UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

No. 1:25-cv-10685-WGY
Volume 2, Pages

AMERICAN ASSOCIATION of UNIVERSITY PROFESSORS, et al,
Plaintiffs

vs.

MARCO RUBIO, in his official capacity as
Secretary of State, et al,
Defendants

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BENCH TRIAL DAY 9

BEFORE THE HONORABLE WILLIAM G. YOUNG
UNITED STATES DISTRICT JUDGE

United States District Court
District of Massachusetts (Boston.)
One Courthouse Way
Boston, Massachusetts 02210
July 18, 2025

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Court Reporter: Kelly Mortellite, RPR, RMR, CRR
Official Court Reporter
United States District Court
One Courthouse Way
Boston, Massachusetts 02210
mortellite@gmail.com

A P P E A R A N C E S

RAMYA KRISHNAN
ALEXANDER ABDO
SCOTT B. WILKENS
XIANGNONG WANG
Knight First Amendment Institute at Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115
(646) 745-8500
ramya.krishnan@knightcolumbia.org
and
COURTNEY GANS
NOAM BIALE
ALEXANDRA CONLON
Sher Tremonte LLP
90 Broad Street, 23rd Floor
New York, NY 10004
(212) 540-0675
Cgans@shertremonte.com
For Plaintiffs

ETHAN B. KANTER
WILLIAM KANELLIS
VICTORIA M. SANTORA
JESSICA A. STROKUS
DOJ-Civ
P.O. 878
Ben Franklin Station
Washington, DC 20044
(202) 616-9123
Ethan.kanter@usdoj.gov
and
SHAWNA YEN
United States Attorney's Office
1 Courthouse Way, Suite 9200
Boston, MA 02210
Shawna.yen@usdoj.gov
(617) 748-3100
For Defendants

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P R O C E E D I N G S

(Resumed, 11:06 a.m.)

THE COURT: Mr. Kanellis.

CROSS-EXAMINATION BY MR. KANELLIS:

Q. Ms. Dubal, you testified on direct that you joined AAUP as general counsel in October 2024, correct?

A. Yes.

Q. That's actually when you became a member of AAUP; is that right?

11:06 A. Yes.

Q. You've been a general counsel for less than a year?

A. Yes.

Q. And you've described in your direct testimony how this alleged ideological deportation policy has caused you to shift the work you're doing at AAUP; is that right?

A. Yes.

Q. You claim that the effect of the ideological deportation policy was to cause you to shift away from issues like adjunctification to other issues. Fair statement?

11:07 A. Yes.

Q. Okay. That took you away from the work you intended to do at AAUP when you signed on in October of last year, right?

A. And the work I'd begun to do, yes.

Q. I just want to make one thing clear. Are you a U.S. citizen?

A. I am.
Q. You're not a noncitizen member of AAUP, correct?
A. Correct, I am the general counsel and a U.S. citizen.
Q. Okay. And with respect to the noncitizen members of AAUP, you have not directly observed noncitizen members being restrained from their First Amendment rights, correct?
MR. WANG: Objection.
THE COURT: I'm not sure I understand the question. "Restrained" as in physically restrained?
11:08 MR. KANELLIS: Restrained in any respect, Your Honor.
THE COURT: Including being chilled?
MR. KANELLIS: Yes, sir.
THE COURT: She may answer it.
A. I would say that I have.
Q. You have. You predominantly work in California, correct?
A. Yes.
Q. And so your participation as general counsel for AAUP has generally been through telephone conversations and remote work. Fair statement?
11:08 A. Yes.
Q. You're not physically present at AAUP's headquarters in Washington, D.C., are you?
A. No.
Q. How many times have you visited the headquarters?
A. I have never been in the headquarters.

Q. Never been once in the headquarters of AAUP.

How many physical meetings with other members of AAUP present have you attended since October of 2024?

