

1 JEAN-PAUL JASSY, Cal. Bar No. 205513

jpjassy@jassyvick.com

2 KEVIN J. VICK, Cal. Bar No. 220738

kjvick@jassyvick.com

3 **JASSY VICK CAROLAN LLP**

800 Wilshire Boulevard, Suite 800

4 Los Angeles, California 90017

Telephone: 310-870-7048

5 Facsimile: 310-870-7010

6 LEE E. GOODMAN (*pro hac vice* application forthcoming)

lgoodman@wileyrein.com

7 ANDREW G. WOODSON (*pro hac vice* application forthcoming)

awoodson@wileyrein.com

8 **WILEY REIN LLP**

1776 K Street NW

9 Washington, DC 20006

Telephone: 202-719-7000

10 Facsimile: 202-719-7049

11 CAMERON STRACHER (*pro hac vice* application forthcoming)

cstracher@amilink.com

12 General Counsel - Media

**AMERICAN MEDIA, INC.**

13 4 New York Plaza, 2d Floor

New York, NY 10004

14 Telephone: 212-743-6513

15 Facsimile: 646-810-3089

16 Attorneys for Defendant

AMERICAN MEDIA, INC.

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF LOS ANGELES

19 KAREN MCDOUGAL, an individual,

20 Plaintiff,

21 vs.

22 AMERICAN MEDIA, INC., a Delaware  
corporation; and DOES 1 through 25,  
23 inclusive,

24 Defendants.

Case No. BC 698956

Assigned to the Hon. Michael L. Stern

**DEFENDANT AMERICAN MEDIA, INC.'S  
NOTICE OF MOTION AND SPECIAL  
MOTION TO STRIKE COMPLAINT  
PURSUANT TO C.C.P. § 425.16;  
MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF KEVIN  
L. VICK WITH EXHIBITS 1-8;  
DECLARATION OF DYLAN HOWARD  
WITH EXHIBITS 9-11; DECLARATION OF  
LEE E. GOODMAN WITH EXHIBITS 12-18**

Date: April 30, 2018

Time: 8:30 a.m.

Dep't: 62

Res. # 180402302463

CONFORMING COPY  
ORIGINAL FILED  
Superior Court Of California  
County Of Los Angeles

APR 02 2018

ORIGINAL FILED, CAPSULE Unit/Sec/Clerk

By: Marlon Gomez, Deputy

1 TO THE HONORABLE COURT, PLAINTIFF AND COUNSEL:

2 PLEASE TAKE NOTICE that on April 30, 2018, at 8:30 a.m. or as soon thereafter as  
3 counsel may be heard in Department 62 of the Los Angeles County Superior Court, the Hon.  
4 Michael L. Stern, presiding, located at 111 North Hill Street, Los Angeles, California 90012,  
5 defendant American Media, Inc. ("AMI") will and hereby does move this Court for an order,  
6 pursuant to California Code of Civil Procedure § 425.16 ("Section 425.16" or the "anti-SLAPP"  
7 statute"), striking and dismissing, in whole or, alternatively, in part, the Complaint and its sole  
8 cause of action for declaratory relief filed by plaintiff Karen McDougal ("McDougal") with  
9 prejudice and without leave to amend.<sup>2</sup> McDougal's cause of action for declaratory relief under  
10 Code of Civil Procedure § 1060 falls within the scope of Section 425.16(c), and, as such, the burden  
11 shifts to McDougal to establish, with admissible evidence, a probability that she will prevail on her  
12 cause of action, and all parts thereof. C.C.P. § 425.16(b)(1).<sup>3</sup> McDougal cannot satisfy her burden.  
13 AMI therefore requests that the Court strike and dismiss, with prejudice and without leave to  
14 amend, McDougal's cause of action for declaratory relief, or, alternatively, portions thereof, for the  
15 following separate and independent reasons:

- 16 • There was no "fraud in the execution" of the agreement between McDougal and AMI;
- 17 • McDougal ratified the agreement between herself and AMI;
- 18 • McDougal waived any claim of fraud associated with the agreement between herself and  
19 AMI;
- 20 • The agreement between McDougal and AMI is not illegal for the following separate and  
21 independent reasons:
  - 22 ○ The First Amendment protects AMI's editorial discretion;
  - 23 ○ The First Amendment protects AMI's newsgathering conduct;

24 \_\_\_\_\_  
25 <sup>1</sup> SLAPP is an acronym for "strategic lawsuit against public participation." *Equilon Enters. v.*  
*Consumer Cause, Inc.*, 29 Cal. 4th 53, 57 (2002).

26 <sup>2</sup> McDougal may not amend her complaint in the face of this anti-SLAPP motion. *See, e.g., Hansen*  
*v. Calif. Dep't of Corrections and Rehab.*, 171 Cal. App. 4th 1537, 1547 (2008).

