about the play. So it was -- it was a slaughter.
Q. Understood.

Just to focus on NPR for a minute, though, do you know if AP -- certain AP subscribers have any obligations to use only AP photographs and not anyone else's?

A. I'm not sure, sir. I don't know about that. I wish I could help you. I'm sorry.
Q. No. That's fine.

THE COURT: Do you know the relationship between AP and AFP?

THE WITNESS: They're a competing wire service, sir.

THE COURT: Okay. There's no relationship?

THE WITNESS: Yes, sir.

THE COURT: Okay.

THE WITNESS: No relationship.

BY MR. TOBIN:

Q. For the east room events where AP is relying on others' photographs, do you have any idea who else is in the room who's not pictured in a photograph?

A. I don't, sir. And that's part of the problem with this whole thing, is that we're relying on, you know, others to provide us images. But those -- and they're graciously doing it.

But the issue is, like we talked about earlier, like Zeke might give me a heads-up on a story that we're working on. Well, you know, my competitors that are graciously providing these images, they don't know what we're doing, what we are working on. So I might have a big story coming up about someone that's going to be in this east room event. You know, they're not going to know.

So it's -- you know, there's a whole rack of issues. But that's one of them. The speed, again, is the most important thing. And -- it's a real lag time.

Q. It's not just about the photograph, the thing itself. It's about the opportunity to be there, to decide what else you want to photograph?

A. 100 percent. Yes, sir. Absolutely. Being in that room is vitally important.

Q. I'm going to ask Mr. Mishkin to display an image. I'm going to ask you just a couple of questions about it.

Do you see an image in front of you on the --
A. Yes, sir. It's an image of a bunch of front pages.
Q. Okay.
MR. TOBIN: For the Court's reference, this is contained in Mr. Elswick's declaration, Paragraph 16.
BY MR. TOBIN:
Q. Can you tell the Court, what is the image that we're looking at?
A. It's an Oval Office meeting with Zelensky and President Trump, a wild Oval Office meeting.
Q. All right. And these -- it's displayed on a variety of media on the image you're looking at. Just -- can you put words to what that media is that we're looking at?
A. As far as -- I'm sorry. Say that one more time, sir.
Q. You talked about the photograph. But there's more here than the photograph. It's a photograph displayed in certain places.
A. Yeah.
Q. What is it?
A. Yes. So I'm looking at front pages from -- it looks like all over the country, with this meeting between Zelensky and --
THE COURT: All over the world, right? All over the world?
THE WITNESS: I'm sorry. Yes, sir. All over the

world where -- between -- this meeting with Zelensky and Trump.

And so when he showed us the photo from -- our photo from that room -- I established that he's an amazing journalist. But you see some of the photos in here and the moments that we have here with -- if you look at this *New York Post* cover here, with -- that moment with Trump pointing and kind of like -- not yelling, but, like, really adamant about it, and Zelensky has this -- I mean, as a photographer, that's what I need. That's what I'm looking for. And if I don't have that, then we're going to take a big loss.

BY MR. TOBIN:

Q. And on that image that you referred to on *The New York Post*, is that an Associated Press photograph?

A. I don't believe so. No, sir.

Q. Looking at this page and being familiar with the events that day, does it appear to you that any of these are Associated Press photographs?

A. No. No, sir. Not that -- no, sir. I don't see any of ours.

Q. Does this represent a good visual depiction of the loss of opportunity that the AP has been suffering by being excluded from -- photographers being excluded from events in the Oval Office?

A. Sir, I would argue it's bigger than this. I mean, these are front pages, and that's important. But I mean, it was also the websites, the phone apps. Everything. We got absolutely -- we're getting destroyed as far as the play goes.

Q. Okay. And Mr. Hudak asked you about analytics and, you know, quantitative analyses. And you were candid; you don't have that. How do you know that the AP lost all the opportunities that you're talking about, apart from this visual that I'm showing you?

A. I mean, it's the same way I know that the sky is blue. It's what I do for a living. You know, I can clearly see it.

Q. It's based on your 21 years as a professional photographer for the AP?

A. Yes, sir.

MR. TOBIN: Your Honor, we have nothing further for Mr. Vucci.

MR. HUDAK: Your Honor, just a few followups, based upon what Mr. Tobin said. I'm sorry. He introduced something about the tarmac and issues that they haven't been at the tarmac.

They've been at every tarmac even since March 1st. He talked about --

THE COURT: Mr. Hudak, we're not going to do

re-redirect.

MR. HUDAK: Thank you, your Honor.

THE COURT: All right. Let's take a ten-minute break.

Thank you, sir, for your testimony.

THE WITNESS: Yes, sir. I appreciate it.

(Witness excused.)

(Thereupon a recess was taken, after which the following proceedings were had:)

THE COURT: All right. Mr. Tobin.

MR. TOBIN: Your Honor, the Plaintiff calls Zeke Miller. And Mr. Mishkin will question Mr. Miller.

THE COURT: All right. Thank you. Mr. Mishkin.

THE COURTROOM DEPUTY: Please raise your right hand.

ZEKE MILLER, PLAINTIFF WITNESS, SWORN.

THE COURT: Good morning, sir.

THE WITNESS: Good morning.

DIRECT EXAMINATION

BY MR. MISHKIN:

Q. Good morning, Mr. Miller.

A. Good morning.

Q. What's your current job title?

A. The chief White House correspondent for the Associated Press.

THE COURT REPORTER: Sorry. Could I get the spelling of the witness's name for the record?

BY MR. MISHKIN:

Q. Would you mind giving and spelling your full name for the record, please.

A. Sure. Zeke, Z-E-K-E, Miller, M-I-L-L-E-R.

Q. Thank you.

How long have you worked for the Associated Press?

A. About seven and a half years.

Q. And how many White House reporters are working for the AP at any given time?

A. Our team is about seven or eight people and then, on any given day, probably two to five of us are at the White House, depending on the schedule.

Q. You've submitted some declarations in connection with this case, haven't you?

A. Yes.

Q. And have you read the pleadings and the filings in the case?

A. I have.

Q. And are you aware that the Court provided the parties with some questions that it was hoping we would answer today at this hearing?

A. Yes, I am.

Q. And are you prepared to answer the questions that are

directed at AP?
A. Absolutely.
Q. Okay. So focusing for now on the period before February 11, 2025, how often would you report on presidential events and activities?
A. That was our daily responsibility. So any day I was at the White House or working, essentially, at something I was doing, it was going to be relating to the president, pretty much.
Q. How would you know on any given day what events you'd be covering?
A. The White House publishes a daily schedule -- I believe Evan referred to it -- that usually goes out the night before or sometimes early in the morning of a given day that details that day's events. Before you go on a trip, you may get a more comprehensive trip schedule. And then other events that are sort of on the calendar that you know are coming up.
Q. Thanks.
Would you mind taking a look at the -- at what's been premarked as AP Exhibit 7?
A. Yes.
Q. Is that the type of daily guidance that you were referring to?
A. Yes. This is an example of the daily -- various daily

emails that we get.

Q. And these are records that you're familiar with and you receive on a regular basis?

A. Yes.

MR. MISHKIN: Your Honor, I'd move to admit AP Exhibit 7 into evidence.

THE COURT: Any objection?

MR. HUDAK: No, your Honor.

THE COURT: Without objection, 7 is in.

(Whereupon, Plaintiff's Exhibit No. 7 was entered into evidence.)

BY MR. MISHKIN:

Q. So if you look, the first day is February 24, 2025, which is the last day operating under the old pool system.

There are some phrases here, when you look at the calendar, that goes on from Page 1 to Page 2 -- I see the phrase "closed press, open press, in-house pool and pre-credentialed media." I'd like briefly to just nail down what each of those terms mean.

What is closed press?

A. Closed press is an event that the president holds that is generally not -- not intended to be open to the press. Sometimes it's ultimately -- that designation changes. It can also be something like the president's intelligence briefing which stays closed press, which is a meeting that

they are advising us that is happening, they want us to know about, but not necessarily invite us into.

THE COURT REPORTER: Sir, I'm going to ask you to speak more slowly, please.

THE WITNESS: Sure.

BY MR. MISHKIN:

Q. What does open press mean?

A. Open press means an event at the White House complex or somewhere else that is open to anybody.

Q. And what does pre-credentialed media mean?

A. That's the White House soliciting RSVPs for an event, a large event, where they can accommodate a large number of journalists. In this case, it was the east room for a press conference. So -- east room for a press conference.

Q. And how --

MR. MISHKIN: I'm sorry, your Honor.

THE COURT: I guess, would pre-credentialed -- who's eligible for that pre-credentialed media?

THE WITNESS: So an email like this goes out to, in my experience, you know, thousands and thousands of people around the White House's email distribution lists.

THE COURT: So is that more than the hard pass holders?

THE WITNESS: I believe so. I don't have the hard pass list, but I just know, from our own shop, the number of

people who get White House emails who are not White House hard pass members who could plausibly RSVP. It's a vastly different universe.

THE COURT: Okay.

MR. MISHKIN: Thank you, your Honor.

BY MR. MISHKIN:

Q. And just to round it out, the in-house pool -- we heard Mr. Vucci testify about the pool. Is that what he was testifying about, of the group of 13 or larger --

A. Yeah. In-house pool generally refers to a larger group, roughly 21 journalists that cover -- that's a formulation that was built for sort of intermediate spaces in the White House, including the Oval Office, state dining room, diplomatic reception room. Basically, any event the president did on the complex, sort of the smaller pool, the 13-person pool, is really built off of the limitations and space constraints of Air Force One where there are 13 seats in that press cabin for journalists. And the 14th seat is for a White House press wrangler. But it's 13 for journalists.

Q. So you were saying pool events is not synonymous with Oval Office events. There could be an east room event that is a pool event -- or an event in the east room that is open only to the pool. Am I understanding that right?

A. Yes. It's not -- there can be the president is hosting

a meeting of the nation's governors in the east room, and it is only open to the pool, or the president is hosting a state dinner in the east room and only the pool is brought in. And usually the pool that's brought in is that in-house pool configuration.

Q. Thank you.

So let's focus for now on pool events. Prior to February 11, how did AP participate in the pool?

A. The AP was sort of a foundational member of the pool. AP journalists were there for texts and for photos at every pool opportunity, there every day physically at the White House, when the president traveled, from call time, as Evan described, to the lid.

THE COURT REPORTER: Did you say "lid"?

THE WITNESS: Yes, like a pot lid, L-I-D. And that's what we refer to -- it's sort of a term of art for there's nothing more happening today. And, on a trip, that's sort of when you get back to the hotel or you drop the president back off at the White House at the end of the day.

BY MR. MISHKIN:

Q. Thank you.

So prior to February 11, who selected the membership of the pool?

A. The pool was run by the White House Correspondents'

Association.
Q. And did they pick the AP for two spots in the pool because they really like the AP?
A. No. They granted AP that position of responsibility given its reach. You know, we talk a lot about the outlets who are in the Washington press corps. AP is there -- sort of a pool within a pool, given its membership and an audience that would reach to hundreds, thousands of outlets across the country and around the world that don't have a presence in Washington or the staffing or the budgetary constraints to allow them to cover the president to serve in the other pools. So the AP is sort of there as their eyes and ears on their behalf and, by extension, then, on behalf of their readers, viewers, listeners.
Q. Was the AP just sharing this information freely as a public service?
A. We'd be sharing it, distributing it -- distributing it, sorry, with our clients, members and subscribers, whether they'd be, you know, the *Des Moines Register* or a local news station that takes a headline that we write and sort of reads it out on air as breaking news, a radio station doing the same thing, or a news website around the world. So they would all be -- you know, they are all members, subscribers, and they get what we write and report.
Q. So does any member of the -- and I'll flag this --

MR. MISHKIN: This is a question directed from your Honor.

BY MR. MISHKIN:

Q. Would any member of the press pool routinely share -- freely share their work? And was -- was that the AP who did so?

A. So the only -- every pool rotation -- so if we just go off the 13-member Air Force One pool, because that's the smallest configuration that's generally used -- three of those slots are for television -- or for one television outlet per day, and it rotates among the five major television [indiscernible] --

THE COURT REPORTER: I'm sorry. Could you repeat the last phrase?

THE WITNESS: Three of those seats on -- in that 13-person rotation are given to one television outlet. And so -- today is -- on the 24th, it is Fox. So Fox would have a camera person, a sound person and a producer or correspondent there that day. And they would share what they news-gather with everybody else in that television pool, so the other four networks -- so that would be CBS, CNN, NBC and ABC -- but to nobody else. It would go to their licensees beyond that universe. It would be the same for the radio pool.

Within the print pool, it's a slightly different

situation. They do share their print text reports with the other members of the print rotations. In the pre-February 25th universe, the White House Correspondents' Association, as part of its policies and procedures, had mandated that those print pool reports be shared publicly and would be emailed out publicly to everyone as a public service. There would be a delay in that just because it's a manual process where they are -- how they're distributed. It's not instantaneous.

BY MR. MISHKIN:

Q. Can I -- sorry to interrupt, but can I ask you how long a delay we're talking?

A. Well, it would depend on the event. But if there are -- if there's a busy news event, the time it takes for those pool reports to go out to the broader list that is administered by the White House -- it goes out like a press release. You know, sometimes -- some of those delays have been -- you know, have taken as long as hours.

Q. Okay. So -- and again, just to be clear, AP does not freely share its -- when it was in the pool, AP did not freely share its text reporting with other members of the pool. Only if those members of the pool happened to be AP customers?

A. Which was the vast majority of -- not just outlets in the pool, but news outlets in the country and around the

world. In fact, those outlets relied on us to get their initial stories out if breaking news was happening. Even if they were in the pool, they would often rely on our coverage to determine if they needed to write something themselves.

In this era of, you know, contracting media business, you know, a news organization might only have one person to cover all of Washington, or maybe nobody to cover Washington. So they would rely on us to fill that gap and they can figure out how best to allocate their own resources.

Q. Let's --

THE COURT: I want to make sure I understand this.

MR. MISHKIN: Please.

THE COURT: So you said one television outlet would share among the other television outlets. Correct?

THE WITNESS: Yes.

THE COURT: And one print reporter would share among the other print reporters; is that correct? Go through with me again how the sharing is.

THE WITNESS: Yeah. They would share with the other print reporters. And then that print report would also be shared to the broader public as sort of a public record of the president's activities.

It usually gets distributed by the White House, by the press wranglers who are the press assistants at the

White House.

And just -- just to be very careful, in the Air Force One travel pool, it came up in some of the declarations that the WHC seat was a second print person. So at times, depending on the configuration of the pool, there might be two print people distributing all of their reporting. But it was -- they were the only -- they produced the only work product that was freely disseminated to anyone outside of those who were participating in the pool who are footing the expense and -- in both time and money of contributing to the pool.

THE COURT: And to be clear, you are not a print reporter?

THE WITNESS: I write text, but I'm a wire service reporter.

THE COURT: Okay. And so under the old regime, there was no requirement for you to share with anyone. Is that correct?

THE WITNESS: Outside of our distributing to our licensing customer/subscriber -- that's what I did. I distributed to our clients and members and customers.

THE COURT: Okay. Thank you.

BY MR. MISHKIN:

Q. And just to button that up, under the old system, the other wire service reporters were not sharing with you -- I

suppose if AP happened to be a customer of another wire service, they might, you know, receive their reporting, but otherwise it's not -- the other wire service reporters weren't sharing. Is that right?

A. Exactly. My understanding is some of them are customers of the AP and subscribed to the AP. But we were competitors.

Q. So I want to talk physically about how you reported the news when you were in -- participating in the pool. And again, I'd sort of like to ask a question that your Honor posed to Mr. Vucci, which is, you know, I think we've heard about how quickly -- how, in real time, AP photographers could get their photography out on the wire.

How quickly, when you were in the pool, could you be reporting the news out to the public?

A. In near real time. I mean, in some cases, it's really the speed of electrons. I technically have the ability to direct-file to the wire from my phone. It's not something I use. We like to have a couple of eyes on something just to be absolutely safe.

But usually -- I mentioned we have seven or eight people on my team. We have two White House editors. At any given event, there are three or four of us watching; we're communicating in real time in Slack, which is our messaging -- in-house messaging, you know, provider. And we

are having a running conversation. They're asking me questions. I'm reporting on what I'm seeing.