A. Physical, maybe three or four.

Q. Three or four, okay. Now, your primary job is as a law professor at the University of California Irvine, correct?

A. Yes, sir.

Q. About how many hours do you spend working in that capacity per week?

11:09 A. As a law professor at USC Irvine?

Q. Yes, ma'am.

A. Depends on the week but a good 40 hours.

Q. 40 hours a week. And your work at AAUP is not a full-time job, right?

A. No. It is a service position.

Q. Service position. And your work at AAUP since you began working at AAUP has been about five to eight hours a week. Fair statement?

A. Yes.

11:09 Q. And that's remained relatively consistent since you began until now, correct?

A. Yes.

Q. Let's talk about AAUP itself. You talked about AAUP's mission. AAUP stands for the American Association Of University Professors, right?

A. Yes.
Q. It's not the International Association of University Professors, right?
A. We do have Canadian members.
Q. Okay. You have Canadian members, but the primary focus of American Association of University Professors is American universities. Fair statement?
A. Yes.
Q. In fact, the vast majority of chapters associated with AAUP are located on campuses in the United States. Fair statement?
A. Yes, although some of our universities have campuses abroad as well.
THE COURT: Excuse me. I had to think why you picked out Canada, but then it came to me it's the "American." Do you have Mexican members?
THE WITNESS: I don't think so.
THE COURT: Citizens of Mexico?
THE WITNESS: Oh, citizens of Mexico, yes.
THE COURT: Who are members of AAUP?
THE WITNESS: Yes, absolutely.
THE COURT: All right.
BY MR. KANELLIS:
Q. And the focal point of the university chapters is -- and there are hundreds of those chapters, correct?

A. Yes.
Q. There are hundreds, they're in Syracuse, Nebraska, even in Arcadia?
A. Correct.
Q. Question for you: Does AAUP track the citizenship of its members?
A. No.
Q. In fact, when you applied to become a member of AAUP, you didn't list your nationality or citizenship, did you?
11:11 A. No, I did not.
Q. So you can't tell just by looking at a membership form who or what country a member comes from. Fair statement?
A. Yes.
Q. The only way that you would discern whether or not someone is a citizen or noncitizen member is if they actually told you, right?
A. Correct.
Q. AAUP has been seeking to expand its membership. Fair statement?
11:12 A. Yes.
Q. Yeah, you're actively trying to increase the number of individuals who are members of AAUP. That helps the organization. Fair statement?
A. Sure.
Q. In fact, just in the last, since the Trump administration

was voted in in November, AAUP has actually increased the number of chapters that it has formed, correct?
A. I think that's correct, and I think that the fact that so many people have lost their research, have had their jobs threatened and generally the attacks on higher education make it so that not only is our organization of increased importance but that many people see that importance, and so we've seen our membership rise.
Q. Seen your membership rise, and it has bolstered, it has
11:13 bolstered the membership of AAUP and has increased the ability of your organization. Fair statement?
A. Yes.
Q. You are employed by AAUP as general counsel, correct?
A. I am not employed.
Q. You are a contract worker?
A. I am in a service position for which I receive a stipend.
Q. You receive money for what you do, right?
A. Yeah, I receive 1,250 a month.
Q. $1,250 a month?
11:13 A. Yeah.
Q. For the work that you do.
And that's for five to eight hours a week of work?
A. Yeah.
Q. And you're testifying here today in your capacity as AAUP's lawyer, isn't that right?