27 <sup>3</sup> The Court may strike parts of a complaint pursuant to the anti-SLAPP statute. *Baval v. Schnitt*, 1  
28 Cal. 5th 376, 385-392 (2016)

- The agreement between McDougal and AMI does not violate the Federal Election Campaign Act ("FECA");
- Alternatively, 52 U.S.C. § 30118(a), and other relevant FECA provisions and related regulations, are unconstitutionally vague and overbroad facially and as applied to the press activities at issue here; and
- The agreement between McDougal and AMI is not against public policy.

This Motion is based on: this Notice; the attached Memorandum of Points and Authorities; the attached Declaration of Kevin L. Vick with Exhibits 1 - 8; the attached Declaration of Dylan Howard with Exhibits 9 - 11; the attached Declaration of Lee E. Goodman with Exhibits 12 - 18; the concurrently-lodged Exhibit 1; the concurrently-filed Notice of Lodging of Exhibit 1; all related pleadings and documents on file; and such further evidence or argument as may be presented at the hearing on this Motion.


AMI also reserves the right to request that the Court enter an award of attorneys' fees and costs pursuant to Code of Civil Procedure § 425.16(c).<sup>4</sup>

DATED: April 2, 2018

**JASSY VICK CAROLAN LLP**  
JEAN-PAUL JASSY  
KEVIN L. VICK

**WILEY REIN LLP**  
LEE E. GOODMAN  
ANDREW WOODSON

**AMERICAN MEDIA, INC.**  
CAMERON STRACHER

  
\_\_\_\_\_  
JEAN-PAUL JASSY  
Counsel for Defendant American Media, Inc.

<sup>4</sup> If this Motion, or any part thereof, is granted, AMI intends to file a noticed motion to recover attorneys' fees and costs and/or a costs memorandum. C.C.P. § 425.16(c); *American Humane Ass'n v. Los Angeles Times Communications LLC*, 92 Cal. App. 4th 1095, 1103 (2001).

## TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. SUMMARY OF PERTINENT FACTS.....	2
III. THE ANTI-SLAPP STATUTE APPLIES TO McDUGAL'S SOLE CLAIM.....	3
A. The Anti-SLAPP Statute Is Construed Broadly.....	3
B. AMI Satisfies The First Step In The Anti-SLAPP Analysis.....	3
1. McDougal's Claim Falls Within Section 425.16(e)(4).....	3
2. McDougal's Claim Also Falls Within Section 425.16(e)(2).....	5
IV. McDUGAL CANNOT ESTABLISH A PROBABILITY OF PREVAILING.....	5
A. There Was No Fraud In The Execution, And McDougal Ratified The Contract.....	5
1. McDougal Had Two Opportunities To Review And Ratify The Agreement.....	6
2. McDougal Waived Any Fraud By Accepting The Agreement's Benefits.....	7
B. The Agreement Is Not Illegal.....	7
1. The First Amendment Protects AMI's Discretion <i>Not</i> To Publish.....	7
2. The First Amendment Also Protects AMI's Newsgathering.....	9
3. The Agreement Does Not Violate The Federal Election Campaign Act.....	11
C. The Agreement Is Not Against Public Policy.....	13
1. The Agreement Allows McDougal To Speak, And She Already Has.....	14
2. Public Policy Supports Enforcing Contracts, Including This Agreement.....	14
3. Public Policy Supports The Freedom Of Prolitigation Communications.....	14
4. Public Policy Favors AMI's Exercise Of Its First Amendment Rights.....	15
V. CONCLUSION.....	15

## TABLE OF AUTHORITIES

	Page(s)
<b>Federal Cases</b>	
<i>Associated Press v. United States</i> , 326 U.S. 1 (1945) .....	8
<i>Baggett v. Bullitt</i> , 377 U.S. 360 (1964) .....	13
<i>Banque Arabe Et Int'l v. Maryland Nat. Bank</i> , 850 F. Supp. 1199 (S.D.N.Y. 1994) .....	7
<i>Branzburg v. Hayes</i> , 408 U.S. 665 (1972) .....	8, 9
<i>Broadrick v. Oklahoma</i> , 413 U.S. 601 (1973) .....	13
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976) .....	13
<i>Clifton v. FEC</i> , 114 F.3d 1309 (1st Cir. 1997) .....	9
<i>Clifton v. FEC</i> , 927 F. Supp. 493 (D. Me. 1996) .....	13
<i>Edward J. DeBariolo Corp. v. Fla. Gulf Coast Bldg. &amp; Constr. Trades Council</i> , 485 U.S. 568 (1988) .....	13
<i>FEC v. Phillips Publishing, Inc.</i> , 517 F. Supp. 1308 (D.D.C. 1981) .....	12
<i>Front, Inc. v. Khalil</i> , 24 N.Y.3d 713 (2015) .....	15
<i>Gonzalez v. Morse</i> , 2017 WL 4539262 (E.D. Cal. Oct. 11, 2017) .....	9
<i>Houchins v. KQED, Inc.</i> , 438 U.S. 1 (1978) .....	9
<i>Makaeff v. Trump Univ., LLC</i> , 715 F.3d 254 (9th Cir. 2013) .....	4, 5
<i>Miami Herald Pub. Co. v. Tornillo</i> , 418 U.S. 241 (1974) .....	4, 8, 10, 11, 15
<i>Newton v. NBC</i> , 930 F.2d 662 (9th Cir. 1990) .....	9
<i>Orloski v. FEC</i> , 795 F.2d 156 (D.C. Cir. 1986) .....	13
<i>Pacific Gas &amp; Elec. Co. v. Public Util. Comm'n</i> , 475 U.S. 1 (1986) .....	11