I will type out a proposed news alert, and then my editor may grab that verbatim and plug it into our CMS and hit "publish" on that quickly. It could be -- you know, I am regularly in events and seeing, you know, a push alert from our digital team of, you know, the headline I had written minutes before while the event is still going on.

THE COURT: So utilizing my rudimentary understanding of how this works, you know, I'll see a news alert, quite possibly from you, on my iPhone. I hit it and that brings up a story, though. Right? Like, that -- you're not doing the story on your iPhone in real time?

THE WITNESS: Hopefully -- sometimes -- if it's truly a breaking news situation, you actually might not see a story, depending on how quickly you click.

Our goal is to get -- is to follow up a news alert, which is limited to 120 characters; that's sort of the -- that product, and that's a major news event -- is to follow that up within three to five minutes with some form of sort of -- of the beginnings of a story. We call it a fast file. Roughly 120 words with, you know -- if we have nothing else on the wire. If we have an existing story for an event that we're anticipating and then we are updating it, we can -- it might link back to that older story, and

then we will -- we call it a write-through to that story and update it. And we may do dozens of write-throughs on a story on a given day.

BY MR. MISHKIN:

Q. Can I follow up on the judge's question?

In that process -- you're in the room. You are communicating live with your colleagues at the AP. Your text reporting may be going out live, or functionally live. Your colleague, Mr. Vucci, might be in the room. He's taking photographs. Those photographs, as he said, are transmitting live. At what point do they get wedded together?

A. They get wedded together by our editors in our bureau who will match that breaking news story with a photo. They also have the ability to -- if we have a story out, to attach new photos on it while one of my colleagues is adding the latest quotes in. You know, it's an iterative process. So we might start off with 120 characters and one photo -- sorry; 120 characters and no photo -- then 100 words and one photo, and then 300 words and, you know, five photos, and then building up to a fuller story. And that will be what you might see in your newspaper that day, the next morning or, you know, somewhere -- in some other format later that day. But it's -- you know, at any given point, it's designed to be utilized by a different media provider, you

know, at that very instant.

Q. So when you were in these Oval Office events -- well, when you were in pool events -- and let's focus for a second on Oval Office events -- did the president always take questions?

A. No. It's purely at the discretion of the president. We may ask questions, depending on the event and the tone of the event. There are certainly events where we might not necessarily ask questions, you know, but it's purely at the discretion of the president whether or not to take them or not.

Q. And are there pool events where you're not -- you are purely observing what's happening in the room? You're not interacting with, you know, the officials and guests who are in the room?

A. Very, very many of them. We may be, you know, 20, 30 yards from the president, not -- you know, plausibly in shouting distance. I'm not the loudest person. But, you know, you would have to -- it's not conducive to an interview.

You would -- you know, at most, somebody can hear a word, and it's analogous to -- you might be able to hear a word, but you can't have sort of a substantive conversation like you would in an interview. It's -- you're at great distance. It would be like me sitting here to the folks

sitting out there in the gallery, you know. They're the attendees at the event. I'm just there to witness what is said and what the reaction is, what else is happening in the room.

Q. Have you conducted interviews of presidents or other sort of senior government officials?

A. Yes.

Q. I want to get back to a question the judge asked very early in the hearing, which is, can you illustrate the difference between an interview and participating in a pool event?

A. Yes. An interview is one on one or a small group on -- the president and maybe a small group of advisors. When I said -- during President Trump's first term, he did an interview with myself and two other Associated Press journalists. We had a photographer in the room. It was *Time Magazine* before that. We did a joint interview with the president. It was myself and two of my colleagues. And then we had an on-the-record dinner with the president that -- that he invited the vice president to and some other folks to. And so it was a smaller group setting, you know, in the Oval Office or the blue room or somewhere else. But it was exclusive. We determined when it ran. We had control over how it was -- you know, we decided it's going to run on Tuesday; here's what the framing was going to be.

So there's not necessarily the sense of competitive pressure that you get from a pool event where, you know, the president is having an event; he's doing something; we are there to see him sign a bill, executive order, meet with a foreign leader. We're there to witness it. You know, it's possible he may take questions. He may not. But that meeting was going to happen whether or not we were there. The interview, you know, was with myself or one of my colleagues.

Q. And when you're at a pool event or a larger event, does the White House have its own content creators there?

A. Oh, absolutely. In addition to the press pool, there is what's known as the White House communications agency. It's a military service -- they're service members. They provide a camera crew that documents everything the president does. They travel with us on Air Force One. They're at the White House, around the world. There are White House stenographers who provide a true written record of everything the president says. They're in the pool sprays with us in the Oval Office.

THE COURT REPORTER: Sprays?

THE WITNESS: Sprays. It's -- sorry -- a term of art.

And then they also have official photographers and videographers and social media folks who are, you know,

taking photos, videos and vertical video for, you know, X or whatever platform that they can push out in real time. And they're in some ways doing that from the same Oval Office events next to sort of bona fide journalists.

BY MR. MISHKIN:

Q. And the White House has editorial control, so to speak, of that content from the camera, the stenographer, the video, the social media that's, you know -- in the White House communications office. Is that correct?

A. Yes. That's not journalism. That's the White House's media.

Q. Okay. Thank you.

So when you were reporting on a pool event -- we heard from Mr. Vucci that he was sometimes in live communication with his editors. Were you in live communication with your colleagues?

A. At pretty much every event, there's -- at times there's signal issues or connectivity issues. But, you know, the vast, vast, vast majority of the time, it's a running conversation where I'm sending them notes or feeds, or I'm on the receiving end of notes and feeds from my colleagues.

I'm thinking of, you know, when President Trump in his first term went -- met with Kim Jong Un at the DMZ and at one point briefly crossed into North Korea. And we sort of knew that was a possibility, and so we had had a

conversation before, like, that's an alert-worthy event. So we alerted the -- the meeting of these two leaders. We alerted the president stepping into North Korean territory, the first American leader to do so. We alerted when he was safely back in the south. And then, additionally, we alerted the substantive discussions of that meeting.

So -- and that was a running conversation between myself, who was in our workspace on a trip in South Korea, and one of my colleagues, who was physically on the ground in the DMZ crossing the border back and forth.

Q. So the pool report -- the pool wire service reporter who's participating in these events might be in communication with AP colleagues all around the world in real time as the reporting is happening?

A. That's the strength and -- and expertise that he brings to it is that our colleagues in Europe or Ukraine or Asia or anywhere else around the world can join that conversation and lend their expertise in real time. So I can be in the Oval Office and they can point out something interesting to me or respond in real time to an announcement or "This is important" or "This is significant," and help inform my reporting, and that of my colleagues as well.

Q. You mentioned sending alerts when President Trump entered North Korea. Who decides what's worthy of an alert?

A. That's our own editorial judgment. It's AP reporters

and editors who decide that.

Q. The White House doesn't tell you this is alert-worthy or not alert-worthy?

A. Absolutely not.

Q. And do all the wire services agree on what's worthy of an alert and what's not?

A. No. We all have different standards and different traditions and focus areas. You know, for instance, Bloomberg is well-established as sort of more focused on the financial news services -- financial news wires -- sorry; the financial industry -- and they may alert some things in that space a little bit more freely than we might with an audience that's more -- geared more to sort of the general interest, you know, domestic and global public.

Q. So again, let's focus just for one or two more questions about before February 11. When you were participating in a pool event, who decided what details you should notice and what you should write about and what was worthy of reporting on?

A. The Associated Press did.

Q. And during those events -- can you recall any times where you observed something by being in the room that you might not have seen if you were, for instance, just seeing it on a video feed?

A. We talked about -- a few minutes ago about a governors'

meeting, a hypothetical governors' meetings in the east room. And there was one in early 2022, like -- kind of the height of one of -- of the Omicron wave of COVID-19. And then-President Biden was hosting the National Governors Association in the east room for a pool event. It was a big rectangular table with, you know, 30 or 40 governors who were in attendance sitting around there, and it was open to just the pool, the in-house pool, I believe.

And I remember the press was escorted into the room a few minutes before the president got there. And I remember noticing that the president's seat was the -- which was doubly distant from all the other governors from each other was the only one that had a glass of water on it and that White House staff were going around encouraging everybody to upgrade their masks from a surgical mask to an N95 mask and that, when the president was in the room, he was the only one permitted to remove his mask while he was speaking.

We used that -- I mention that -- sort of going into that detail because it became a story not that day, but a day or two later about the extraordinary lengths that that White House was going to to protect then-President Biden, at that height of that public health emergency, from contracting COVID-19. And --

Q. If I might, wasn't there a video panning around the

room, seeing all the people, so that you could have seen there's a glass of water only in front of one person?

A. Generally not. In my experience, the television pool cameras and the other cameras in the room are pretty solidly trained on the president. They may pan around if he's talking to somebody else and there may be a separate cuts camera, but they don't show the expanse of the space. And to my knowledge, no other reporter in the room had noticed that detail in that moment. It didn't make it into a pool report or anything else. We saved that in our notebook and we used it a couple of days later for -- to inform our reporting.

Q. So would you say you agree with Mr. Vucci that when you're in the room, you're looking at who's in the corner, who's behind you, you know, the other people in the room other than the president who might -- the people who might not be on the camera?

A. Absolutely.

Q. So let's turn to February 11. You're walking into the White House for work. Can you briefly tell me what happened that morning?

A. I was summoned to Press Secretary Karoline Leavitt's office, which is located in -- so sort of the upper press from the west wing. It's the press suite up in one corner of the west wing. It's a three- or four-minute

conversation. And she said she was just the messenger, but the president wasn't happy about the Associated Press's editorial decisions around the Gulf of Mexico, which he had renamed the Gulf of America, that he had decided that we would not be permitted into the Oval Office and that she said that there was an event that day at around 3:00 for him to sign executive orders and that we would not be permitted into the Oval Office until we changed our policy, and said that we should act quickly if we wanted to get into that event at 3:00.

Q. She directly said that the condition of getting into that event was changing your editorial policy?

A. Yes.

Q. Did she hand you any information in writing?

A. No.

Q. Did you understand at the time the full extent of what AP reporters would come to be excluded from?

A. At that time, I did not.

Q. What -- how did that scope of exclusion change?

A. Immediately, I knew that 3:00 event on that -- on the 11th was at risk. I didn't know that that later event that the president added that was not in the Oval Office -- that was in the diplomatic reception room -- that we would be barred from -- we would be barred from for text.

I also didn't conceive at the time that we would

be banned from press conferences in the east room, from tarmacs in, you know, West Palm Beach, that it would extend from our text reporters to our photographers. So at the time, I could not have conceived of it.

Q. I mean, you're the chief White House correspondent. As the scope of the exclusion has spread, has the White House updated you? Now you're no longer -- you know, you're not going to be getting into pre-credentialed events anymore, or now you're getting back into pre-credentialed events? Has that information been communicated to you?

A. Nothing formally or directed towards me or to the Associated Press. The only -- so outside of the written correspondence that I'm aware of between our executive editor and the White House chief of staff. And that is in the record.

And then the public tweet from the deputy chief of staff, Taylor Budowich, on the 14th, which is how I, and I believe everyone, learned that the White House was extending the ban from AP text reporters to AP photographers, and not just at the White House, but also, later that day, when the president was set to travel on Air Force One.

Q. So we've seen from Mr. Vucci's examination that the AP is continuing to report on presidential events after February 11. How are you still reporting on the White House and other presidential events?

A. We're reporting in delayed fashion. It is not at the same speed we would be able to accomplish that reporting as when we were there in person. It's also not necessarily the same level of completeness that it would have been had we been there in person. We don't -- in some cases, we don't know what we're not there to see. But we're able to write and report based off of secondhand observations, whether they be from the pool report, the narrow lens of a television camera what somebody is saying. We capture some of that at delay.

The Oval Office often is not fed -- we call it fed live to the world. They -- as Evan described, they play it back after the event concludes most of the time. Sometimes that changes.

But even when the events are live, we're limited by what the camera is focused on, and we can't swivel our heads, like we would if we were there in person. We're relying on print pool reports that are delayed, other communications, the AI transcripts and things like that that are not nearly as reliable as having a real, live human being there who you can engage with and say, Is this what the president just said? Or, What's happening in that corner? Who else is in that room? What else is happening there?

We can't have that back-and-forth anymore. And

that's really impacted our ability to do our jobs.

Q. Can you still ask your colleague, Mr. Vucci, Hey, I'm going to be doing a feature on some White House aide in a week; can you get a photograph of them for me?

A. Certainly not with the same ease. We don't see White House officials. We don't see the president nearly as much as we did before this ban took effect.

Q. So can you give me an example of reporting -- of your or AP's reporting that's been delayed as a result of not being in the room?

A. I believe in early March, the president was -- there was a -- was holding an Oval Office event where we knew he was going to extend the deadline for when tariffs were going to kick in on Canada -- sorry -- on Mexico. And while the event was taking place, the president, we now know, had volunteered to reporters who were in the Oval Office as he was signing this additional paperwork to effectuate the delay that he was also delaying those tariffs on Canada as well.

Our competitors, who were in the room, were able to -- they were able to understand what was happening and able to get that news out in, basically, real time. The AP being barred, at that point, for a few weeks, we were not there. We didn't see it. It took us nearly 40 minutes, I believe, until we were able to actually get that reporting

out.

Q. Let me see if I can make that precise for you. Can you take out what's been premarked AP Exhibit 1 and AP Exhibit 2, please?

A. Yes.

Q. Do you recognize AP Exhibit 1?

A. Yes. It's an AP news alert. It's just an example of what an alert looks like. That's the one from that event after the -- that event had already concluded at the -- or maybe towards the tail end of that event. I can't remember the exact timestamp, but it was well into that event when the president signed the order delaying the tariffs on Canada for a month.

Q. And do you recognize AP Exhibit 2?

A. I'm sorry. I'll try to slow down.

Exhibit 2 is a screen grab, I believe, of a page on X, the platform formerly known as Twitter, of an alert filed by our competitors at Bloomberg: The U.S. pauses tariffs on Canada, Mexico USMCA trade until April 2nd. And that was filed at 2:48 p.m., is when that was on X. And our alert was not filed -- just doing the math on GMT, that would be 3:27 p.m. Eastern time versus 2:48 p.m. Eastern time by Bloomberg.

Q. So you're behind your competitors now?

A. Yes. 39 minutes.

Q. Okay. Why can't your customers just see the alert on Bloomberg? Aren't they getting both alerts?

A. No. I mean, in fact, you're only seeing this as a printout on X because that Bloomberg News wire is not shared widely outside of its own subscribers. In that interim period, they might have seen some social media posts, but they wouldn't have had any original reporting to verify that. Many of our members, customers and subscribers only subscribe to the AP. They rely on us for the vast majority, in some cases, of their primary-source news.

And so until we are able to verify it and understand what the president said to a level that met our standards -- you know, we understand that they were hurting, but we were hurting. We couldn't put it out on the wire until we were able to verify it.

Q. Sure. So I want to turn to pre-credentialed events, briefly. And, you know, we can go past some of what Mr. Vucci testified to about the RSVP process.

I want to talk about since the ban, has any AP text reporter, AP White House text reporter, been able to attend any east room or other pre-credentialed media events in the White House?

A. I mean, since February 11th, AP text reporters have been excluded from every single -- AP White House text reporters have been excluded from every single White House event other

than a handful of -- less -- fewer than a handful of West Palm Beach tarmac arrivals.

Q. You say tarmac arrivals. Is that to distinguish from tarmac departures?

A. Yes. Departures on the tarmac are generally open only to the pool that will be with the president on Air Force One. So that shot of the president getting on Air Force One is generally -- you know, from Palm Beach is open only to those who -- the reporters that take a photo or a video of the president boarding the plane from under the wing and then board the plane themselves.

Q. For some of those east room events where AP has not been admitted, have you seen other journalists who didn't even RSVP get permitted to attend?

A. I'm aware of at least one where the journalist in question mentioned it to me at the Indian -- when the president hosted the Indian prime minister, when the AP text was banned -- I believe it would have been the 13th of February -- that -- I was turned away by a White House staffer.

And the journalist said to me: I didn't RSVP. I got in anyway.

I was turned -- I was personally turned away --

MR. HUDAK: Your Honor, I would object. This is hearsay and inadmissible. To the extent the Court is taking

objections based upon the Rules of Evidence, this would be hearsay.