A. As the general counsel, correct.
Q. You understand that it's in AAUP's interest that the testimony you give support the claims AAUP made in the complaint, isn't that right?
A. Yes.
MR. WANG: Objection.
THE COURT: No. Overruled. They're entitled to bring that out.
You do understand, I mean, you're here representing AAUP.
THE WITNESS: Yes.
BY MR. KANELLIS:
Q. It's in your interest because AAUP pays you money, isn't that right?
A. I would say no.
Q. No. You want to remain employed by AAUP, correct?
A. I am not employed by AAUP. This is a service position. The amount of money that I receive is negligible, and I am doing this because I care about academic freedom and shared governance.
Q. And you're not going to give testimony contrary to the statements in the complaint, are you?
A. I don't intend to, no.
Q. You testified earlier that the IDP, the deportation policy, was implemented in late February or early March in your

opinion; is that right?
A. Yes.
Q. And what was the basis for your opinion?
A. It was both the fact of the detention and deportation attempt of Mahmoud Khalil as well as what I was reading in the media.
Q. In the media on the Internet?
A. We get the New York Times in its physical form but, yes, in the media.
11:15 Q. Okay. You read the New York Times, and then you saw reports on the Internet. Fair statement?
A. Yes.
Q. Did you read the executive orders issued by the President in January of this year?
A. I did, yeah.
Q. And is that also the basis for your belief that there's an ideological deportation policy?
A. I would say yes as I sit here now, but I would need to go through and look at the executive orders again to be point to
11:16 specific things.
Q. Okay. But you're not aware of any specific language sitting here in the executive orders that would indicate that there was an ideological deportation policy, correct?
A. Not without looking at them again.
Q. Right. The executive orders that were issued to your

recollection don't even contain the word "Palestine," do they?
A. I think that there were a record number of executive orders issued in the last many months, so I couldn't answer that question with any degree of certainty.
Q. Okay. You indicated, I believe, there were two virtual conferences that were held this year by AAUP, correct?
A. That's right.
Q. And you were the person who organized those conferences, right?
11:16 A. Correct.
Q. And I believe those conferences were held over Zoom, correct?
A. Yes.
Q. And you again did not physically attend, you were not physically present in a room with a bunch of other members. Is that a fair statement?
A. We had members from all over the country, and it was done in a digital space.
Q. In a digital space. So you were sitting alone in an
11:17 office, and then other members who attended were also at various different locations, correct?
A. Yes.
Q. You did not have the opportunity to talk to individuals who attended that conference outside of that space that you had created on Zoom. Fair statement?

A. I spoke to some of them both before and after the conference in individual capacities.
Q. Okay. With respect to the Zoom, I want to make sure I understand how the Zoom meeting was set up.
When the Zoom meeting was set up, was there an identifier associated with the different attendees so that you could identify who they were?
MR. WANG: Objection, objection.
THE COURT: No. Overruled.
11:17 A. Sometimes people included their actual names. Sometimes they used, you know, a fake -- you know, just like words that didn't make sense so they couldn't fully be identified. And oftentimes many people had called in so you could only see their phone number.
Q. Okay. And to be clear, under the names, it didn't list the citizenship of the people who attended, correct?
A. No.
Q. You couldn't tell from just observing the Zoom meeting whether somebody was a U.S. citizen or a citizen of another
11:18 country, could you?
A. I could not.
Q. And then when people spoke at this meeting, people didn't announce, "I'm a member" or "I'm a citizen of this country," before they spoke, right?
A. Actually, people often did when they answered the

question. So they would say, you know, "I'm here on a J visa, this is what's happening," and then they would sort of frame their question in that way, which I at the time felt very worried about because I was worried that stating their nonimmigrant status, if the Zoom were being observed, could make it easier to identify who that person was by a government entity. And I remember thinking, gosh, I really wish they wouldn't do that, but people did.

Q. To be clear, did you think these meetings were being observed?

A. I thought that that was a possibility.

Q. Possibility. These were private meetings, right?

A. They were private meetings, but we also had a private meeting that was put up on Zoom, so the privacy of our meetings were, you know, not foolproof. A full membership meeting was leaked onto Zoom by someone who was not a member. So I had to consider the possibility that even though we stated that these were private meetings, we intended them for them to be private meetings, that there could be observers, either vigilante observers or government observers who could leak the identity of people who stated that they were noncitizens or who attended the meetings to ICE.