1	<i>Papachristou v. City of Jacksonville</i> ,	
	405 U.S. 156 (1972).....	13
2	<i>Passaic Daily News v. N.L.R.B.</i> ,	
3	736 F.2d 1543 (D.C. Cir. 1984) .....	9
4	<i>Pittsburgh Press Co. v. Human Relations Comm'n</i> ,	
	413 U.S. 376 (1973).....	8
5	<i>Reader's Digest Ass'n. Inc. v. FEC</i> ,	
6	509 F. Supp. 1210 (S.D.N.Y. 1981) .....	12
7	<i>St. Amant v. Thompson</i> ,	
	390 U.S. 727 (1968).....	10
8	<b>State Cases</b>	
9	<i>Bailey v. Loggins</i> ,	
10	32 Cal. 3d 907 (1982).....	8
11	<i>Baral v. Schnitt</i> ,	
	1 Cal. 5th 376 (2016).....	3, 5
12	<i>Blatty v. New York Times Co.</i> ,	
	42 Cal. 3d 1033 (1986).....	8
13	<i>Briggs v. Eden Council</i> ,	
14	19 Cal. 4th 1106 (1999).....	4, 5
15	<i>City of Santa Barbara v. Superior Ct.</i> ,	
	41 Cal. 4th 747 (2007).....	13
16	<i>De Havilland v. FX Networks, LLC</i> ,	
17	-- Cal. App. 5th --, 2018 WL 1465802 (Mar. 26, 2018).....	14
18	<i>Desert Outdoor Advertising v. Super. Ct.</i> ,	
	196 Cal. App. 4th 866 (2011).....	6
19	<i>Eisenberg v. Alameda Newspapers, Inc.</i> ,	
20	74 Cal. App. 4th 1359 (1999).....	8
21	<i>Jackson v. Mayweather</i> ,	
	10 Cal. App. 5th 1240 (2017).....	4
22	<i>Kashian v. Hurriman</i> ,	
	98 Cal. App. 4th 892 (2002).....	15
23	<i>Kaufman v. Goldman</i> ,	
24	195 Cal. App. 4th 734 (2011).....	14
25	<i>Kline v. Turner</i> ,	
	87 Cal. App. 4th 1369 (2001).....	7
26	<i>LeClerq v. Michael</i> ,	
	88 Cal. App. 2d 700 (1948).....	7
27	<i>Lieberman v. KCOP Television, Inc.</i> ,	
28	110 Cal. App. 4th 156 (2003).....	3, 4

1	<i>McCoy v. Heursi Corp.</i> ,	
	42 Cal. 3d 835 (1986).....	10
2	<i>Nadel v. Regents of the Univ. of Calif.</i> ,	
3	28 Cal. App. 4th 1251 (1994).....	5
4	<i>Navellier v. Sletten</i> ,	
	29 Cal. 4th 82 (2002).....	3, 14
5	<i>Nygård, Inc. v. Uusi-Kerttula</i> ,	
	159 Cal. App. 4th 1027 (2008).....	4
6	<i>Ramona Unified Sch. Dist. v. Tsiknas</i> ,	
7	135 Cal. App. 4th 510 (2005).....	5
8	<i>Rosencrans v. Dover Images, Ltd.</i> ,	
	192 Cal. App. 4th 1072 (2011).....	6
9	<i>Rubin v. Green</i> ,	
10	4 Cal. 4th 1187 (1993).....	15
11	<i>Savage v. Pacific Gas &amp; Elec. Co.</i> ,	
	21 Cal. App. 4th 434 (1993).....	10
12	<i>South Sutter LLC v. LJ Sutter Partners, L.P.</i> ,	
13	193 Cal. App. 4th 634 (2011).....	3, 5
14	<i>Vulcan Power Co. v. Munson</i> ,	
	932 N.Y.S.2d 68 (N.Y. Sup. Ct. App. Div. 2011).....	6
15	<b>Federal Statutes</b>	
16	52 U.S.C. § 30101(8)(a).....	13
17	52 U.S.C. § 30101(9)(B)(i).....	11
18	52 U.S.C. § 30118(a).....	11
19		
20	<b>Federal Regulations</b>	
21	11 C.F.R. § 100.73.....	11
22	11 C.F.R. § 100.132.....	11
23	11 C.F.R. § 113.1(g)(6).....	13
24	<b>State Statutes</b>	
25	California Code of Civil Procedure	
	§ 425.16.....	1, 4
26	§ 425.16(a).....	3
	§ 425.16(b)(1).....	3, 5
27	§ 425.16(e).....	3, 4
	§ 425.16(c)(2).....	5
28	§ 425.16(c)(4).....	3, 4, 5