MR. MISHKIN: I think it's a present sense impression being offered by the other journalist as to how he was able to get into an event.

THE COURT: I'm going to overrule the objection.

MR. MISHKIN: Thank you, your Honor.

THE WITNESS: I personally was turned away by the White House staffer. And then the other journalists communicated with me that they were not -- they had not RSVPed, they had forgotten to, and were subsequently allowed into the event, and they communicated that to me.

BY MR. MISHKIN:

Q. Thanks.

MR. MISHKIN: And we're done with AP Exhibits 1 and 2, so I'd like to move them -- move their admission, your Honor.

THE COURT: Any objection to 1 and 2?

MR. HUDAK: No objection.

THE COURT: Without objection, 1 and 2 are in.

(Whereupon, Plaintiff's Exhibit Nos. 1 and 2 were entered into evidence.)

MR. MISHKIN: Thank you.

BY MR. MISHKIN:

Q. Have you seen any east room events or pre-credentialed

media events in the White House where AP journalists were excluded and multiple journalists from other news organizations were admitted?

A. Yes. It's fairly common practice. You see those iconic shots of news anchors or correspondents in the east room who are speaking before the president held a press conference or some other event, or after the event is over. One of those television outlets will then -- any individual -- one of them will have multiple camera people, sound technicians, producers, in that space in order to enable that to happen.

So many of them -- and then, in addition to that, you know, you may have multiple -- if -- if Reuters was -- Reuters is in the photo pool. And they might have a second photographer in for an event, so they can have one person at the back and one person on the side.

So there have been many instances where multiple journalists from the same outlet were getting into these events, and AP was not.

Q. So there are instances where, say, Reuters might have two photographers admitted, AP has zero photographers admitted. Is that correct?

A. Certainly in that late February period.

Q. Now, I understand -- and this is in answer to your Honor's question -- there are some events where foreign correspondents, foreign AP correspondents, were able to

attend these east room events. Were they in your -- were they able to adequately substitute for the AP White House reporters in covering those events?

A. They were not. Evan got -- was able to speak specifically to my colleague Mr. Chernov's work when President Zelensky visited. We flew in Sylvie Corbet from our France -- our Paris bureau when President Macron visited and Jill Lawless from our London bureau when Prime Minister Starmer visited.

And they -- you know, they're very good journalists, but they are not familiar, as we are, with President Trump, with his team, with the physical space of the White House. They were communicating -- they weren't familiar -- they don't work with our White House team that often. They come in and help when these events happen. We communicate, you know, on Slack, but not in the same real-time fashion. So -- and they don't know all the players in the room in the same fashion as we would.

Q. Would they have been doing something else if they hadn't been at the -- in the east room at the time?

A. Oh, absolutely. I mean, we would almost certainly not have spent the expense to fly them in to cover an event in the Oval Office or in the east room when, you know, myself and my colleagues weren't 30 feet away and barred from entry. They have plenty of news to be covering in Europe

that we then had to find some way to cover, you know, either with freelancers or overtime or -- you know, in both London and Paris.

THE COURT: Sorry. I've got a question on that.

I take it when -- in the olden days, when the president would travel internationally, you'd accompany him in the press pool. Right?

THE WITNESS: Absolutely. I mean, this is one of those, you know, incredibly American exceptional moments where the U.S. -- nobody travels like the U.S. president with a truly -- at least before February 25th, with a truly independent press pool. That was -- you know, no other foreign leader did it in quite the same way.

It was a point of pride, I think, for the United States, certainly for the journalists who had the privilege of accompanying any president. I've had the privilege of accompanying multiple presidents in that role. You're representing the United States the best -- you know, of the First Amendment, freedom of the press. We're out trying to do our jobs --

THE COURT: Sure. But what I'm trying to get at is, you would travel internationally to countries where you had AP colleagues and, nonetheless, you would go?

THE WITNESS: Yes. Yes. We don't do that reciprocally. A lot of foreign leaders don't travel with

larger -- with a large press corps or, in some cases, any press corps. And also, we're predominantly U.S.-focused. We have a ton of international clients, but a lot of our members -- and our focus is heavily focused on the U.S. market.

And also, we don't cover -- the -- no other world leader is covered like the president with sort of this, like, almost 24/7/365 coverage. If the president does an event at any point, any time, any day, any -- you know, Christmas, New Year's, Thanksgiving, somebody from the AP will be there. Actually, two people from the AP will be there, at least, with a text and photo person, at least before this all started.

THE COURT: All right. Thanks.

BY MR. MISHKIN:

Q. Mr. Miller, how long have you reported on the White House?

A. About 12 and a half years.

Q. And have you noticed a difference in the White House press corps' interaction with the president, President Trump, since AP's exclusion?

A. In my expertise and my -- from what I have observed of watching the events that have taken place since February 11th and reading the transcripts of those events afterwards, I have noticed what I believe to be a softening tone and

tenor of questions that some reporters are asking of the president in those formats. Not every question; but as a general matter, that's my general perception, is that there's a change from after February 11th to before.

Q. I'd like you to take a quick look at AP Exhibit 10. It's a one-page tweet from Defendant Mr. Budowich.

THE COURT: I see it.

BY MR. MISHKIN:

Q. Do you recognize that tweet?

A. Yes.

Q. Did you see it when it was tweeted?

A. I did.

Q. What was your understanding of that when you read it?

A. I saw that tweet and immediately thought that what the White House had done to the Associated Press reporters and photographers a couple of weeks before, they were threatening to do that to one of our competitors and our colleagues and friends at Reuters over the content of -- of their reporting and their editorial decisionmaking, even extending it further by, you know, going into the briefing room as well to -- in retribution.

MR. MISHKIN: I'd like to move the admission of AP Exhibit 10.

MR. HUDAK: No objection.

THE COURT: Without objection, 10 is in.

(Whereupon, Plaintiff's Exhibit No. 10 was entered into evidence.)

MR. MISHKIN: Thank you.

THE COURT: And let's --

MR. MISHKIN: This is the last question, your Honor. Thank you. Well --

BY MR. MISHKIN:

Q. Have these kind of messages from the White House chilled the AP's reporting?

A. Have we been intimidated? I mean, no. We're here. We're committed to our values and our independence. But undoubtedly, our reporting has suffered. Our ability to cover the news speedily in its totality for our public and for the world writ large and members and subscribers has been diminished.

And also I mentioned we're relying on secondhand information now for a lot of this reporting. We have -- you know, given the threats -- the action against us, the threats against other outlets, we don't know what those other outlets are including or are not including, given the situation that they are finding themselves in of having to fear for their position in the White House, in the White House press pool or more broadly, that their reporting can have the White House take similar viewpoint discrimination against -- retaliatory viewpoint discrimination actions

against them. And so we don't know what we're missing out on. And that's, you know, in some ways a huge loss to our ability to do our jobs.

MR. MISHKIN: Thank you, Mr. Miller. No further questions.

THE COURT: Thank you, sir.

CROSS-EXAMINATION

BY MR. HUDAK:

Q. Good afternoon, Mr. Miller.

A. Good afternoon.

Q. It's nice to meet you. My name is Brian Hudak. I am with the U.S. Attorney's Office here in D.C. I'm going to ask you a few questions here today.

A. All right.

Q. You were talking on direct examination about the coverage of the White House and events that the AP has not been allowed to enter. Do you recall that?

A. Yes.

Q. You also talked about how these events, from at least a TV perspective, the TV rotational member only shares their video feed with other TV members. Is that correct?

A. That's correct.

Q. But at the same time, in addition to the TV correspondents feed, the White House livestreams these events on its YouTube channel and on its WhiteHouse.gov

website. Correct?
A. Not every event is livestreamed or every presidential interaction is captured on a livestream, certainly.
Q. So, for example, yesterday, there was a Women's History Month event at the east room. Correct?
A. Yes.
Q. You see on YouTube, under the live tab, that it was streamed live by the White House. Is that correct?
A. I wasn't watching myself, but I wouldn't dispute that.
Q. Then, similarly, earlier in the day, there was a briefing by the White House press secretary. Correct?
A. Yes.
Q. And it appears, at least from the YouTube web page, that that was also livestreamed. Correct?
A. It appears to be. Yes.
Q. And I can scroll down, but the White House has been consistently livestreaming events at the White House. Is that your understanding?
A. They've consistently been streaming some events. I don't know -- I don't believe that this is the full totality of presidential events of the last, you know, two, three weeks here. He's done -- to my knowledge, he's done a lot more than are represented here.
Q. Now, you mentioned an anecdote regard regarding a meeting with the National Governors Association and

President Biden during your direct testimony. Do you recall that?

A. I do.

Q. And you recall that your anecdote there was to reinforce that being in the room is vital to observe things like the president having a glass of water in front of him and that his spacing with the governors was different. Correct?

A. For that particular story, yes, it was material.

Q. And you used that as an example of the feed is typically focused on the president, so you can't observe these items in the room. Do you recall that?

A. Yes.

Q. My apologies. Given this just came up, I was just able to do this on my laptop while you were talking.

You see that this appears to be the event that you're talking about?

A. Uh-huh. Yes.

Q. You see, you know, just from the very first frame of the event that the things that you mentioned are readily noticeable from this stream. Correct?

A. In this particular --

MR. MISHKIN: Objection, your Honor. This video that he's showing is credited to NowThis Impact. I have no idea what this is.

THE COURT: Overruled.

THE WITNESS: In this particular screen grab, I see the additional spacing and I see a water glass by the president. I don't see the staff around the president here.

BY MR. HUDAK:

Q. Got it.

Talking about pre-credentialed media events or things that we've been discussing or calling east room events, but I'll use "pre-credentialed media" to be a little more specific, you would agree that since February 24th of this year, the AP has had at least one journalist or photojournalist in every pre-credentialed media event that the White House has had. Is that correct?

A. Since February 24th?

Q. The last time we were here in this courtroom.

A. The 24th? My understanding is -- I would have to double-check on the totality of those events, but I understand the White House has opened up some limited access to only AP photographers for some east room events and then those tarmac events which are sometimes listed as open press; other times, it's pre-credentialed. You know, we've had text reporters there at some of them.

But there was that February 28th event where -- so if you're asking about after February 24th, then no, because February 28th, AP text and photo were turned away at the tarmac in West Palm Beach.

Q. Was that a pre-credentialed media event?
A. I don't have the guidance of the invitation in front of me; but those were often listed, in my experience, as open press or pre-credentialed media.
Q. Let me show you what's been marked as Government Exhibit 31. Are you aware of a publication called *Roll Call*?
A. I am.
Q. And as part of the services they offer, they offer retrospective looks at the -- at the president's schedule, public schedule?
A. Yes.
Q. If we look at February 28th -- that's the day of the President Zelensky visit and then, subsequent, that is the day that you were -- you suggest the AP was excluded from a pre-credentialed media event --
A. Yes.
Q. -- if we look -- it's on your screen right here.
A. Uh-huh.
Q. If we scroll down to the arrival of West Palm Beach International Airport, you can see that that's not a pre-credentialed media event; it was an out-of-town travel pool event. Do you see that?
A. It's not listed that way on here. However, there was a separate solicitation by the White House a couple of days before the president's arrival on the tarmac for journalists

to RSVP to cover his arrival there in West Palm Beach on the 28th.

Q. But at least from the *Roll Call* record, it was not a pre-credentialed media event?

A. It was not listed that way on the daily guidance. But the daily guidance also captures pool movements. Some events that are open to the pool, as I previously discussed, are also open to other journalists on top of that, so whether they be -- there would be an RSVP system or because the -- others are in attendance. So it's not -- I would say it's not dispositive, you know, that it was an out-of-town -- it was restricted to out-of-town pool. There was a separate solicitation and RSVP process for that tarmac on the 28th.

Q. Yeah. Regardless of whether the advance team may have let a few other media members to the tarmac, it wasn't, though, formally a pre-credentialed media event?

A. I got that email from the White House press -- White House office. I'm happy to work with our counsel to make that available to the Court, if necessary.

Q. Let me direct you to Government Exhibit 32. And this is the March *Roll Call* public event listing. And you can see that, on March 7th, the arrival at West Palm Beach is identified as a pre-credentialed media event. Do you see that?

A. Yes. I see it there.
Q. And at that pre-credentialed media event, the AP had both a reporter and a photojournalist. Is that correct?
A. I was the reporter there, so yes. But our -- I never personally -- our photographer received an affirmative RSVP response. I did not. I showed up, and that was the only way I knew I was granted access. The White House never bothered to respond to my RSVP.
Q. But you were permitted access?
A. After a bit of haranguing by Secret Service, yes.
Q. So aside -- let's put our quibble about the West Palm Beach arrival on the 28th aside. So let me ask it this way: Aside from that event, the West Palm Beach arrival on the 28th, the AP has had a journalist or photojournalist at every pre-credentialed media event since February 24th. Is that correct?
A. The White House has allowed AP photojournalists only into some east room events.
Q. The White House has also allowed foreign AP journalists into some east room events. Correct?
A. I know AP journalists were allowed in. I don't know that the White House necessarily played a role. In my experience, those foreign press pool delegations were coordinated by the State Department. If that's the case, then potentially, yes. But I know that they are escorted by

State Department staffers around the White House complex.

Q. But they -- however they got in there, there was an AP foreign-based text journalist in those events -- those -- AP foreign text journalists were admitted to certain east room or pre-credentialed events since February 24th?

A. They were in the room. I don't know if the White House played any role in that, or even if the White House was aware of it.

THE COURT: Sorry. Are you suggesting that people get into the White House that the White House does not allow in?

THE WITNESS: I'm suggesting that it -- was the White House press office aware that its protocol team working with, say -- I guess the first one was the Macron delegation -- that an AP journalist was a member of that? I don't know that to be true. It very well may be true that they had a list of -- manifests of the French journalists who were going to be traveling with President Macron. They very well may not have. They may have just said, Here's who is traveling with the French president.

It would have created a diplomatic uproar if they would have --

THE COURT REPORTER: Sir --

THE COURT: You need to slow down, sir.

THE WITNESS: I'm really sorry.

I don't know that the White House gets a manifest of who -- which press -- what is the press delegation traveling with the French presidency. And I imagine it would create a diplomatic uproar if they were to pick and choose among it. So I don't know the level of White House awareness or responsibility for, you know, letting those people in. They just -- might have just let them all in as the French delegation.

BY MR. HUDAK:

Q. In your experience, does anyone get into the White House complex without the White House knowing about it?

A. Secret Service controls access to the White House complex. I'm aware of instances where senior White House officials were unaware of other officials who were in the White House complex, including stories in President Trump's first term where senior White House staffers were surprised that some people were taking meetings on the White House complex.

Q. Do you know who Taylor Budowich is?

A. Yes.

Q. And he is part of the White House press staff. Correct?

A. He's the deputy chief of staff. I believe he oversees the press office.

Q. And he submitted a declaration -- it's on your screen -- Government Exhibit 1. Do you see that?

A. I do.
Q. Let me scroll down. Do you see in Paragraph 17 he writes: On February 24th, 2025, the president held an east room event with President Macron of France. For that limited-access event, 310 journalists requested access and 136 were permitted access. Among those provided access were a foreign-based correspondent of the Associated Press.
Do you see that?
A. I see that.
Q. Okay. So at least Mr. Budowich was aware that a foreign-based correspondent of the Associated Press was in that pre-credentialed media event. Correct?
A. I think he was aware of it when he signed this declaration. I don't know if he was aware of it beforehand.
Q. You have no way to know one way or another?
A. I don't.
Q. Who is Aamer -- and that's A-A-M-E-R -- last name Madhani, M-A-D-H-A-N-I?
A. Aamer Madhani is a White House reporter for the Associated Press, a member of my team.
Q. And isn't it true that he was admitted to yesterday's pre-credentialed media event for the Women's History Month event in the east room of the White House?
A. He did not get into the east room for that event. He was turned away because -- I don't know exactly why. But he

was -- he did not get into that event.

Q. He did not get into that event?

A. He got an email RSVP yes, but did not actually enter the east room.

And that's not the first time that we got an RSVP "yes" and ended up not getting into an event. A different colleague of mine, Ayanna Pressley, for the Black History Month reception in late February, received a confirmation response to an RSVP from the White House press office and was again -- came onto the White House complex. She's not generally a White House reporter, so she got a day pass in for the event after she received her "yes" RSVP for that event, and was still turned away from the door because she works for the Associated Press, so she was not permitted to enter the east room.