Q. And with respect to these, what you're saying is third parties could have accessed these meetings. Fair statement?

A. They could have, and they certainly did in at least one

instance that I became aware of.
Q. Okay. And with respect to -- so with respect to the individuals who attended, you didn't know if they were members of AAUP or they were not members of AAUP, isn't that right?
A. The emails went out to only our members. So we assume that the large number of people -- largest -- you know, that the people who signed up to the Zoom were members. But as with any digital meeting, it is possible that it could have been accessed by other people.
11:21 THE COURT: Do you remember how many, can you estimate, were at the first town hall?
THE WITNESS: So I remember that the first town hall that we had 700 people sign up and about half of those people attended.
THE COURT: And the second.
THE WITNESS: Around the same. I think less people signed up, but more people attended. I can get the exact numbers for you from our staff if that's useful.
BY MR. KANELLIS:
11:21 Q. So the attendance at these events increased from the first to the second, right?
A. Yes.
Q. And you don't know who was at the events because, as you indicated, third parties could have accessed these events, correct?

A. They could have done so surreptitiously, but our staff does know who signed up for the events.
Q. Well, I'm asking about whether you know that anybody outside of the organization, AAUP, attended the event. That's quite possible --
A. I considered that it was a possibility, yes.
Q. So you don't know whether these were members who attended or they were people outside of the organization who attended?
MR. WANG: Objection. Asked and answered.
11:22 THE COURT: It has been. Let's move on.
Q. You know it's possible that the people who attended the meeting were completely unassociated with AAUP, isn't that right?
MR. WANG: Your Honor, same objection.
THE COURT: Sustained as to what's possible.
A. I'm sure that's --
THE COURT: No. That's sustained.
THE WITNESS: Sustained, okay. Sorry.
Q. And you did not, after the meeting you did not speak to
11:22 members to confirm that they were members -- or sorry.
You did not speak to the attendees to confirm whether or not they were members who attended?
A. I did not follow up with each attendee, no.
Q. And you indicated that certain members had kept their screens black, right, or attendees had kept their screens

black, right?
A. Correct.
Q. But you don't know the reason why they kept their screens black, do you?
A. I can only guess.
Q. You can only assume, right? They could have just not wanted -- they may have had a bad hair day and that may the reason they didn't want appear --
THE COURT: I think we understand. Using the word guess and the like, she drew inferences, this court can draw inferences, and having a bad hair day may be one of them. Go ahead.
Q. You have no -- you did not confirm with members after the meeting why they kept their screens black, isn't that right?
A. Sir, I would say that based on my experience in other AAUP meetings that are open to our members that most people keep their screens on and their names clear, and they state who they are before they speak. And it is very common to have meetings in which people are fully present and want their presence to be known. This was a very different kind of meeting.
Q. It's because some people had their screens blackened?
A. And -- yes.
MR. KANELLIS: No more questions, Your Honor.
THE COURT: Nothing further.
MR. WANG: Nothing further.

THE COURT: Thank you. You may step down.

THE WITNESS: Thank you, sir.

THE COURT: But for denominating -- let me stick to the plaintiffs here. But for denominating part of the record that you want culled out as to individual exhibits, plaintiffs rest?

MS. CONLON: Sorry. But for -- there's two pieces, just so I'm really clear. The first is there are several documents we just used with Mr. Armstrong that we want to 11:24 assign exhibit numbers to, and we have a proposed list that we could hand to the court if the court wants to read them into the record.

And then the second component -- sorry, I see your outstretched hand. My colleague can -- okay. This is just proposed exhibit numbers for the action memos that have been provided to us and then a related piece for us. We want to submit -- the court noted that we could submit designations from Mr. Armstrong's deposition in particular relating to some of the executive privilege stuff that came up in his 11:25 examination pursuant to Federal Rule 32(a)(iii).

THE COURT: Are you ready to recite it?