1	Civil Code	
	§ 47(b) .....	15
2	§ 1589 .....	7
3	Penal Code § 632 .....	4
4	<b>Federal Election Commission Documents</b>	
5	MUR 5562/5570 (Sinclair) .....	12
6	MUR 5569 (KFI-AM 640) First Gen. Counsel's Report .....	12
7	MURs 5540/5545 Statement of Reasons of Comm'rs Toncr, Mason, Smith .....	12
8	MURs 4929/5006/5090/5117 (Los Angeles Times), Statement of Reasons by Comm'rs Wold, McDonald, Mason, Sandstrom, Thomas .....	12
9		
10	<b>Miscellaneous</b>	
11	H.R. Rep. No. 93-1239, 93d Congress, 2d Sess. (1974) .....	12
12	Howard Kurtz, "Newsweek's Melted Scoop," <i>Washington Post</i> , Jan. 22, 1998 .....	10
13	Jack Shafer, "Why Did NBC News Sit On The Trump Tape For So Long?," <i>Politico</i> , Oct. 10, 2016 .....	10
14	Jack Shafer, "Why Not Pay Sources?," <i>Slate</i> , April 29, 2010 .....	10
15	Jeremy W. Peters, "Paying for News? It's Nothing New," <i>New York Times</i> , Aug. 6, 2011 .....	9
16	John Cook, "Pay Up: Sources have their agendas. Why can't money be one?," <i>Columbia Journalism Review</i> , May/June 2011 .....	10
17	Kelly Heyboer, "Paying For It," <i>American Journalism Review</i> , April 1999 .....	10
18	Kelly McBride, <i>New York Times</i> opm., "When It's O.K. to Pay for a Story," June 9, 2015 .....	10
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		



1     **I.     INTRODUCTION**

2             It was “the best of all worlds.” It was a “win-win for me.” Those are Karen McDougal’s  
3 words. That is how she felt when she accepted AMI’s offer to pay her a substantial amount of  
4 money to write articles, boost her image as a health and fitness personality, and sell an exclusive  
5 “story right” with the understanding that AMI had the right to exercise its editorial discretion *not* to  
6 publish the story. Later, Ms. McDougal sought clarification of the exclusive story right. AMI and  
7 Ms. McDougal amended their agreement to make it clear she could answer press inquiries, and Ms.  
8 McDougal “ratified and confirmed” her original agreement with the aid of her new counsel at  
9 Gibson Dunn. AMI proceeded to publish 25 of Ms. McDougal’s articles, placed her on the cover of  
10 “Muscle & Fitness Hers,” and featured her across its publications.

11            Over a year later, represented by her third lawyer, Ms. McDougal sued AMI, claiming that  
12 her contract was void in part because it prohibits her from talking to the press. It does not. Two  
13 days after filing this lawsuit, she did a one-hour interview with CNN where she vividly detailed her  
14 alleged affair with President Trump and bashed AMI before millions of viewers. Near the  
15 interview’s end, Ms. McDougal voiced satisfaction that, “now, people know my truth.”

16            Despite the Gibson Dunn-negotiated contract amendment, the CNN interview, and  
17 comments in a *New Yorker* article, Ms. McDougal now claims that the prior sale of her story right  
18 “censors” her. In reality, it is Ms. McDougal’s lawsuit that targets AMI’s First Amendment rights  
19 by advancing the novel and radical proposition that once a media company has a story about a  
20 candidate, it *must* publish that story or else be in violation of election law. She also contends that  
21 AMI was legally obligated to publish more articles than the 25 published so far. The contract she  
22 signed on the advice of two sets of lawyers, however, is to the contrary, while the First Amendment  
23 protects a publisher’s editorial right to decide when, where, how, and whether to publish. Finally,  
24 Ms. McDougal claims that the “win-win” agreement she signed and profited from is now against  
25 public policy. It is not.

26            Because Ms. McDougal’s suit targets AMI’s conduct in furtherance of speech rights in  
27 connection with issues of public interest, it is subject to this motion under C.C.P. § 425.16 (“Section  
28

1 425.16” or the “anti-SLAPP statute”). McDougal cannot satisfy her burden of establishing a  
2 probability of success, and this motion should be granted in full.

## 3 **II. SUMMARY OF PERTINENT FACTS**

4 In August 2016, Ms. McDougal, a former *Playboy* Playmate of the Year and model, was  
5 excited to sign what she describes as a “win-win” agreement with news publisher AMI (the  
6 “Agreement”). Ex. 1 at 38:50. McDougal alleges she was told by her lawyer, Keith Davidson,  
7 before signing the Agreement, that AMI “would buy the story *not* to publish it,” which would, as  
8 McDougal puts it, “give her the best of all worlds—her private story [about her alleged affair with  
9 President Trump] could stay private, she could make some money, *and* she could revitalize her  
10 career.” Compl., ¶ 47 (emphasis in original).<sup>5</sup> The Agreement, among other provisions, gives AMI  
11 the right and discretion, but not the obligation, to publish articles by McDougal, and also gives AMI  
12 exclusive story rights to “any relationship she has ever had with a then-married man.” Compl., Ex.  
13 A at §§ 1, 3, 5-7, 9, 15. McDougal signed the Agreement, accepted \$150,000 from AMI, and then  
14 wrote 19 bylined articles, was featured in another 6 articles, and was on the cover of a magazine  
15 across four separate AMI publications. Compl., Ex. A; Howard Decl., ¶¶ 2-4; Exs. 9 - 11.