Q. We will double-check on that.

Aside from February 28th, is there any pre-credentialed media tarmac event that the AP has been excluded from?

A. Not to my knowledge. But obviously, that is after these proceedings began.

Q. Well, you understand that the purpose of these proceedings here today is to determine whether an order from the Court is required to ensure that the AP's rights, whatever they may be, are secured during the pendency of the

litigation?

MR. MISHKIN: Objection, your Honor. I don't see how the witness's -- it's clearly calling for a legal question [sic] about what the purpose of today's hearing is for and what at least AP is seeking.

THE COURT: Overruled.

THE WITNESS: I'm not a lawyer. But I understand -- my lawyers have advised me that this is sort of the next step in these legal proceedings as we try to restore our ability to do our jobs and report on behalf of the American public.

BY MR. HUDAK:

Q. Are you aware of any non-pool organization -- so let me take a point in time to define what non-pool is. You're aware, under the new policy, certain media organizations are being permitted to participate in the pool and the AP has not yet been permitted to participate in the pool. Correct?

A. I'm not aware of that because I've not seen any White House policy about what this new pool is or how it functions.

Q. You're aware that certain media organizations have been part of the pool and the AP has not to this date. Correct?

A. Yes. There has been a pool and AP has never been allowed to participate. Correct.

Q. Okay. But there are certain organizations that have

been allowed to participate. Correct?
A. That is my understanding.
Q. I'm going to call those the pool organizations. Okay?
A. Okay.
Q. Aside from the pool organizations, are you aware of any media organization that has had as much access to the White House as the AP has since February 24th?
A. Had as much since February 24th? I don't know the level of staffing or, you know, the extent to which these other organizations commit to the White House. I know of no outlet that has the reach and commitment to covering the White House that has been excluded the way the AP has, you know, in my -- if -- you know, consistently by this White House.
Q. My question was a little bit different.
MR. HUDAK: I would ask that the court reporter read it back.
So please pay attention to my question. I would appreciate an answer to it.
(The question referred to was read by the reporter.)
THE WITNESS: I don't know.
BY MR. HUDAK:
Q. Looking at the chart that I put up here as Government Exhibit 6, this, at least, is from the White House

Correspondents' Association. This is the seating chart in the Brady briefing room. Have you seen this before?

A. I've seen versions of this. Yes.

Q. Okay. And it depicts that the AP has a front-row center seat in the briefing room. Is that correct?

A. Yes, it does.

Q. And it still enjoys that front-row center seat today. Correct?

A. For now, it does. Yes.

Q. And you referred to a tweet from Mr. Budowich from March 6th of 2025 during your direct testimony. Do you recall that?

A. Yes.

Q. And that was about Reuters. Correct?

A. Yes.

Q. And he mentioned in his tweet that Reuters has a primo seat in the briefing room. Do you recall that?

A. Yes.

Q. And Reuters, at least in this diagram, has a front-row seat, too, off from you. Do you see that?

A. Yes.

Q. And to your knowledge, Reuters continues to have that seat today. Correct?

A. To my knowledge, yes. This chart is from 2021, I believe. There are more current versions of this.

Q. I'll represent to you that I'm the -- I pulled this off of the White House Correspondents website yesterday. So if there are, it's just not published.

But is there any material difference in the first row? Let me ask that.

A. No.

Q. What about the second row?

A. There may be. I'm not -- it's been a few years since I've been on the White House Correspondents' Association board myself, so I'm not as well-versed in this as I used to be. There may have been minor changes. I think definitely by -- when you start looking at the third row, there have probably been changes.

Either way, these were assigned by the White House Correspondents' Association and not the White House.

Q. Correct. But you would agree with me that if the White House wants to mix up the briefing room, instead of deferring to the White House Correspondents' Association, it certainly has the right to do so?

A. I mean, it sounds like --

MR. MISHKIN: Objection, your Honor. That clearly calls for a legal conclusion.

THE COURT: If you know.

THE WITNESS: I can't offer a legal rationale whether they can do that. I can see that they've threatened

to do that, and it's retaliation for journalism. So I definitely know that that's something that they've talked about.

BY MR. HUDAK:

Q. Now, one thing that's not depicted on this chart is the new media seat. Is that correct?

A. That's correct.

Q. And the new media seat, if I understand it, sits somewhat to the left of the NBC News seat in the front row. Correct?

A. And you're referring to the recent creation of the incumbent White House press office and not the new media outlets that are represented within this chart. Correct?

Q. I'm talking about what's been commonly referred to in the press as the new media seat, that the White -- that President Trump's White House established shortly after his inauguration.

A. Yes. The White House press office, in my understanding, has turned over one of the seats reserved for its staffers and has called it a new media seat. And it hand-selected some reporters or individuals to sit in that seat during press briefings.

I would also note that there are a number of new media outlets, by basically any definition of new media, that are represented on this chart from December 15th, 2021.

Q. But the purpose of the new media seat was to offer nontraditional media an additional seat that is relatively close to the press secretary's lectern in the briefing room. Is that correct?

A. I can't speak for the White House on that, but I wouldn't dispute that.

Q. Let me just show you the calendar of events, as I understand it, since the beginning of -- or since February 24th.

On February 24th, there was an east room event with the French president. Correct?

A. Correct.

Q. And there was an AP foreign correspondent admitted to that event. Correct?

A. Yes.

Q. And there were hundreds of hard pass holders that applied to that event and were not admitted to that event. Correct?

A. I don't know if there were hundreds and if the people who RSVPed were hard pass holders. Anyone can RSVP to that link.

Q. On February 27th, there was an east room event with the prime minister of the United Kingdom. Correct?

A. Yes.

Q. There was a foreign correspondent of the AP that was

admitted to that event. Correct?
A. Yes.
Q. And there were hundreds of other media members that applied to be in that room, but weren't. Correct?
A. I don't even know if those hundreds of people were media members. Those White House RSVP lists -- the daily guidelines goes out to half of Congress, you know, PR folks. It's a list that -- my knowledge of it is that it sort of has grown and grown and grown over the years, across multiple administrations.
Q. On March 7th, there was a pre-credentialed media event, as we saw, on the tarmac at West Palm Beach International Airport. Correct?
A. Yes.
Q. And there was a White House [sic] text reporter and photojournalist that were admitted access to that event. Correct?
A. Yes.
Q. On March 12th, there was an east room event to celebrate St. Patrick's Day. Correct?
A. Yes.
Q. And a White House [sic] photojournalist was admitted to that event. Correct?
A. That's my understanding. But a text reporter was not.
Q. On March 14th, there was a pre-credentialed media event

at West Palm Beach International Airport where the AP had a text reporter and photojournalist admitted. Correct?

A. Yes.

Q. On March 20th, there was an east room event for the signing of an executive order regarding education, and a photojournalist from the AP was admitted. Correct?

A. That's my understanding. But not a text reporter.

Q. On March 22nd, there was an arrival of Air Force One at West Palm -- at Philadelphia International Airport. Correct?

A. Correct.

Q. And both a text journalist and, I think, two photojournalists were admitted to that event. Is that correct?

A. I think they received RSVP yes's. I think we ended up sending one. We had a double -- we had a staffing snafu. But it was -- yes, they got onto the tarmac.

Q. On March 24th, earlier this week, there was an east room event celebrating Greek Independence Day.

A. Yes.

Q. Correct?

A. Yes.

Q. And a photojournalist from the AP was admitted to that event. Correct?

A. Just a photojournalist, not a text reporter.

Q. And then we've talked about the event from yesterday, the Women's History Month event. Correct?
A. Yes.
Q. And at least an AP photojournalist was admitted to that event. Correct?
A. Just an AP photojournalist was admitted to that event.
Q. Okay. And so for each of the pre-credentialed media events, aside from maybe -- we have a dispute over February 28th -- at each of those, the AP has had a journalist, be it a text journalist, through a foreign correspondent, or a photojournalist at each of those events. Correct?
A. In one way, shape or form. Yes.
Q. And in one way, shape or form, then, those folks that were admitted could observe things like the water glass sitting in front of the president, the anecdote that you mentioned. Correct?
A. They might have.
Q. And in one shape or form, those folks could have noticed the spacing between the president and the other governors at that event that you discussed?
A. They might have.
Q. Similarly, you know, occasionally -- I don't mean to impugn your skills at all, but occasionally you miss something and another -- one of your reporter colleagues

picks up on something. Correct?
A. That does happen. We try not to let it happen.
MR. HUDAK: I believe that's all the questions I have, your Honor. Thank you.
THE COURT: Mr. Mishkin?
MR. MISHKIN: I have three questions, your Honor.
THE COURT: Great.
MR. MISHKIN: Sorry. Four. I miscounted.

REDIRECT EXAMINATION

BY MR. MISHKIN:
Q. Mr. Miller, you read the supplemental declaration that Mr. Budowich filed?
A. Yes.
Q. And did you see that Mr. Budowich purported to -- Mr. Budowich stated that AP is now eligible, in his words -- quote, "eligible" -- to be included in both the pool and east room events?
A. I did read that.
Q. It's your testimony that, despite such eligibility to be in the pool, AP has not participated in the pool for 44 days. Is that right?
A. Yeah. Forty-four days since February 11th for text and the 14th for photos, totaling, you know, more than 60 events and movements over that timespan.
Q. Sitting here today, do you have any confidence that an

east room event next week for which AP is purportedly eligible to be admitted, that you won't be excluded from that?

A. Absolutely none. And, if anything, all I have to look back on is my experience and that of my colleagues over the last 44 days, which is AP is barred time and again because of our journalism.

Q. Do you have any assurance that if you are excluded from an east room event, that it's not on the basis of AP's editorial decision?

A. That's the only information that I've ever been given about that decision.

MR. MISHKIN: Thank you. That's all.

THE COURT: Mr. Miller, I had a question. You mentioned to Mr. Mishkin earlier that you had the impression that other media outlets, but not your own, have softened its coverage of the administration since you've been banned. What media organizations did you have in mind?

THE WITNESS: Not a specific media organization comes to mind. It's sort of just the tone and tenor of questions that are -- that I hear thrown at the president in Oval Office sprays and the like. One of the things that has happened as a result of this White House takeover of the pool process and the ban of AP is that they've removed, in most events inside the White House, two wire services from

the mix, and they were generally asking -- you know, known for asking "news of the day" questions and -- relevant questions.

There have been moments where I've heard questions in the Oval Office that I was kind of surprised to hear in that setting. They weren't on topic. They didn't seem to me particularly relevant to the world or the news of the day.

I'd have to go back and review every single event. It's a subjective impression that I have formed since the 11th in watching presidential events.

MR. MISHKIN: If I may --

THE COURT: I'll ask the question.

But sitting here today, you don't have any specific organization in mind that's changed its tone as a result of the ban that the AP has faced?

THE WITNESS: I mean, I have noticed a change in the way news outlets cover the Gulf of Mexico, which the president renamed the Gulf of America.

I'm a bit of a space buff, and I watched the SpaceX landing with the astronauts last week. And I heard some of the coverage and then I read a summary of some of that coverage where a number of news outlets -- news organizations or anchors were referring to it as the Gulf, and that struck me as odd, and not as the Gulf of Mexico or

the Gulf of America. They were calling it the Gulf. It seemed to me like they were trying to sort of skirt around the issue. That's -- that's the closest thing I can think of on that question.

THE COURT: Okay. Thank you.

Mr. Mishkin?

MR. MISHKIN: He answered the question I was going to ask. Thank you.

THE COURT: Thanks.

You may step down. Thank you for your testimony, sir.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: So it's almost 1:00. Why don't we take a lunch break. I've got a quick criminal hearing at 2:00, and we'll resume after that.

Thanks, gents.

MR. TOBIN: Thank you, your Honor.

MR. HUDAK: Thank you, your Honor.

(Thereupon, a luncheon recess was taken, after which the following proceedings were had:)

THE COURTROOM DEPUTY: We're back on the record in Civil Action 25-532, Associated Press versus Budowich, et al.

THE COURT: All right.

MR. TOBIN: Thank you.

THE COURT: Mr. Tobin?

MR. TOBIN: Thank you. I hope the Court and personnel had some time for lunch.

Your Honor, at this point, I'd like to proceed to present documentary evidence to the Court.

THE COURT: Oh, sure.

MR. TOBIN: I want to walk the Court through some other items that we'd like to have in the record.

And, your Honor, an important --

THE COURT: Are those all in this binder you gave me --

MR. TOBIN: They are, your Honor.

THE COURT: -- this Redweld?

MR. TOBIN: And we've tabbed the longer ones to facilitate the process when I refer to them.

Your Honor, these would have been examination exhibits for the cross-examination of Mr. Budowich. The White House decided not to bring him here and to have him only attest by declaration.

What I hope to highlight for the Court are, number one, the declarations that he submitted are indeed contradictory. The Court saw some examples in the motion to strike. I just want to recite some of them.

And, number two, across both declarations, the

testimony he's given is just flatly contradicted by things that are in the evidentiary record that I've placed before the Court. And so I'd like to walk the Court through those documents.

And I'm going to start by noting that the Court asked in Question 4: Under current White House policies and practices, is there any type of event where the AP is not eligible for consideration but other media are?

The answer in the documents, the answer in the record, the answer from the witnesses today, is a clear yes, at least certainly as to the press pool. And, to be honest, I have no idea what the routine is for the east room, other than the fact that Mr. Miller, the text reporter, just doesn't ever seem to be admitted to that.

But to just focus for a moment --

THE COURT: Mr. Tobin, on that point, am I -- is it your understanding that the record shows that, at least this last month, a photojournalist has frequently, perhaps not invariably, but frequently, been admitted -- have other, I guess, maybe foreign AP print journalists been allowed in? What's your understanding of what the record shows at this point?

MR. TOBIN: For text purposes?

THE COURT: Well, for the east room, where do things stand?

MR. TOBIN: We have had a few foreign journalists come in. I don't know whether they snuck in in the sense that the White House knew that Chuck Tobin was coming, but didn't know Chuck Tobin was an AP reporter assigned to cover President Macron, or whether they knew and decided that they weren't going to create an international incident.

THE COURT: And so Mr. Miller hasn't come in. Have any of Mr. Miller's colleagues, print colleagues, come in?

MR. TOBIN: Who were assigned to cover the White House, that's correct.

THE COURT: None have?

MR. TOBIN: None have at any of the east room-type events. The only exception may be when the president addressed the joint session of Congress. And I would note we put in the record when the president addressed the joint session of Congress --

THE COURT: I remember that.

MR. TOBIN: -- and issued a press release, it was about the AP. I mean, your Honor -- I was going to say this in closing. I'll just say it now. It's ironic to us the president chooses AP images to brag about, to talk about his administration and, at the same token, calls us liars and misanthropes at every turn.

So, your Honor, just to now to focus on the press

pool and our exclusion from -- our text exclusion from all events -- actually, both text and photo -- from all events, Mr. Budowich says, in his supplemental declaration at Paragraph 3, he says that: Outlets that were among the members of the pool under the old system continue to be eligible for press pool selection in the new system, including the Associated Press.

He says that in -- despite, in his first declaration, saying that people are chosen for the pool at the discretion of the president. And, again, the "discretion of the president," we just don't have any factors; we don't know what those are.

So there's a subtle distinction -- not-so-subtle distinction between those two declarations just on their face.

And as we'll see in a minute, your Honor, there just is no record to support that the journalists -- that any system that allows the AP to come in is employed in the pool; and, in fact, they have not.

And so if I could call the Court's attention for a moment to Exhibit 7, which the Court looked at earlier during some of the testimony. Exhibit 7 is the daily press guidance from the White House.

THE COURT: I have it.

MR. TOBIN: This is from the White House's own

publication. And so I would ask to admit that as -- I'm sorry, your Honor. That's already been admitted. I don't need to go through that formality.

THE COURT: Yes.

MR. TOBIN: So, your Honor, Exhibit 6 is our own summary. We created this document. It's a spreadsheet. So it's an "at a glance" of the information contained in that document. I'd like to ask the Court to admit that Exhibit 6 also as evidence in the case.