MS. CONLON: The rule?

THE COURT: Not the rule but the portions of the exhibit.

MS. CONLON: The portions of his deposition, you mean?

THE COURT: The deposition.

MS. CONLON: I am not going to recite it; nor am I ready to pass it to the court --

THE COURT: Right. You can do that on Monday.

MS. CONLON: Relatedly, Your Honor, there are other government officer depositions that we have provided designations of to the government in the event that they have counter-designations that I understand they have not had the opportunity to yet counter-designate but that we would like to
11:26 submit to the court for consideration on Monday.

THE COURT: All right. Wait a minute. Wait a minute. All right, Monday. And we'll meet at 9:00, not at 10:00 to --

MS. CONLON: Okay.

THE COURT: Because it's so important to settle the record. What's in the record I'll look at. What's not in the record I'm simply not going to look at.

What I was fishing for is to hear both sides say they rest. The plaintiffs don't. But now I'll do what I said I would do.

11:26 The action memo that covers Khalil and Chung is admitted in evidence, Exhibit 247. The action memo related to Mahdawi is admitted in evidence, Exhibit 248. The action memo related to Suri is admitted in evidence as Exhibit 249. And the action memo related to Ms. Ozturk is admitted into evidence as Exhibit 250.

(Exhibits 247, 248, 249, 250 admitted into evidence.)

THE COURT: Now, the defense doesn't have to formally rest until the plaintiffs have rested, but you have more evidence you wish to produce?

MR. KANELLIS: Your Honor, yes, we do.

THE COURT: What's that?

MR. KANELLIS: We have an unavailable witness under Rule 804 that is outside this court's jurisdiction, and pursuant to 804(a) and 804(b), we would like to designate his
11:27 testimony and read part of his testimony into the record because we do have some extra time.

THE COURT: You have extra time on the timing. But one, again, I have somewhere to go, frankly. I propose the following: that we meet at 9:00, we work through theirs, we work through yours, but I don't see any need to read it in open court because I can read.

MR. KANELLIS: Your Honor, I appreciate that you can read. We believe these are -- we're not going to read the entire thing, just a short excerpt that I think bears emphasis
11:28 that we would like to highlight.

THE COURT: That's a candid statement. I read fast. So we'll see where we go on Monday.

Thank you. So we're clear then, once we've done that and both sides formally rest, I'm in a position for oral argument. The more I think about it, I want to revise it in

this wise, and I give you warning now. Plaintiffs will argue first, then the defense will argue, because there's questions I have to -- as I've indicated, and as I sit here I think I stand right with it, the matter is sufficiently complex that I'm pretty clearly going to take everything under advisement and wait for proposed findings and rulings. But it will just make more sense, thinking about it, if I pose my questions first to the plaintiffs, who have the burdens of proof, and then as to those questions and given the tenor of their argument, I think
11:29 it would make more sense in posing my questions to the defense counsel for the government officials. And we'll do that on Monday.

I do have somewhere to go. It's a very nice day out.

MS. KRISHNAN: Your Honor, I don't want to detain you any further. I just want to clarify how much time we have left.

THE COURT: You have 40 minutes. They have 45. We'll stand in recess until 9:00 a.m. Monday morning, but I assume we can get through the talky-talk pretty fast. We won't start the
11:30 arguments until 10:00 to give you a sense to pull yourselves together for the arguments. We'll recess.

(Adjourned, 11:30 a.m.)

CERTIFICATE OF OFFICIAL REPORTER

I, Kelly Mortellite, Registered Professional Reporter, Registered Merit Reporter and Certified Realtime Reporter, in and for the United States District Court for the District of Massachusetts, do hereby certify that the foregoing transcript is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter to the best of my skill and ability.

Dated this 18th day of July, 2025.

/s/ Kelly Mortellite

_____

Kelly Mortellite, RPR, RMR, CRR

Official Court Reporter