16 A few months later, McDougal fired Davidson, and, with the help of new lawyers at Gibson  
17 Dunn, she negotiated an amendment to the Agreement (the “Amendment”). Complaint, ¶¶ 18-19,  
18 62-64. The Amendment stated that McDougal could freely respond to “legitimate press inquiries”  
19 regarding her alleged affair with President Trump, and it expressly “ratified and confirmed” “all of  
20 the other terms and conditions of the Agreement.” *Id.*, Ex. B at 1. Shortly thereafter, McDougal  
21 provided extensive comments to the *New Yorker* about her agreement with AMI and her  
22 relationship with President Trump. See <https://goo.gl/cDZ1C3>.

23 On March 20, 2018, McDougal sued AMI seeking a declaratory judgment that the  
24 Agreement was void *ab initio*. Two days later, she appeared in a lengthy interview with CNN’s  
25 Anderson Cooper discussing, in detail, her alleged affair with President Trump, AMI and the  
26

27 <sup>5</sup> AMI accepts McDougal’s allegations of her subjective perception of AMI’s editorial objectives  
28 for purposes of this motion, but does not necessarily concede the accuracy of her allegations.

1 Agreement. Exs. 1, 2. She explained her hope that AMI would exercise its editorial right to  
2 “squash” the story of her alleged affair, and called that possibility a “win-win for me,” as she would  
3 be “happy” to see the story “killed.” Ex. 1 at 38:50-39:15. Near the end of the interview,  
4 McDougal said: “now, people know my truth.” *Id.* at 51:55.

### 5 **III. THE ANTI-SLAPP STATUTE APPLIES TO McDUGAL’S SOLE CLAIM**

#### 6 **A. The Anti-SLAPP Statute Is Construed Broadly**

7 The anti-SLAPP statute was enacted to check “a disturbing increase in lawsuits brought  
8 primarily to chill the valid exercise of the constitutional right of freedom of speech and petition,”  
9 and it “shall be construed broadly.” C.C.P. § 425.16(a). Declaratory relief suits are subject to anti-  
10 SLAPP motions. *South Sutter LLC v. LJ Sutter Partners, L.P.*, 193 Cal. App. 4th 634, 665 (2011).  
11 “Resolution of an anti-SLAPP motion involves two steps.” *Baral v. Schnitt*, 1 Cal. 5th 376, 384  
12 (2016); C.C.P. § 425.16(b)(1). First, “the defendant must establish that the challenged claim arises  
13 from activity protected by” Section 425.16(e). *Id.*<sup>6</sup> Second, “[i]f the defendant makes the required  
14 showing, the burden shifts” in the second step “to the plaintiff to demonstrate the merit of the claim  
15 by establishing a probability of success,” *id.*, and, if this burden is not satisfied, then the claim must  
16 be stricken in whole or in part, *id.* at 385-392.

#### 17 **B. AMI Satisfies The First Step In The Anti-SLAPP Analysis**

18 A defendant need only show that its alleged conduct “underlying the plaintiff’s cause of  
19 action fits *one* of the four categories spelled out in section 425.16, subdivision (c).” *Navellier v.*  
20 *Sletten*, 29 Cal. 4th 82, 88 (2002) (emphasis added). McDougal’s claim falls within two categories.

##### 21 **1. McDougal’s Claim Falls Within Section 425.16(e)(4)**

22 Section 425.16(e)(4) “provides a catch-all for ‘any other *conduct* in furtherance of’” speech  
23 or petition rights in connection with issues of public interest. *Lieberman v. KCOP Television, Inc.*,  
24 110 Cal. App. 4th 156, 164 (2003) (emphasis in original). The *Lieberman* court concluded that

25  
26 <sup>6</sup> Section 425.16(e) protects: “(2) any ... writing made in connection with an issue under  
27 consideration or review by a ... judicial body... or (4) any other conduct in furtherance of the  
28 exercise of the constitutional right of petition or the constitutional right of free speech in connection  
with a public issue or an issue of public interest.” C.C.P. § 425.16(c).

1 newsgathering qualifies for protection under Section 425.16(c)(4) even where the plaintiff alleges  
2 that the newsgathering technique was unlawful. *Id.* at 165-166 (applying Section 425.16(c)(4) to  
3 claim for alleged violation of Penal Code § 632 for undercover recordings by a news reporter).