MR. HUDAK: One moment, your Honor.

MR. TOBIN: Sure.

MR. HUDAK: No objection, your Honor.

THE COURT: Without objection, 6 is in.

(Whereupon, Plaintiff's Exhibit No. 6 was entered into evidence.)

MR. TOBIN: Thank you.

And thank you, Mr. Hudak.

THE COURT: Explain to me what I'm looking at here, sir.

MR. TOBIN: Sure. So this is a summary of the information in the longer document. Exhibit 6 is a summary of Exhibit 7. It shows you every day since February 24 where there has been an event. And it shows you who the wire -- a pool event --

THE COURT: I see.

MR. TOBIN: -- and it shows you each --

THE COURT: I see.

MR. TOBIN: The top axis is the type of journalist that's been allowed in.

And so, your Honor, this document reflects that the AP has never been included in the pool at all since February 24. You won't see the AP's name mentioned in any of those documents.

And so just on the sheer historical record of what we're looking at, it's completely contradictory with Mr. Budowich's testimony. And it's supported -- this is supported by the exhibit to Mr. Miller's declaration where he has updated the Court -- or we've updated the Court periodically as to the events where the AP has not been included but other of its colleagues were.

So the historical record shows us that if there is a system that allows the AP in, ostensibly, as Mr. Budowich attested to in his second declaration, it doesn't include the AP. And the AP is excluded. And the only thing we have to fill the gap as to the why, the causation, are the statements from the White House. And I'm going to ask the Court to look at those so we have our record on the retaliation issue.

I'd also note that, in Mr. Budowich's first declaration, he stated that the pool has three wire

photojournalists. And you'll see, your Honor, in the Exhibit 6, and as reflected in the longer document, Exhibit 7, those three wire journalists have always been, since February 24th, AFP, *The New York Times* and Reuters. And -- I'm sorry. There's three wire photojournalists. Not the AP.

And so Mr. Budowich in his declaration has given us the number, and this chart gives us the identities, of the people who -- the entities who have been admitted to the pool for photojournalism.

Similarly, Mr. Budowich stated in his first declaration -- that's at Paragraph 10 -- that the wire pool is now selected from two wire services. Previously, it had been three.

Again, as we'll see, those are rotating on this chart between Bloomberg and Reuters, not the AP.

So Mr. Budowich's statement in his supplemental declaration, that I would have loved to have cross-examined him on today, is flatly contradicted by the objective evidence before the Court. And we would ask the Court to completely discredit that self-serving, broad statement.

If they wanted an opportunity to persuade the Court otherwise and to contradict the documents themselves and the live testimony of Mr. Miller and Mr. Vucci, they should have brought Mr. Budowich or another White House

witness to explain the flaws in the analysis that I've just provided to you, your Honor.

And so as to the press pool, the clear answer to the Court's question is, under current White House policies and practice, is there any type of event where AP is not eligible for consideration but other media organizations are?

The answer is, affirmatively, heck, yeah. All of the events they've been excluded for -- from when it comes to the pool. And that's the objective evidence before the Court.

Any questions, your Honor?

THE COURT: No.

MR. TOBIN: As to the east room, the events that the journalist today testified you have to RSVP for and queue up at the palm door, your Honor, Mr. Budowich again contradicts himself. In his second declaration, Paragraph 15, he testifies: The AP remains completely eligible for selection, as all hard pass holders are.

So first of all, your Honor, when he refers to hard pass holders, he is not referring to the AP's correspondent in Paris who covers President Macron, or the correspondent in Kyiv who covers President Zelensky. So that statement by him defining the universe there "remains completely eligible for selection, as all hard pass holders

are," is his acknowledgement of the distinction between those two types of reporters.

And so if we're going to look and define the universe as he has done with hard pass holders here, clearly, the president has decided not to exercise his discretion, the phrase we previously talked about, as to the text reporter at the very least. Mr. Miller and his text colleagues have been excluded, have not been admitted, into any east room-type press events since this whole ban began.

And unfortunately, Mr. Hudak was misinformed by his client. They were not admitted yesterday. They did not get into the room yesterday when it came to the White House event on the Women's History Month. So they have been -- the text reporters have been excluded completely.

And, your Honor, we have some -- we have a record, and we candidly admit that at some point some White House photographers have been admitted into east room events. But it has been random. It has been unpredictable. We have no idea when or where we'll be admitted to one of these events. And that is a violation of our due process in light of the statements by the White House that people will not be admitted from the Associated Press because of the content of their journalism.

THE COURT: So maybe now is just as good a time as any to talk about that with the east room.

I mean, I guess -- my impression is that, at this point, your client enjoys the same access to the east room that general members of the White House press corps have. In other words, they are sometimes admitted; they're sometimes not.

I certainly understand that your client is not getting the same what I would describe as privileged access that it had --

MR. TOBIN: "Line leader" is the phrase -- the phrase that we heard Mr. Vucci say, is he was the line leader.

THE COURT: The line leader. Yes. That he'd had in the past.

So feel free to correct me if I'm wrong, if you think the evidence shows something different. But if I'm right about that, maybe you can help me think about where that leaves you as to the east room.

MR. TOBIN: Absolutely.

I would dispute the Court's recollection or understanding of the evidence as to the text journalists. As I said, the text journalists at the White House, the hard pass holders, as Mr. Budowich defined the universe of east room invitees, text journalists have not been admitted. They do not enjoy the same access as their competitors, as other hard pass holders in the White House, because they

have not been admitted. Mr. Miller was quite explicit in his testimony about that.

As to the photographer, Mr. Vucci testified he never knows. Sometimes he has RSVPed and shown up at the palm door and his RSVP has been accepted, and he's been told he can't get in.

And so there is some opaque -- and opacity is really the problem here, your Honor. There is some opaque criteria that the White House is applying, and the only criteria that anybody has seen in this case that has any direct statement from the White House with any credibility is the statement of Ms. Wiles. We have it in response to Ms. Pace's communications with her back at the beginning of all of this. We submitted that in affidavit form with an attachment. It's Ms. Wiles saying, "You're not going to get in because you're liars and you're purveyors of misinformation to the American public. We're not going to let you in."

We have Ms. Leavitt, Defendant Leavitt, the press secretary, saying from the podium that we are not going to let liars like the AP in.

We have the president of the United States talking about it.

We have Mr. Budowich, the deputy White House chief of staff, on X talking about it, and even threatening

Reuters and other people with that kind of retaliation.

And so, your Honor, as to the text reporters, the facts are completely uniform and in AP's favor as to the exclusion.

THE COURT: And so what's the remedy there? I mean, do you think you're entitled to front-of-the-line access again?

MR. TOBIN: Absolutely not. We're entitled to an order that says that the AP shall not be excluded from pool or east room -- broadly defined -- events in any viewpoint-discriminatory way, whether it's because of Gulf of America or Gulf of Mexico or anything else that they report. That would be what we would ask in the order.

And, number two, that the White House, as was the remedy in *Acosta* and *Karem*, publish and post -- if they're going to have criteria, they have to tell the press and the public what they are. They have to provide for an appeal window when you're denied access. And they must provide a reason for denying the appeal that is reasonable and does not have viewpoint discrimination.

THE COURT: But I mean -- so focusing for the moment on the east room, I'm wondering about, you know, is there really going to be an appeal every time that one of the 300 people who apply don't get their RSVP granted? That just -- I don't think that's been happening to date, and

that feels like a lot of judge-made law there for telling the White House how to run its --

MR. TOBIN: Well, the White House, as with any court order, is going to have to administer it as efficiently and as it sees fit. We've never had a situation before the Court that I'm aware of where there have been retaliatory and discriminatory exclusions from the east room. So I can't point to a case where that remedy was given.

I will say, if the Court agrees with us, that there is a First Amendment liberty interest that attaches and that, therefore, there is a Fifth Amendment due -- right to due process. The remedy the D.C. Circuit has prescribed, and in the district court cases, is exactly what I have described. It's a published set of standards, an opportunity to appeal and a written explanation of reasons that does not involve viewpoint discrimination.

And that's all I can suggest. It's all we have from the case law. That is what the case law tells us is the appropriate remedy in these circumstances, whether it creates an added burden to the White House or not.

THE COURT: Yeah. And, you know, maybe that makes sense for getting a hard pass, which is kind of a one-and-done type of thing. But that just seems asking a lot for these daily events, that there be an appeal process

for everyone who doesn't get in.

MR. TOBIN: We can have discussion, your Honor, and work out a system acceptable to everybody to make it fit within the due process case law. But our position is we are entitled to that kind of a remedy, however fashioned, because that's what *Sherrill* tells us. That's what *Acosta* -- Judge Kelly did in the *Acosta* case, and that's what Judge Tatel's decision in the *Karem* case tells us.

How we put that into practice, into play, your Honor, we can talk about what that looks like. But for purposes of the injunction order, that's what we would be requesting, is that due process attaches and due process requires these three elements, and the fourth element must not be viewpoint discrimination.

THE COURT: Okay. Thank you.

MR. TOBIN: So, your Honor, that's the paper record and the oral record that you heard today as to exclusions from the press pool and from east room type of events.

Your Honor, that puts -- that belies -- I don't want to call anybody outright a liar. That belies the testimony of Mr. Budowich that the AP, quote, "remains completely eligible for selection, as all hard pass holders are," closed quote. That's just not what the record shows, your Honor, and that is not credible.

Your Honor, as to motivation, one day after we were all in the courtroom on February 24th for the TRO hearing, White House Press Secretary Karoline Leavitt held a press briefing in the White House briefing room. The White House reports those briefings and posts those recordings on YouTube. I want to show the Court a brief clip from Ms. Leavitt's press briefing the day after this Court told the White House that the case law was uniformly against it. And I'm also going to ask the Court to -- we're going to label the clip Exhibit A, and I'll provide a flash drive to the Court and to counsel.

THE COURT: All right.

MR. TOBIN: We also have a transcript of it at Exhibit 5. And so maybe we'll watch it and then I'll ask counsel if he has any objection to moving it into evidence.

Unless you --

MR. HUDAK: I've seen it. I have no objection.

MR. TOBIN: Then, your Honor, at this time, we ask to move exhibit -- video Exhibit A and transcript Exhibit 5 into evidence without objection.

THE COURT: Without objection.

(Whereupon, Plaintiff's Exhibits 5 and A were entered into evidence.)

MR. TOBIN: Your Honor, we'd now like to play Ms. Leavitt at the podium in the press briefing room.

(Whereupon, Plaintiff's Exhibit A was published in open court.)

MR. TOBIN: So, your Honor, Ms. Leavitt on February 25 said that the White House -- said that she and White House Chief of Staff Susan Wiles had made a decision to remove the Associated Press from the White House pool. That's part of the evidence in Exhibit 5.

Ms. Leavitt, on February 25, also reinforced with the words that she and Susie Wiles had made "our decision to remove the Associated Press from the White House press pool for certain and special events."

Your Honor, that testimony completely contradicts, again, Mr. Budowich's declaration in which he says that the AP is completely eligible for selection, as all hard pass holders are. That is not what the White House has been messaging to the public and to AP.

And so, your Honor, that part of Mr. Budowich's declaration also falls apart by the direct statements from the White House and from the White House press secretary.

Your Honor, additionally, Mr. Budowich testified about the reasons why the White House makes its pool selection. Paragraph 5 of his supplemental declaration states that, quote, "Since the inception of the new press pool system, the press teams have been empowered to better inform their jobs by creating a pool that best serves the

public by pairing the topics of each event with the reporters in the audience who are most curious about them."

Well, the actual pool rotation since February 25 also belies that testimony. So to walk the Court through a few examples, on Exhibit 7, your Honor, the tab -- first tab that the Court will see is for February 28 in White House Daily Guidance and Press Schedule. There were four events, all of them involving the president of Ukraine that day.

THE COURT: Okay.

MR. TOBIN: All of them involved the president of Ukraine. And that day, as the pool sheet, Exhibit 6, reflects, the White House chose the *L.A. Times* as the -- as a pool participant. So Exhibit 8, your Honor, which is right behind that thick exhibit, is the *L.A. Times* website. And what we did was we took down -- took and did a search for all of its coverage of Ukraine in recent months and we put it into a document.

If there's no objection, I'd like to admit that as Exhibit 8.

MR. HUDAK: No objection, your Honor.

THE COURT: Without objection, 8 is in.

(Whereupon, Plaintiff's Exhibit No. 8 was entered into evidence.)

MR. TOBIN: Thank you, your Honor.

Thank you, Mr. Hudak.

Your Honor, the second page and third page are all of the headlines of the articles that the *Los Angeles Times* ran on the Ukraine. Your Honor, I'll represent all 21 of those articles bear the AP by-line. They were not reported by the *Los Angeles Times*.

And the *L.A. Times* report on the February 28th event where the AP was banned but the *L.A. Times* was included even credits some, quote, "reporting from the Associated Press along with the White House's *L.A. Times* correspondent."

So under the White House's own reasoning, it would make no sense that the White House picked the *L.A. Times* as the pool participant instead of the AP that day on Ukraine-related events even though the *L.A. Times* relies on AP for the vast majority, if not the entirety, of its reporting.

So that rationale falls apart in Mr. Budowich's declaration. He says that the White House thinks that they are picking -- pairing people with, quote, "the audience who are most curious about them." Why the White House would think the *Los Angeles Times* audience is the most curious about Ukraine when the *L.A. Times* relies on AP for its reporting completely defies logic.

So, again, your Honor, that part of Mr. Budowich's testimony is completely discredited. It seems more likely,

your Honor, if the Court were to study the pool rotation, the majority of the dates, and certainly all of them after Monday, March 3rd, the print reporters are chosen alphabetically by the agency, not by any curiosity, not by any audience reach or any audience interest. It's a pure alphabetical rotation. And so that additionally belies Mr. Budowich's representation as to how the pool operates.

Your Honor, I'm now going to ask the Court to take a look at the second tab of Exhibit 7, which reflects the March 3rd schedule at the White House daily press guidance. There are no events listed on that page, your Honor. It's just a blank page with the headers on it.

But I'll represent to the Court that the only event President Trump participated in that day was an announcement that Taiwan Semiconductor is investing $100 billion in Arizona. Obviously, important business and national news.

But the White House that day, if the Court would refer to the chart on Exhibit 6, shows Reuters, not Bloomberg, which is the leading wire service for business news in the United States, for the wire service spot on that day.

So if the White House was really picking the pool based on the events themselves and the audience and the particular curiosity of the audience, it would make sense to

use the Bloomberg wire service and not Reuters for that particular day.

Additionally, the White House also selected, as Exhibits 6 and 7 reflect, *Newsday*, my hometown newspaper from when I was growing up on Long Island -- it chose *Newsday* as the print reporter for the pool that day.

Well, again, it's just not credible that *Newsday*, a Long Island-based newspaper, would be the appropriate place for the most curious eyeballs for an Arizona story about Taiwan Semiconductor coming in and investing 100 million into the Arizona -- I'm sorry -- 100 billion into the Arizona economy. It just doesn't hold up.

And so, your Honor, I'm going to ask the Court to take a look at one more example in Exhibit 7, the Daily Guidance and Press Schedule for March 20, '25. The only event listed there is an education event and the executive order. That was the executive order about taking steps to eliminate the Department of Education.

The White House selected Bloomberg that day for that wire spot. Is the White House really saying that it selected Bloomberg for some reason other than that it alternates between Bloomberg and Reuters, and Reuters had the day before?

The list will show you, your Honor, that the selection of the wire service -- again, it's limited to two,

not three -- the AP is not eligible, as Mr. Budowich's declaration says. At least history shows us that. And they alternate between Bloomberg and Reuters. That's the documentary evidence about the reason why these particular wire services were chosen on those particular days.

The White House also selected the *Boston Globe* for the pool that day, your Honor. And again, the *Boston Globe* is alphabetically between Bloomberg Government, which was in the pool the day before, and the *Christian Science Monitor*, which was in the pool the day after.

So that shows us an alphabetical rotation system, at least as to the print journalists, not some selection based on some criteria they want the Court to believe is objective on pairing audiences and predilections and reader curiosity.

Mr. Budowich also says the Defendants didn't select White House text reporters for these events in his second declaration, Paragraph 10, to ensure the widest and most robust coverage and distribution of these events.

Your Honor, the testimony here today educated the Court. Our distribution at AP is 4 billion people. That's 4 billion people in this country and, obviously, worldwide. The Court noted that yourself, your Honor.

Clearly, by excluding AP, they are shrinking the coverage and distribution of the coverage of these events.

And so where the White House says that it wanted to ensure the widest and most robust coverage and distribution of these events, it doesn't get wider -- you don't get more robust and wider distribution when you exclude the AP, which has the largest distribution of any of these entities that we've talked about.

Your Honor, as far as more evidence that I'd like to point to the Court about AP not being banned, Mr. Budowich's latest statement -- and these also answer that question that I talked about at the beginning: Are there any type of events for which AP is not eligible? At Paragraph 17 of his second declaration, Mr. Budowich says the AP has a commitment to misinformation but does not -- and he does not -- this does not interfere with their eligibility to access events.

Well, "commitment to misinformation," which he put in his declaration, also appeared in his February 14th tweet back when this all began. And that's how he characterized AP's decision, as a commitment to misinformation by, quote, "ignoring the lawful geographic name change of the Gulf of America." And then he said it's not just divisive, but it also exposes the Associated Press's commitment to misinformation.

So if he is saying now that the AP's commitment to misinformation does not interfere with their eligibility to

access events, that's completely contradicted. What was the point of his tweet back on February 14th, when he was announcing and celebrating the exclusion of AP because he felt they had a commitment to misinformation?

Mr. Budowich also testified on February 14 that he did not -- that the February 14th tweet did not constitute a ban of the Associated Press as an outlet. He attested to that in Exhibit -- in Paragraph 20 of his first declaration.

Well, your Honor, this is the same tweet that outright said the AP would no longer, quote, "have access to limited spaces like Oval Office and Air Force One."

So if he's saying that it did not constitute a ban of the AP as an outlet, we don't speak the same language, because that's exactly what he said in that exact same tweet.

And so, your Honor, we discussed earlier the post -- or I showed you earlier the post on YouTube. Just to reinforce the point, I'd like Mr. Mishkin's help to show the Court another YouTube clip. We'll ask for that to be admitted as exhibit -- video Exhibit B. This is President Trump in Mar-a-Lago.

MR. HUDAK: No objection, your Honor.

THE COURT: Without objection, B is in.

(Whereupon, Plaintiff's Exhibit B was entered into evidence.)

MR. TOBIN: Thank you, Judge.

This is February 18 at Mar-a-Lago.

(Whereupon, Plaintiff's Exhibit B was published in open court.)

MR. TOBIN: So, your Honor, we've also submitted a transcript of that press statement, President Trump's appearance, as Exhibit 9. If we can move that into evidence as well.

MR. HUDAK: No objection, your Honor.

THE COURT: Without objection, 9 is in.

(Whereupon, Plaintiff's Exhibit No. 9 was entered into evidence.)

MR. TOBIN: So, your Honor, Mr. Budowich's February 14th tweet makes very clear the AP was banned for its content.

The president's statements about AP four days later reinforce that AP is being punished because, according to President Trump, it's called the Gulf of America now. And he says later on, "We're going to keep them out until such time as they agree it's the Gulf of America," end quote.

So how can we say that the White House [sic] isn't banned -- how can we say the White House isn't banned due to its editorial decisionmaking regarding --

THE COURT: You mean AP?

MR. TOBIN: Yes. Thank you, your Honor.

And so, your Honor, further showing the selective retaliation against pool members and the dangerous chilling effect it can and has had.

I think Mr. Mishkin showed the Court Exhibit 10, which is the Taylor Budowich post on X in which he said that Reuters has a coveted primo seat in the briefing room and two slots in the pool. Reuters regularly betrays its responsibility to the public by printing anonymously sourced lies. More to come, question mark.

Well, "more to come," obviously, is more exclusion of other journalists on the basis of their editorial content.

And so, your Honor, as with AP's testimony today, the Defendants' own words in this documentary evidence on the comings and goings within the White House press pool amply belie the assertion in Mr. Budowich's declarations. And if he wanted to persuade the Court otherwise, he should have been here himself.

So, your Honor, I just want to protectively ask for admission of AP Exhibit 10, the Budowich X post, in case we hadn't done that earlier.

MR. HUDAK: No objection, your Honor.

THE COURT: Without objection, 10 is in.

(Whereupon, Plaintiff's Exhibit No. 10 was entered

into evidence.)

MR. TOBIN: And, your Honor, that concludes the AP's presentation of evidence today.

THE COURT: All right. So, Mr. Tobin, I guess I wanted to shift to kind of a few more legal questions here.

First, can you help me think through how I reconcile government speech doctrine with protected liberty interest that you're arguing that you have in participating in the pool?

MR. TOBIN: Yes, your Honor.

In the record is an *amicus* brief from the Knight Foundation. They filed two, one on their own behalf --

THE COURT: This is Knight First Amendment?

MR. TOBIN: Correct, your Honor.

Their brief -- first brief really speaks to the whole government speech doctrine. If the pool were government speech, your Honor, every press event where the president speaks and has communicated a message that journalists report would be considered protected by the government speech doctrine. There really is no functional distinction between the president standing in one place and standing in another reporting on information.

I mean, what they would want the Court to hold as government speech we call journalism, your Honor. It's reporting the information that a source says that is of

public interest to the public.

The role of the pool is to independently cover the president. It is not an organ of the government, which is what the government speech doctrine principally talks about, your Honor. The government doesn't control what the pool reports. It controls access. The pool decides what it reports.

Mr. Vucci testified in vivid detail about how he looks at the frames and looks in the room and then tweets out without a filter, without a censor, which would be unconstitutional, what he reports. That's not the government's speech. That's Mr. Vucci and the AP's expression of news events that they are witnessing.

It's very different from the one-on-one interview situation, which I think is kind of apples and oranges to government speech. But I'm sure we're going to talk about that. It's a different set of circumstances, which is where the government interacts with an individual or groups of people, but on an exclusive invitation-only.

It's also not the speech or the expression that we're litigating here of the White House press apparatus. It has its own press people. They're very capably represented by Ms. Leavitt and by Mr. Cheung and other professionals in the communications department. It has its own photography staff. And their photography staff takes

beautiful -- as a matter of art, beautiful images. The president can control, obviously, what messaging comes out of that organ. He does not get to control what the Associated Press publishes. And that takes it from outside of the entire government speech doctrine.

Just because the government lets you in and decides you can cover a specific event doesn't turn it -- an ordinary act of journalism into government speech.

And Justice Alito warned about the expansion of government speech -- I'm sorry. The Court had a question?

THE COURT: I think I know the quote you're going to use, but go ahead. You can give it.

MR. TOBIN: All right. So it's from *Matal v. Tam*. It's a trademark case. The argument was being made by the Government that by forcing us to put what some consider to be a racially insensitive trademark, granted trademark, for a dance rock band, that that was the imprimatur of the government, and that turned it into a government speech event.

Justice Alito warned, and for a unanimous court, that government speech, quote, "is a doctrine that is susceptible to dangerous misuse. If private speech could be passed off as government speech simply by affixing a government seal of approval, government could silence or mute the expression of disfavored viewpoints."

And so, you know, that principle applies equally here, your Honor. There is a protected liberty interest rooted in the First Amendment and to having access not denied into these places for retaliatory reasons.

That's the liberty interest that underlies the Fifth Amendment right to due process, and that's entirely different. It is a dangerous expansion of executive authority into the First Amendment, sacred First Amendment ground, to hold that, when the president allows reporters into the Oval Office in a pool event, that's government speech, and he gets to control the message that they send out by telling them what to say.

That's exactly what he's doing here by insisting that the AP use the Gulf of America instead of the Gulf of Mexico as a precondition for not being kicked out of the Oval Office.

THE COURT: I want to -- there's a few things you've said here I want to follow up on.

First, if I'm following you correctly, your argument is that the violation is you being kept out on -- for retaliatory reasons. Is that correct?

MR. TOBIN: Yes, your Honor.

THE COURT: And so the fact that you've been allowed in forever is really beside the point. You would stand in the same position as one of these new media people

who just started and have their hard pass.

The difference -- if they're being kept out because they're saying Gulf of Mexico, they would have the same -- no more nor fewer rights than your client does. Am I thinking about that correctly?

MR. TOBIN: Everybody would have the same rights not to be retaliated by the president of the United States.

THE COURT: And then the second point -- help me think through why this is different than a one-on-one interview --

MR. TOBIN: Sure.

THE COURT: -- and why this is not my bucket 4, if you will.

MR. TOBIN: Sure.

Your Honor, the *Ehrlich* case itself -- I'm sorry -- the *Sherrill* case itself distinguishes between the two situations. There's a quote in *Sherrill* that says, Certainly the press does not have a right to one-on-one interviews.

And so if they were the same thing for purposes of analysis, there would be no liberty interest doctrine.

So, you know, the question is: Does the Oval Office setting change it and make it -- take away the liberty interest to get in there and make it more akin to a one-on-one interview?

We've heard testimony from both sides, according to Mr. Budowich --

THE COURT: Yeah. And so just on *Sherrill*, I mean, one of the reasons I'm struggling with its applicability to you is it says these press facilities are perceived as being open to all bona fide Washington-based journalists. And obviously, that's not true for the Oval Office.

MR. TOBIN: It is, by decision -- by proxy, at the very least, because of the pool system, that all of the press cooperates in, and by virtue of the limitation on space. I mean, granted, only so many people can get in. The issue is, once the pool is created and that becomes the system to select which people are let in. And then the pool can be selected by nonviewpoint-discriminatory criteria. That's where the liberty interest attaches. That's where it becomes on all fours with the *Sherrill* case.

And again, *Sherrill* itself has the distinction buried within it for the situation where the White House is inviting people on one-on-one interviews. And it says you don't have a right to it -- proxy for the word "liberty interest" -- in a one-on-one interview with the president. But when a system is established, whether it's a system to select hard pass holders by objective criteria that were litigated in all three of the precedent cases we're relying

on, or a pool system that's established for the limited number of people who go into the Oval Office, that system must be created with objective criteria. There must be notice of what that criteria is before somebody gets kicked out.

THE COURT: Yeah, and --

MR. TOBIN: And if you remember the --

THE COURT: So I'm just -- is it really the system, though, that does -- I mean, let's say, you know, President Biden would meet with one member of the press corps for a one-on-one interview every week. Does that mean that President Trump would have to do so as well? In other words, the fact that -- I could certainly imagine a system, you know, interacting with this one-on-one interview. Would that change the -- your agreement that you're not entitled to a one-on-one interview?

MR. TOBIN: I don't know that it necessarily would, unless he announced, I'm canceling the one-on-one interview situation that is now a regular rotating system in the White House to go with your hypothetical.

I'll add to it: regular rotating system in the White House. AP was going to be next on the rotation. The White House now cancels the entire one-on-one interview system because it doesn't like AP using Gulf of Mexico, and it boldly announces that. You bet we would have some

constitutional concerns over that kind of an issue if it's an established system, an established pool, an established rotation. The journalists who are part of that have an established liberty interest under *Sherrill*, and it cannot be taken away without due process.

THE COURT: So how does that work with government speech, then? Because I thought that the one-on-one interview is not problematic because it's government speech.

MR. TOBIN: Oh, that's not what I said, your Honor. Maybe I'm -- maybe I was --

THE COURT: I could have been thinking about it wrong in my head.

MR. TOBIN: No. The one-on-one interview, the president does -- if the president grants a one-on-one interview, he doesn't control the message that comes out. He controls himself. He can regulate what he says or how he expresses himself or gestures, the tone of voice, how he looks, and all of that.

He can't grant the interview and then tell CBS News, I have to see, you know, the outtakes and I will tell you I don't want to use this part or that part. That would be a constitutional violation.

He can do the same thing by inviting his White House press secretary to come in with a videographer -- and White Houses do this -- and prepare their own message.

That's government speech, because government controls the record; government has the imprimatur of the message through that record.

And those are the hallmarks of the government speech doctrine: control that gives the suggestion of the imprimatur of the government speaking. That's what the *Tam* case taught us.

And in a situation where the AP or CBS or ABC or anybody is reporting on the president, that is not the imprimatur of the government's approval. That's independent reporting. As I said, we call that journalism, your Honor, and that is not anything remotely resembling a government speech type of case where the government is being regulated or forced by regulation to give a message that it disapproves of.

Here, the only thing we're asking the Court to apply, regulatorily, is the Constitution of the United States. And that entitles us to be able to vindicate our liberty interest unless the government takes it away for reasons that comport with due process. And that's simply not what we have here. And the facts just don't reflect the one-on-one type of interview situation.

I mean, the *Ehrlich* case -- *Ehrlich* didn't -- the *Ehrlich* court found that the reporters had no freestanding First Amendment right to have oral questions from the

executive branch.

I think the Court focused some questions at the earlier hearing -- and the witnesses testified -- that's not what's going on in these Oval Office events. That's not what's going on in the east room events.

The press is brought in for a spray. The press is brought in for an opportunity to observe, report, take photographs, and then leave the Oval Office after that opportunity is done, on a rotating pool basis.

THE COURT: But it's more than that. Right? I mean, we have the -- I think you described it as the famous Zelensky interview. And as I understand it, I mean, that arguably went off track because one of the reporters asked why Zelensky wasn't wearing a suit. Right? I mean, that was pivotal to that whole event. And so I'm not sure I can agree that what's happening there is just kind of observing history. Aren't they making history, too, by the questions they pose?

MR. TOBIN: Well, the *Ateba* case, your Honor -- A-T-E-B-A -- which the journalist lost, the *Ateba* case was all about a journalist who was shouting questions during a hard pass entry event. The Court didn't say that, because he was asking questions, he was deprived of his liberty interest. The Court said that there were -- the criteria had been shifted over to Congress and he had not submitted

his application over there, and therefore those objective criteria had not been fulfilled.

So just because a reporter can shout questions doesn't turn it into a demand for oral information. We are not asking for the right to have the president or Zelensky or anybody respond to questions. That is a red herring argument. What we are -- and the case law, I can't emphasize enough, discusses both of those circumstances, your Honor, and distinguishes drastically between them.

What you have before you, your Honor, is evidence of what the Oval Office event is like. It is an opportunity for the press to observe and report things going on behind the Resolute Desk or between foreign leaders which could take place in the east room; it could take place in the press briefing room; sometimes there are joint conferences between the president and a foreign leader in the press room, and sometimes the press do ask questions, and sometimes they shout them, and sometimes the president answers them and doesn't answer them.

But the functionality and the, more importantly, liberty interest doesn't extinguish when you move from room to room. They're entirely different events. And so the functional analysis we think the Court ought to apply, and we would ask you to apply, is that when the Oval Office is used as an opportunity for the president --

THE COURT: Sorry. So -- I mean, Mr. Hudak is about to talk, and he's about to tell me about -- that you're seeking special access.

MR. TOBIN: Of course.

THE COURT: And, you know, it does feel like it is special access vis-à-vis the press briefing room and vis-à-vis many other services that have never gotten into the Oval Office, or certainly don't get into the Oval Office on a daily basis.

Is your argument that, sure, it is special access, but we can't be retaliated against, have our special access revoked on a retaliatory basis? Is that how you see this? Or do you disagree that it's special access at all?

MR. TOBIN: I would say, if we are going to characterize it as special access, the same rules apply. I don't view it as special access. I think I said this at the last hearing. *Zemel v. Rusk*: Nobody has a right to be in the White House. It's all special in some sense. You have to earn it. You have to apply for it. You have to justify it. You have to be a White House dedicated reporter to get in there.

I don't think it's any more or less special if you're admitted into the Oval Office versus the press room versus the east room if the functionality of the event is to observe and report statements and interactions between other

people, and it is not a one-on-one invitation event.

That's what takes it from outside of the *Ehrlich* case. The *Sherrill* case foreshadows that. Your Honor, we cited a litany of cases in our briefing in which courts have analyzed, laid side by side, as this Court, I know, is going to have to do -- laid side by side the *Sherrill* case and the *Ehrlich* case, even post-*Ehrlich*, *Snyder v. Ringgold*, *McKelvey v. Youngstown*. There are four of them that are cited in our brief.

In each of those cases, it distinguishes between opportunities presented to a group of journalists to come in on a regular basis for press briefings, press events, and the individual one-on-one interviews or three-on-one interviews or five-on-one interviews.