4 McDougal's sole cause of action for declaratory relief arises from: AMI's acquisition of  
5 exclusive story rights about an alleged affair with President Trump; AMI's purported editorial  
6 decision not to publish more of McDougal's articles; AMI's editorial decision not to report on her  
7 alleged affair with Trump; and AMI's alleged legal threats to McDougal to comply with the  
8 contract she signed and later "ratified and confirmed" with the assistance of her new counsel.  
9 Compl., ¶¶ 97-110. All of the foregoing targets AMI's purported "conduct in furtherance of"  
10 constitutional free speech and free press rights. C.C.P. § 425.16(e)(4). First, AMI's acquisition of  
11 McDougal's agreement to write and appear in articles and provide exclusive story rights is  
12 newsgathering, which squarely satisfies the first step in the Section 425.16(c)(4) analysis under  
13 *Lieberman*, 110 Cal. App. 4th at 164-166. Second, AMI has a constitutional and contractual right to  
14 exercise its editorial discretion *not* to publish McDougal's articles or her personal story. *Miami*  
15 *Herald Pub. Co. v. Tornillo*, 418 U.S. 241, 256-258 (1974) (holding that newspapers have a First  
16 Amendment right *not* to publish); Compl., Ex. A at §§ 1, 5, 6, 9 (affording AMI the discretionary  
17 right to publish McDougal's articles and story). Third, AMI's purported "threats of legal action" to  
18 enforce the Agreement, Compl., ¶ 101, arise from AMI's alleged speech. *Briggs v. Eden Council*,  
19 19 Cal. 4th 1106, 1115 (1999) ("communications preparatory to or in anticipation of the bringing  
20 of an action or other official proceeding are ... entitled to the benefits of section 425.16").

21 McDougal cannot dispute that all of the foregoing involved matters of public interest.  
22 "[A]n issue of public interest" within the meaning of Section 425.16(c) "is any issue in which the  
23 public is interested." *Nygård, Inc. v. Uusi-Kerttula*, 159 Cal. App. 4th 1027, 1042 (2008).  
24 McDougal insists throughout her Complaint that her story about Trump, her articles and AMI's  
25 conduct are all matters of public interest. Compl., ¶¶ 21, 33, 37, 42-45, 47, 49, 53, 61, 63, 81, 88-  
26 95, 99-106, 109. Additionally, there is a public interest in persons, such as McDougal and President  
27 Trump, who are "in the public eye." *Jackson v. Mayweather*, 10 Cal. App. 5th 1240, 1252-55  
28 (2017). President Trump has been in the public eye for decades. *Mukaeff v. Trump Univ., LLC*, 715

1 F.3d 254, 258 (9th Cir. 2013). The same holds true for McDougal, who was *Playboy* Playmate of  
2 the Year in 1998, and a successful fitness model, appearing in “numerous magazines.” Compl., ¶¶  
3 6-7, 28-29; *see also Nadel v. Regents of the Univ. of Calif.*, 28 Cal. App. 4th 1251, 1270 (1994)  
4 (plaintiff can reveal herself to be “a person ... in the public eye” by virtue of allegations in her  
5 complaint). The declaratory relief claim falls within the ambit of Section 425.16(c)(4).

## 6 **2. McDougal’s Claim Also Falls Within Section 425.16(e)(2)**

7 The declaratory relief claim also falls within the ambit of Section 425.16(e)(2) to the extent  
8 it is based on AMI’s alleged threats of legal action, which she asserts underpin, at least in part, the  
9 controversy requiring judicial resolution. Compl., ¶¶ 88, 101, 109; *Briggs*, 19 Cal. 4th at 1115.

## 10 **IV. McDOUGAL CANNOT ESTABLISH A PROBABILITY OF PREVAILING**

11 Because AMI satisfies the first step of the anti-SLAPP analysis, the burden shifts to  
12 McDougal to establish a probability of prevailing on her claim. *Baral*, 1 Cal. 5th at 384; C.C.P. §  
13 425.16(b)(1). For McDougal, “the mere existence of a controversy is insufficient to overcome an  
14 anti-SLAPP motion against a claim for declaratory relief,” rather, she “must introduce substantial  
15 evidence that would support a judgment of relief made in [her] favor.” *South Sutter*, 193 Cal. App.  
16 4th at 670. “[T]he court must consider ... whether there are any constitutional or non-constitutional  
17 defenses to the pleaded claims and, if so, whether there is evidence to negate those defenses.”  
18 *Ramona Unif. Sch. Dist. v. Tsiknas*, 135 Cal. App. 4th 510, 519 (2005). McDougal alleges that the  
19 Agreement was void *ab initio* for three reasons. Compl., ¶¶ 99-106. She is wrong on all fronts, and  
20 cannot satisfy her burden in the second step of the anti-SLAPP analysis.