Even the *Ehrlich* case -- we talked about at the last hearing the gaggle that took place in a side room in the governor's mansion. Even that specifically says there -- that was by invitation only by the governor, having his people go in and tap people and say, The governor is inviting you to come in and see him.

If the White House was starting over and there was no press pool, we would not have any right to special, general or regular access under *Zemel v. Rusk*, and the president could go to a press outfit and say, We're inviting you and we're inviting your competitor, or we're not.

Entirely different circumstances, your Honor. I don't know how to characterize it any differently to try and persuade the Court. But it is not -- it is not the fact that it is in the Oval Office that makes it any more or less sacred, the opportunity to report on the president, than in the briefing room or than in the east room. And the system just has to comport with due process because of the First Amendment liberty interest --

THE COURT: Should I be thinking about the free speech clause versus freedom of the press clause differently or does that really -- is that a distinction without a difference as far as our case is concerned?

MR. TOBIN: Lovely question, and I appreciate it, your Honor. We're actually having, with a group of scholars from Yale, a series of discussions in our office -- we invite professors in -- about reinvigorating the free press clause and whether there is a distinction to be had. And we have lots of examples from the case law where the Supreme Court has characterized things under the free speech clause or under the free press clause.

I would say it applies to both. Writ large, it's the freedom of expression we're talking about, whether it's by oral or written word or visual medium.

And a liberty interest attaches once you recognize that there is a free expression right, whether it's

characterized as speech or press.

THE COURT: Okay. Thank you.

MR. TOBIN: Thank you, your Honor.

THE COURT: Mr. Hudak?

MR. HUDAK: Thank you, your Honor.

Just as a housekeeping matter, I provided counsel our exhibits, which are numbered 1 through 32. And I think I displayed many of them during our examinations today. I would just -- they're all publicly available materials, and I would move that they be admitted for purposes of this hearing.

MR. TOBIN: No objection, your Honor.

THE COURT: Without objection, to the extent they were not already admitted, 1 to 32 are admitted.

(Whereupon, Defendants' Exhibit Nos. 1 through 32 were entered into evidence.)

MR. HUDAK: Your Honor, I don't know if you want me to start with the pool or the pre-credentialed media or east room, as we're calling it these days. Which one? I'm happy to go with whichever one --

THE COURT: Haven't we been always calling it the east room?

MR. HUDAK: We called it -- so east room, pre-credentialed media. I think we've had the same -- different words for the same concept, though. The larger

audience.

THE COURT: Well, maybe you can start where we just -- Mr. Tobin started. Are you claiming that the AP has -- is eligible to be coming into the Oval Office at this point and it's just been serendipity that it hasn't been for the last month and a half?

MR. HUDAK: I think we just are talking around the word "eligible." And I'm going to explain how I understand it.

I'm eligible to be drafted by the Washington Nationals. I would love to be on that field today playing baseball. I can't hit a fastball, so there is no way that I'm going in there.

So although the AP is eligible, like any hard pass holder, to be selected, they are not being selected.

THE COURT: Okay.

MR. HUDAK: And they're not being selected, as I understand it -- and I think the record is clear; I don't quibble with the record that has been presented -- they are not being selected for Oval Office access because they refuse to adhere to what the president believes is the law of the United States, and is the law of the United States, that the body of water is called the Gulf of America. That is my understanding of why they are not in the Oval Office.

THE COURT: Okay. And so I should understand -- I

mean, as you see it, there's not been a real change of position from the White House that AP -- that the ban still exists and will continue to exist unless and until the AP start -- changes its style guide?

MR. HUDAK: Or until the president believes that something else should occur or --

THE COURT: Sure.

MR. HUDAK: -- the White House press corps -- again, I think --

THE COURT: But that's the record that I'm looking at.

MR. HUDAK: That's the record you are looking at.

I think, when we were last here -- and I think the reason that Mr. Budowich uses the word "eligibility" in his declaration is that it's part of the process they have implemented to change the way that the pool is selected.

Before, those eligible for the pool were only those that were on the list and had standing seats or were on the rotator list.

Now it has been broadened to include new media members and members of the media that have never been in the pool before. That's kind of the eligibility universe. Who is actually selected for the pool is up to the discretion of the White House and the president.

THE COURT: And I think the record provides one,

and only one, basis for denial thus far, and that is this use of Gulf of Mexico. Is that a fair description of the state of events?

MR. HUDAK: I think it's the -- it's the style guide and their treatment of the legal name Gulf of America in their style guide, I think, is the reason that the record currently reveals for that treatment.

THE COURT: All right. So one other thing I wanted your take on. Government speech -- you're arguing that I should not engage in forum analysis as to the Oval Office, that this is government speech and, therefore, you don't even kind of consider whether it's a nonpublic forum or a limited forum, what have you?

MR. HUDAK: I don't -- I mean, I wouldn't go so far as saying government speech. I think this falls in the right-of-access cases.

So I think our point is that it is not a restriction on an ability to speak. It's not a prior restraint. We aren't telling someone they can't publish X. What we are saying is: You can't go into here.

And we think that that is kind of on all fours with *Pell* from the Supreme Court. And the quote there was: It is one thing to say that a journalist is free to speak out sources of information -- seek out sources of information not available to members of the general public,

and that he's entitled to have some constitutional protection of the confidentiality of such sources, and that the government cannot restrain the publication of news emanating from such sources. It is quite another thing to suggest that the Constitution imposes upon the government the affirmative duty to make available to journalists sources of information not available to members of the public generally. That proposition finds no support in the words of the Constitution or any decision of this Court.

That's the baseline that we start with. No journalist can access anywhere that the general public can't access.

THE COURT: Yeah.

MR. HUDAK: The D.C. Circuit has created one small exception in *Sherrill*, which is where, even if the general public can't go in there, if the general media can, then the media has a liberty interest in there.

It has never gone further than that from general access. And what we clearly are dealing with here is not general access. There is only 13 -- 21 spots available to go into the Oval Office. And certainly not all 1300 hard pass members can go in there.

THE COURT: And so why -- I mean, it sounds like you all really agree that I should be thinking about this as a right-of-access case. And so why isn't Mr. Tobin correct

that you can't discriminate against someone on viewpoint discrimination to exclude them? In other words, I think I understand Mr. Tobin to be agreeing with you that, as an initial matter, he doesn't -- his client doesn't have a right to go into the Oval Office; but that you can't, A, invite in these other media organizations and, B, exclude his client on the sole basis of their viewpoint.

MR. HUDAK: Right.

So I think we can -- and I think your Honor started with -- today with saying the proposition that viewpoint discrimination can occur when you are doling out a special interview. "I want to go with this reporter. I think he reports my stories fairly. I've been impressed with the way he's doing things."

That's not going to offend the Constitution if I'm making a content-based determination about who I interview with.

THE COURT: Yeah. But are interview cases right-of-access cases?

MR. HUDAK: I believe they are, your Honor, and I think that we've cited several of them, including some of the ones that my friend on the other side cited in their belief. For example, in *Youngstown Publishing* -- which is an unreported district court opinion, granted -- there's a quote in there that says: Access to individual comments and

off-the-record statements is privileged access to information, not generally made available to the entire press or public. A limited constitutional right of access applies only where comments by government officials are offered in a forum effectively open to all members of the press.

I believe that was a First Amendment case that was talking about when officials can decide who to convey their statements to, including based upon the content of their speech.

We cited several others -- *Bartley* from the Middle District of Pennsylvania in 2014, and *Raycom National* from the Northern District of Ohio in 2004 -- where it's similar. It's content-based, who we're going to give access to.

I think it creates a weird incentive here that if the president were to reduce the size of the pool down to something that would be considered interview, so maybe one news reporter that he likes, one print reporter that he likes, one member of the new media, the case for the government excluding everyone else would be much stronger, but it would not promote freedom of the press or freedom of access to the White House.

And that seems to be a choice that the Constitution can't contemplate, that if the executive wants to allow in a certain population of journalists, albeit

based upon their content, whether it's because they cover particular subject matters or because they, you know, have a particular reporter that the president is friends with and believes his speech is most in line with the messaging he's trying to convey, I don't think that offends the Constitution on the First Amendment side.

And I think if you look at not only the *Ehrlich* case, the *Baltimore Sun* case, if you will, or *Snyder* -- in *Snyder*, it went to specifically contemplate -- this is, again, a Fourth Circuit case. It went to specifically contemplate this scenario, saying that the argument that some reporters must be afforded the same access as others would preclude the equally widespread practice of public officials declining to speak to reporters whom they view as untrustworthy because the reporters have previously violated a promise of confidentiality or otherwise distorted their comments.

The Court went on: Additionally, if the right was somehow limited to situations where access is provided to a broad spectrum of -- is somehow -- even if the right was somehow limited to situations in which access is provided to a broad spectrum of reporters, the plaintiff's role would still presumably preclude the White House's practice of allowing only certain reporters to attend White House press conferences even though space constraints make it

impracticable to open the conference to all media organizations.

Again, in that case, the Court found no constitutional violation even though there was content-based determinations of access.

THE COURT: And so you feel like *Baltimore Sun* is best understood as a right-of-access case?

MR. HUDAK: I think *Baltimore Sun* is -- and *Snyder* kind of merge the line between right of access and right of inquiry. But I think they're still -- you know, do we get access to the person and the information source from the government?

And I think that if they are viewed in that light, I think a government official can say, I want these three people because they cover me fairly and I'm going to give them the skinny about this, you know, upcoming event that isn't yet publicly known. That happens all the time in the press from what we see in these cases.

The fact that any contrary rule would require somehow someone in the White House press conference to arbitrarily or, like, systematically go down, saying, Well, now the *Baltimore Sun* is getting the scoop this week because it's next alphabetically, that just doesn't make any sense.

When you don't have a full general access, or maybe even if the rule is more limited here, and all the

Court needs to decide is that the press pool, with its 13 to 21 members, which is a tiny fraction of hard pass holders, that's special access; that's like a briefing to select journalists.

That's the type of situation in *Sherrill* that they contemplated. In fact, *Sherrill* said that it would be unreasonable -- it would be certainly unreasonable to suggest that because the president allows interviews with some bona fide journalists, he must give the opportunity to all.

And, you know, that's, I think -- and it also mentioned briefings in there. The D.C. Circuit noted this case did not concern the discretion of the president to grant interviews or briefings with selected journalists.

So I really think the Circuit, the D.C. Circuit, went out of its way in *Sherrill* to create the dichotomy of, Look, we're creating a very narrow exception to the *Pell* rule where press do not have any rights of access beyond the general public.

We are creating a rule that if there's general press access, they have a liberty interest. If they don't, they don't.

From the First Amendment side, I think that the executive choosing who to speak with in special-access cases is not a First Amendment violation based upon the content of

their prior speech.

THE COURT: All right. And so for the east room, then, this larger group, I mean, regardless of whether *Baltimore Sun* is helpful to you, in the Oval Office, I don't think it does you much good there.

MR. HUDAK: Yes, your Honor.

And I think our argument, without getting into the likelihood of success on the merits, although it blends somewhat, is that I think the evidence reveals that the AP has had access to the east room events commensurate, and probably better than, any other non-pool media organization. In fact, I believe, after the court reporter read back the question to Mr. Miller, he agreed with that.

If we want to go through the timeline of events -- and I'll just put up the final slide so I do not belabor the point, your Honor --

THE COURT: While you're looking for that, I'll ask you to -- I'll try to ask you the same question I asked Mr. Tobin.

MR. HUDAK: Sure.

THE COURT: Do you agree that the state of the evidence in front of me is that, at least this month, photojournalists have been regularly, if not invariably, admitted into the east room from the AP and foreign print journalists have been occasionally admitted in, but that

Mr. Miller has not been allowed in and hard pass holders from the AP who are print journalists have not been allowed in?

MR. HUDAK: I believe that's the record as presented through the declarations and Mr. Miller's testimony.

It is my -- I think there's probably a dispute about the east room women's event yesterday. It's my understanding -- and I think Mr. Miller confirmed -- that one of the print journalist's RSVP was approved, but wasn't physically admitted into the room.

I have learned over the lunch break that was because of a security situation and that they showed up towards the back half and then, along with 40 other folks that had an RSVP approved, weren't admitted because the president moved quicker than they expected and had to close down various areas of the White House. So it's my understanding that they are being provided access to the east room events.

I would also say that, on the tarmac events, which are pre-credentialed media, they have had a domestic print reporter there at the three that are on our chart here.

So I think, if you look at the realm of pre-credentialed media events, they've had both foreign correspondents, photographers, sometimes multiple

photographers, and domestic print journalists, at least at the tarmac, and it's my understanding there was at least an intent to get them into the event yesterday, albeit the circumstances did not allow for it.

THE COURT: All right. And so I guess you're saying there's no irreparable harm as to the east room?

MR. HUDAK: That's correct. Because the -- whether it's a photojournalist or a text-based journalist or a foreign correspondent, they're able to observe the things that we heard at the TRO hearing that you can't get from a livestream. Again, it's my understanding the White House is livestreaming a lot of these events. I don't know if it's all. Mr. Miller said it wasn't. I need to go back and verify that.

But, you know, the smell of the room -- I think Mr. Tobin mentioned, how heavy is the president breathing? I think folks mentioned, who else is in the room? I think Mr. Vucci confirmed that he's trained to do that. He's trained to be the eyes and ears of his organization in these rooms. And when he's in these rooms, as a professional photojournalist, he's looking to capture not just the main speaker, but the dozing child on the shoulder of her mother during the women's history event. He is looking to capture the reaction and movement of the participants in the event. He's looking to capture what is the ambiance and mood of the

room.

He has all the communication equipment necessary to do that immediately, including his phone to text the -- any text reporter, Hey, you know, Secretary Rubio is here for this, or something of that that would be noteworthy, or there's a water glass in front of President Biden and he's separated by, you know, two blanks, what everyone else is separated by, even if you couldn't have picked that up on the livestream, which I think we demonstrated in a very short notice you could.

So I think the harm that was identified and the harm that continues to be identified in the papers is a lack of access to these non-, you know, core, substantive, if you will, items that you get from perceiving someone in person -- I think they're getting that access. I mean, I don't know how else we can measure irreparable harm in this case, or what harm there could be.

THE COURT: Thank you.

Anything else, sir?

MR. HUDAK: No, your Honor. Thank you.

THE COURT: All right. Mr. Tobin, I'll give you the last word, sir.

MR. TOBIN: Yes.

Your Honor, I just want to reinforce, as I open a short closing, your Honor, there is no principal distinction

between the events that go on in the east room and the Oval Office for analytical purposes under the *Sherrill* doctrine. They're both limited spaces, your Honor. They're both spaces where the president sits down with foreign leaders and other newsmakers and conducts events. They're both areas that only allow for so many people. It happens to be bigger in the east room than in the Oval Office. And they're both areas where journalists observe and report the news.

As the *Sherrill* court put it, they're both sources for -- of news-gathering for journalists. And under the *Sherrill* doctrine, once those sources are established, a rooted liberty interest resides in the press, and it cannot be deprived without due process.

So, your Honor, we don't think that there is an analytical distinction. We understand there's a physical limitation distinction. But for analytical purposes, they're the same kinds of forums for purposes of news-gathering. And we would ask the Court to analyze them both together under *Sherrill*.

Your Honor, to touch on a couple of issues that have been raised throughout the day today --

THE COURT: Yes.

MR. TOBIN: -- in terms of the chilling effect, your Honor, AP is not going to stand here and tell you that

they're intimidated into reporting any differently on the president because the president is trying to bully them, trying to coerce them into toeing an official party line, or letting the White House dictate its vocabulary.

But if the question in First Amendment retaliation comes down to, you have to succumb to have a cause of action, we'd be swimming upstream against decades, generations, of First Amendment activity. The First Amendment protects journalists who have the courage of their convictions, as well as journalists who succumb to the will of government --

THE COURT: Yeah, and so on that point -- I mean, that's why I asked Mr. Miller about other journalists who have. And frankly, I didn't hear a lot of specificity from him there.

MR. TOBIN: May I have leave to submit a declaration to show the Court what NBC, ABC, MSNBC, CBS and CNN did with its reporting on the splashdown in the Gulf, just as an illustration --

THE COURT: We can talk about that. I'm not sure that you want continued fact-gathering here. We might get a third declaration from the White House. So let's talk about whether -- I anticipated this being a lid, so to speak, on the factual --

MR. TOBIN: I understand.