### 21 **A. There Was No Fraud In The Execution, And McDougal Ratified The Contract**

22 McDougal alleges “fraud in the execution” of the Agreement only because she now claims  
23 she thought -- contrary to the language of the contract -- that AMI “would be obligated to run more  
24 than a hundred columns in her name” within a two-year period. Compl., ¶ 99. Nothing in the  
25 Agreement “obligates” AMI to run *any*, let alone over 100, of McDougal’s articles. Ex. A.<sup>7</sup>

26  
27 <sup>7</sup> Under the express terms of the Agreement, which included an integration clause and a waiver of  
28 the ability to rescind, AMI had the “right” (not the obligation) to run McDougal’s articles, her  
articles are AMI’s “work[s]-for-hire,” and “[a]ll decisions whatsoever, whether of a creative or

1                   **1. McDougal Had Two Opportunities To Review And Ratify The Agreement**

2           A “necessary element” of “fraud in the execution is *reasonable reliance*,” and “[g]enerally,  
3 it is *not reasonable* to fail to read a contract.” *Desert Outdoor Advertising v. Super. Ct.*, 196 Cal.  
4 App. 4th 866, 873 (2011) (emphasis in original; internal quotation marks omitted).<sup>8</sup> A contract will  
5 not be considered void due to “fraud in the execution” “if the plaintiff had a reasonable opportunity  
6 to discover the true terms of the contract,” and the “contract is only considered void when the  
7 plaintiff’s failure to discover the true nature of the document executed was without negligence on  
8 the plaintiff’s part.” *Rosencrans v. Dover Images, Ltd.*, 192 Cal. App. 4th 1072, 1080 (2011)  
9 (internal quotation marks removed). In *Rosencrans*, the plaintiff sought to void a release after  
10 suffering severe injuries at a motocross track. *Id.* at 1077. The court found no fraud in the  
11 execution even though the plaintiff presented evidence that: the defendant told him to “sign this”  
12 and said the release was just a “sign-in sheet”; plaintiff “did not know he was signing a release”;  
13 and plaintiff “was not given adequate time to read or understand” the release which he signed  
14 within “10 seconds” as he sat in his truck with around “10 cars in line behind” him. *Id.* at 1077-80.

15           Here, McDougal had “a reasonable opportunity” to “discover the true terms of the contract”  
16 *twice*. *Id.* First, she alleges that she took at least a day and a night to review the three page  
17 Agreement, she communicated with her lawyer, Keith Davidson, who told her “WE CAN  
18 DISCUSS ANYTIME,” and she read it sufficiently carefully to “raise[] several concerns” about  
19 specific terms. Compl., ¶¶ 48-55 (capitalization in original). McDougal’s Complaint alleges a  
20 greater opportunity to understand the Agreement than the plaintiff had in *Rosencrans* where the  
21 court found no fraud in the execution. McDougal blames alleged pressure from Davidson and AMI  
22 for her purported lack of understanding; but claims that, not long after signing the Agreement, she  
23 realized the Agreement did not *obligate* AMI to run her articles, whereupon she fired Davidson.<sup>9</sup>

24           \_\_\_\_\_ business nature,” regarding the rights granted by McDougal were to be made in AMI’s “sole  
25 discretion.” Compl., Ex. A at §§ 1, 5, 6, 9, 14, 15.

26           <sup>8</sup> *Accord Vulcan Power Co. v. Munson*, 932 N.Y.S.2d 68, 69-70 (N.Y. Sup. Ct. App. Div. 2011).

27           <sup>9</sup> The *Washington Post* reports that, after McDougal’s Complaint was filed, Davidson asserted that  
28 he “fulfilled his obligations and zealously advocated for Ms. McDougal to accomplish her stated  
goals at that time.” See [goo.gl/cEIIxB7](http://goo.gl/cEIIxB7).

1 *Id.*, ¶¶ 16-18, 55-62.<sup>10</sup>

2 McDougal's second opportunity to discover the true terms of the contract came when she  
3 hired "renowned" attorney Ted Bontros of Gibson Dunn to negotiate an amendment to the  
4 Agreement. *Id.*, ¶¶ 18-19, 62-64. In addition to stating that McDougal could freely respond to  
5 "legitimate press inquiries" regarding President Trump, the Amendment that Bontros helped  
6 McDougal obtain *expressly* "ratified and confirmed" "all of the other terms and conditions of the  
7 Agreement," Compl., Ex. B at 1, which includes *all* of the provisions that give AMI the "right" to  
8 decide, in its "sole discretion," whether to publish McDougal's articles, as well as the contract's  
9 integration clause, *id.*, Ex. A at §§ 1, 5, 6, 9, 14, 15.

## 10 **2. McDougal Waived Any Fraud By Accepting The Agreement's Benefits**

11 The Agreement also was ratified for the independent reason that McDougal kept the  
12 \$150,000 and continued to prepare articles for AMI even after she had knowledge of what she now  
13 calls "fraud in the execution." Howard Decl., ¶¶ 2-4; Exs. 9-11. Civ. C. § 1589 ("acceptance of the  
14 benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the  
15 facts are known, or ought to be known, to the person accepting"); *LeClerq v. Michael*, 88 Cal. App.  
16 2d 700, 702 (1948) ("[i]f a person retains the benefits of a contract and continues to treat it as  
17 binding he will be deemed to have waived any fraud and to have elected to affirm the contract").<sup>11</sup>

## 18 **B. The Agreement Is Not Illegal**

### 19 **1. The First Amendment Protects AMI's Discretion *Not* To Publish**

20 If AMI had exercised its editorial discretion to publish McDougal's story, she would have  
21 no argument that such publication was an illegal in-kind campaign contribution. But editors also  
22 have a First Amendment right *not* to publish, and cannot be punished for exercising that right.