THE COURT: -- development.

But anyway, on the chilling point, is it relevant -- I mean, even if I -- I'll tell you, you know, my instinct is that this has not changed how your client is exercising its free speech rights, nor do I think you've shown that other organizations have changed.

It looks to me like maybe that's not the -- the chilling is also kind of whether it's restrained your ability to exercise your free speech rights. And I'd think, there -- in other words, you know, it may be easiest going back to Mr. Vucci's testimony. He's not taking -- he gets fewer opportunities to take pictures even if he is still exercising the same editorial discretion that he did before.

And so those feel different to me. But perhaps you win either way.

MR. TOBIN: Well, we would say whichever way the Court feels the evidence lies most strongly for us would be what we would urge --

THE COURT: Well --

MR. TOBIN: -- but --

THE COURT: -- I'm trying to ask you --

MR. TOBIN: But --

THE COURT: -- about the law.

MR. TOBIN: No, I understand. I don't think there's a distinction -- I do think that when Mr. Vucci

testifies that he can't get the photographs because he would have been in the pool but for the exclusion, and we have to rely on -- not to offend any competitors, but inferior-to-AP-standards photography or delays in the release of information, that is a material impact on the way AP expresses itself to its subscribers.

And we know from the declarations that the AP subscribers and advertising base feel that the coverage is materially different, that there are subscribers -- we have that in one of our declarations -- who have said, We're not sure that we'll continue with the AP.

We had an advertiser pull out -- a $150,000 advertiser pull out because they were concerned about the White House ban and the conflict with the White House over this. So it is causing real and material harm, not just to the AP's business, but to the way in which the AP expresses itself before and after the ban. So I would say that is, in and of itself, a chill.

I would also note that the First Amendment cases on retaliation generally fall out on --

THE COURT: So is that the right way to think about chill, though? Like it almost sounds to me like you're analogizing it to injury. And I guess I thought chill was more making me act in a way I wouldn't have acted otherwise.

MR. TOBIN: And there are two elements. We can look to the *Ehrlich* case for that, that the adverse impact, the overarching legal standard, is: Has there been an adverse impact on exercise of First Amendment rights?

That -- in the *Ehrlich* decision, they drilled down to a substantial adverse impact or chill. They characterized it in the disjunctive. Judge Niemeyer then went on to analyze: Adverse impact is *de minimis*. And he looked at the fact that the reporters themselves -- I'm sorry -- that the coverage had not been materially changed.

Your Honor, I can't do any better than the record we've done today to show that the AP's coverage has been materially changed, that there has been an adverse impact, and it has not been *de minimis*. It's substantial and fulsome in the way this retaliation has affected the AP.

And then the Court went on to say: And there's been no chill in the way the reporters individually are expressing themselves.

So there are two paths to adverse impact. If the Court wants to rest on -- express on how they express themselves, I would say the Court would be committing reversible error. The way to look at this is in the disjunctive: Has there been a chill in the way they express themselves?

I do think that the loss of opportunities for

AP -- and AP is the Plaintiff here -- the loss of opportunities for AP and having to put other people's products out that it deems not meeting its own criteria, and because it's slow -- and AP is an organization that, as part of its free speech, exercise of free expression, relies on rapidity -- I think that there has been a chill in the individual way AP expresses itself and that the impact cannot be characterized, as the *Ehrlich* impact was, as *de minimus* because of all of the lost opportunities, all of the missed moments, all of the things you heard these journalists talk about that they would have and hope to have captured. But they were unable to do that.

THE COURT: And so you're saying, even if I agree with Mr. Hudak that *Baltimore Sun* is the right way to think about this, the Oval Office opportunities, that the Government loses under kind of the chill analysis?

MR. TOBIN: I could see the Court, yes, putting in its opinion that -- even if I were to analyze it under *Ehrlich*.

But *Ehrlich* is really just -- the analytical model is First Amendment retaliation, and it is one of our -- two of our four causes of action. So the Court will need to perform the adverse impact analysis under the First Amendment, whether it uses *Ehrlich* or whether it uses the case *Heffernan* in the U.S. Supreme Court, *Heffernan v. City*

of Paterson, decided in 2016. The cite, your Honor, is 578 U.S. 266. I'm going to quote in a minute from Pages 273 to 274.

Your Honor, in that case, it was a law enforcement officer who was seen carrying signs for the opponent of the mayor to his car. He happened to be carrying them for his mother. He was a supporter of the mayor's. On the city's instructions, he was demoted, as I remember the facts in that case, in retaliation for what was perceived to be his expression.

The District Court and the Court of Appeals said that just because he was demoted, it was not a sufficient adverse impact; there had been no showing of the necessary elements.

The U.S. Supreme Court said -- and he hadn't changed his point of view. He actually was a supporter of the mayor's. He disagreed with his mom.

But the Supreme Court said that the actual test there was not whether he himself was chilled and changed his political expression or his vote. The issue in this case is whether the discharge of one employee, the plaintiff, tells others that if they engage in that activity, they do so at their peril.

And so -- and *Ehrlich* talks about this. It is an objective standard: Would a reasonable person be chilled in

the expression of their activity? And there's no question. We've seen people change their expression from Gulf of America to Gulf of Mexico -- or from Gulf of Mexico to Gulf of America, who previously had reported otherwise, because the president told them so.

And so there is not only a tendency to chill, but we've seen in just our recent experiences an actual impact on the way people speak, which is what the president wants, which he may want and he can message as many times as he wants, but he cannot deprive people of a liberty interest and he cannot retaliate against them if they make a different choice, consistent with either the Fifth Amendment or the First Amendment.

THE COURT: So -- and I think you told me this last time, but you'd see -- you don't see *Baltimore Sun* as a right-of-access case. You disagree with Mr. Hudak there?

MR. TOBIN: You know, your Honor, I practice First Amendment law, and I'm so wonky on it I think of it in a certain specific way.

THE COURT: Yeah --

MR. TOBIN: And I apologize if my -- the way I express myself isn't completely aligned with you both.

And I don't think it's adverse to us for you to say the word "access." I think of it as a right not to be excluded once access is provided. And those are two

fundamentally constitutionally different events.

THE COURT: And that's what you're describing *Baltimore Sun* as or that's what you're describing this situation as?

MR. TOBIN: This situation.

THE COURT: Okay.

MR. TOBIN: That we've been provided with access; we've been provided with a system that's given us a rooted liberty interest that we are being excluded from on the basis of viewpoint discrimination on the Fifth Amendment claim without any due process, and on the First Amendment claim we're being retaliated against.

THE COURT: But I'm asking you about *Baltimore Sun*. Should I understand *Baltimore Sun* as a right-of-access case?

MR. TOBIN: No. I would say *Baltimore Sun* was a right of -- oral communications from the government, right to demand equal oral communications from the government as everybody else. So the one-on-one interview with anybody in the government. That's what the facts were in *Baltimore Sun*.

I think the Court knows it was an edict to the entire executive branch: Don't answer Mr. Nitkin's or Mr. Olesker's questions from anybody in the executive branch.

That's the analogy to the one-on-one interview. So it's a one-on-one interview case.

THE COURT: And if I disagreed with you and followed *Baltimore Sun*, I get to the chill factor. Why wouldn't this evidence that Mr. Hudak presented this morning showing -- I think it was primarily with Mr. Vucci, that you're still getting all of these pictures and in fact charging people for them -- why doesn't that really vitiate your adverse impact evidence?

MR. TOBIN: Well, I think what he was shown -- what Mr. Vucci was shown were largely other people's photographs, not ours. And the Sipa photographs are not our news product or even distributed, I think the testimony said, for our news stream. They're put up on our website to be sold, just like in a Walmart you might have two different brands of bathrobes for sale. It's the distribution mechanism.

AP has a distribution hub as part of its business for other people's journalism in addition to sending out to its members and subscribers its journalism. And the fact that Reuters and others, *New York Times*, have been kind enough, in solidarity for this conflict, to give the AP licenses to send out their photographs is no substitute, especially when Mr. Vucci testifies they don't give them the good stuff and they don't give it to them in the same

timeliness. And that is all impacting the AP's brand.

And so it is not -- it does not equate under *Baltimore Sun* with -- I think the numerics were 142 articles covering the state house by Mr. Nitkin and Mr. Olesker before the ban, 144 after the ban. No material impact, or any impact was *de minimis*.

This is not a *de minimis* impact to force us to put someone else's product out as our own or -- to our customers. And the customers certainly, as the evidence shows, haven't been satisfied with that.

THE COURT: All right. Thanks, gentlemen. It's been a long day. I appreciate your thoughtful briefing and arguments here.

As I say, I think if I'm going to get a ruling out in any sort of timely fashion, I think we need to call a halt to additional factual submissions. I think one exception to that is if the parties would like to tell me that AP is now being admitted to the Oval Office, I think that could be a very different situation.

But right now, why don't we stick with what we have, and I'll take the matter under advisement and get back to you all as soon as I can.

MR. TOBIN: We appreciate the Court's careful attention.

THE COURT: Thanks.

MR. HUDAK: Thank you, your Honor.

(Proceedings concluded at 3:43 p.m.)

CERTIFICATE

I, LISA EDWARDS, RDR, CRR, do hereby certify that the foregoing constitutes a true and accurate transcript of my stenographic notes, and is a full, true, and complete transcript of the proceedings produced to the best of my ability.

Dated this 1st day of April, 2025.

/s/ Lisa Edwards, RDR, CRR
Official Court Reporter
United States District Court for the District of Columbia
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Washington, D.C. 20001
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSOCIATED PRESS, Plaintiff, v. **TAYLOR BUDOWICH**, in his official capacity as White House Deputy Chief of Staff, *et al*., Defendants.	Case No. 1:25-cv-00532 (TNM)

MEMORANDUM ORDER

The Government moves for a stay of this Court's preliminary injunction pending appeal. Mot. Stay, ECF No. 52. The Court has already stayed its injunction, on its own motion, until April 13, 2025, to allow the Government time to appeal. Order, ECF No. 47. The Court will not extend that stay further.

"[A] stay pending appeal is always an extraordinary remedy." *United States v. Philip Morris USA, Inc.*, 449 F. Supp. 2d 988, 990 (D.D.C. 2006) (quoting *Bhd. of Ry. & S.S. Clerks v. Nat'l Mediation Bd.*, 374 F.2d 269, 275 (D.C. Cir. 1966)). The moving party thus faces a "heavy burden" to justify its request. *Id.* Courts evaluate four factors in this decision: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). After considering these factors, the Court denies the Government's request to stay the injunction pending appeal.

Most importantly, the Government has not shown it is likely to succeed on the merits. The Government sidesteps traditional forum analysis by invoking an "intimate spaces" exception to the First Amendment. Mot. Stay at 1, 3. But this label is untethered from precedent, which is likely why the Government did not advance this notion at all in its merits arguments for the injunction briefing. To the contrary, the D.C. Circuit suggests that government offices fit squarely into the definition of nonpublic fora. *Price v. Garland*, 45 F.4th 1059, 1068 (D.C. Cir. 2022); *see also Ateba v. Leavitt*, 2025 WL 1036451, at *5 (D.C. Cir. Apr. 8, 2025) ("government office building"). And the Government's motion does not begin to address First Amendment retaliation caselaw, an independent justification for the Court's decision. So the motion fails on the law. But it also misconstrues the facts.

The *first* so-called intimate space the Government addresses is the Oval Office. But the Oval Office is not just a "personal workspace." Mot. Stay at 1. It is the President's formal office, to which Defendants regularly invite a rotating group of 21 journalists for "pool sprays" and historic meetings with world leaders. *Associated Press v. Budowich*, --- F. Supp. 3d ---, 25-cv-00532, 2025 WL 1039572, at *13 (D.D.C. Apr. 8, 2025). The President has other personal workspaces to which Defendants do *not* routinely invite a gaggle of reporters. *See* Angela Tchou, *See Where Does Obama Work?,* Slate (Sept. 10, 2010) [https://perma.cc/U4EC-G545]; *Oval Office Study*, Wikipedia [https://perma.cc/A47T-ZSRD] (small study adjacent to the Oval Office); *see also The Second Floor*, The White House Historical Association [https://perma.cc/3GQ6-RFAG] (Treaty Room on second floor of White House residence). *Those* are truly "intimate spaces," and they are so precisely because Defendants do not regularly invite in prying reporters and the like.

The *second* "intimate space" the Government highlights is Air Force One. Mot. Stay at 1. To be clear, the President travels in first class territory in the nose of this Boeing 747, while the press pool is confined to the rear of the plane. *Cf. Air Force One*, The White House (2025) [https://perma.cc/9P4J-BFRH]. The Government's claim that this jumbo jet configuration is an intimate space is simply not credible.

The Government's *third* intimate space is the Mar-a-Lago Club. True, Mar-a-Lago contains the President's private residential apartment, but it is also an exclusive golf club, with large public rooms open for rental. *See Welcome*, The Mar-a-Lago Club [https://perma.cc/ZP5F-J64L]. The event at issue was an Executive Order signing ceremony with many journalists and local officers in the audience. *See President Trump Signs Executive Orders at Mar-a-Lago*, The White House, 36:45–36:55 (Feb. 18, 2025) [https://perma.cc/6UAE-TJG4]. Whether forum analysis applies to private property in this Government-use context is a close question that the Court need not resolve now—especially considering that the parties did not brief it.

Recall that the Court's Order rests not just on forum analysis, but also on retaliation precedent. *Associated Press*, 2025 WL 1039572, at *17 ("[T]he AP has shown that it is likely to succeed on the merits of its . . . retaliation claims . . . for its exclusion from eligibility for . . . limited-access events"). And under that precedent, "[a]n ordinarily permissible exercise of discretion may become a constitutional deprivation if performed in retaliation for the exercise of a First Amendment right." *Toolasprashad v. Bureau of Prisons*, 286 F.3d 576, 585 (D.C. Cir. 2002) (cleaned up). Whether or not forum analysis applies here, the Government has given no reason to believe that the First Amendment's retaliation doctrine stops at the threshold of private buildings used for Government functions. And the burden, at this juncture, is the Government's. *Philip Morris USA, Inc.*, 449 F. Supp. 2d at 990.

This Court's conclusion did not rebuff *Sherrill*. Mot. Stay at 1. It did not reach the *Sherrill* question at all. *Associated Press,* 2025 WL 1039572, at *18. *Sherrill* predated modern forum analysis, and while it discussed viewpoint discrimination, it focused on the Fifth Amendment—a claim that the Order does not reach. *Id.*; *Sherrill v. Knight*, 569 F.2d 124, 129–30 (D.C. Cir. 1977). But insofar as *Sherrill* suggests that "arbitrary" discrimination is anathema, that principle supports Plaintiff, not the Government. *Id.* at 129 ("[A]rbitrary or content-based criteria for press pass issuance are prohibited under the first amendment.").

Next, the parties' competing asserted harms and the relevant equities do not alter the Court's original calculus. The Government's cherry-picked quote from the cross-examination of an AP witness does not undermine the Court's comprehensive findings of fact. *See* Mot. Stay at 6 n.2. As the Court previously found, the AP's text journalists have been systematically banned from large, limited-access events open to the entire White House press corps, and its photographers have experienced more limited access to such events compared to other hard pass holders. *Associated Press,* 2025 WL 1039572, at *4. The ban Plaintiff experienced need not be complete to be unconstitutional or irreparable.

In short, the equitable considerations do not favor the Government; the AP will be irreparably harmed without the injunction and that harm would revive upon staying it, while the Government's "policy goals may never triumph over the Constitution." *Id*. at *18.

Finally, invoking a vague separation-of-powers argument for the first time in a motion to stay does not help the Government's case. Mot. Stay at 5. It cites no precedent that would allow this Court to overcome the clear commands of First Amendment precedent in the interest of a greater separation-of-powers concern. Constitutional protections would be worth little indeed if they wilt in the face of presidential incursion.

For these reasons, it is

ORDERED that Defendants' [52] Motion to Stay the Preliminary Injunction is **DENIED.**

SO ORDERED.

Dated: April 11, 2025

TREVOR N. McFADDEN
United States District Judge