24 <sup>10</sup> At that point, McDougal was at least on inquiry notice of the purported fraud. *Kline v. Turner*, 87  
25 Cal. App. 4th 1369, 1374 (2001) (inquiry notice of alleged fraud begins when there is "notice or  
26 information of circumstances to put a reasonable person on inquiry, or has the opportunity to obtain  
knowledge from sources open to [her] investigation"). McDougal or her new attorneys simply had  
to re-read the Agreement, the terms of which are clear.

27 <sup>11</sup> *Accord Banque Arabe Et Int'l v. Maryland Nat. Bank*, 850 F. Supp. 1199, 1212-1213 (S.D.N.Y.  
28 1994) (acceptance of contract after inquiry notice of alleged fraud is ratification).

1       The key case is *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974). In *Miami Herald*,  
2 the U.S. Supreme Court struck down a “right of reply” statute, with first-degree misdemeanor  
3 penalties for its violation, that required newspapers to provide a political candidate with equal space  
4 to answer criticism in the newspaper. *Id.* at 244. The Court held that the “statute exacts a penalty  
5 on the basis of content” as it “operates as a command in the same sense as a statute or regulation  
6 forbidding [the newspaper] to publish specified matter.” *Id.* at 256. It dismissed potential skeptics  
7 of its holding, noting that “Governmental restraint on publishing need not fall into familiar or  
8 traditional patterns to be subject to constitutional limitations on governmental powers.” *Id.*

9       The First Amendment-based right of editorial discretion was already well-established by the  
10 time the *Miami Herald* case reached the Supreme Court.<sup>12</sup> Against this backdrop, the *Miami Herald*  
11 court held the “clear implication has been that any such compulsion to publish that which ‘reason’  
12 tells [the newspapers] should not be published is unconstitutional.” 418 U.S. at 256. The high court  
13 concluded by reaffirming the well-established constitutional principle that editorial judgment for the  
14 content of newspapers should be left to editors and not the courts:

15       A newspaper [or magazine] is more than a passive receptacle or conduit for news,  
16 comment, and advertising. The choice of material to go into a newspaper, and the  
17 decisions made as to limitations on the size and content of the paper, and  
18 treatment of public issues and public officials - whether fair or unfair - constitute  
the exercise of editorial control and judgment. It has yet to be demonstrated how  
governmental regulation of this crucial process can be exercised consistent with  
First Amendment guarantees of a free press as they have evolved to this time.

19 418 U.S. at 258.<sup>13</sup> AMI has been well within its rights *not* to publish the McDougal-Trump story  
20 yet, and its decision to withhold publication cannot give rise to liability under the First  
21 Amendment.<sup>14</sup>

22  
23 <sup>12</sup> See *id.* at 254-255 (citing *Associated Press v. United States*, 326 U.S. 1, 20 n. 18 (1945) (district  
24 court did “not compel AP or its members to permit publication of anything which their ‘reason’ tells  
25 them should not be published”), *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972) (emphasizing that  
cases before the court “involve[d] ... no express or implied command that the press publish what it  
prefers to withhold”), *Pittsburgh Press Co. v. Human Relations Comm’n*, 413 U.S. 376, 391 (1973)  
 (“we affirm unequivocally the protection afforded to editorial judgment”).

26 <sup>13</sup> Our Supreme Court also recognizes that a “publisher enjoys” a “total control over the content of  
27 the newspaper as a private publisher.” *Bailey v. Loggins*, 32 Cal. 3d 907, 918-919 (1982) (emphasis  
28 added); see also *Blatty v. New York Times Co.*, 42 Cal. 3d 1033, 1042-1049 (1986) (decision not to  
include book on a best-seller list was protected by the First Amendment); *Eisenberg v. Alameda  
Newspapers, Inc.*, 74 Cal. App. 4th 1359, 1391 (1999) (“the courts have long held that the right to



## 2. The First Amendment Also Protects AMI's Newsgathering

Just as the decision *not* to publish McDougal's story is squarely protected by the First Amendment and cannot serve as the basis for liability, the two alleged predicate newsgathering acts (making an inquiry to President Trump's representative and purchasing McDougal's exclusive story rights along with other services from McDougal) also enjoy protection under the First Amendment, and cannot support McDougal's claim that anything AMI did was illegal under federal election law.

Newsgathering enjoys protection under the First Amendment. In *Branzburg*, 408 U.S. at 681, the court held that "without some protection for seeking out the news, freedom of the press could be eviscerated." In *Houchins v. KQED, Inc.*, 438 U.S. 1 (1978), the court held that there is an "undoubted right to gather news 'from any source by means within the law[.]'" *Id.* at 11 (emphasis added; quoting *Branzburg*, 408 U.S. at 681). All of AMI's alleged conduct is newsgathering "within the law," and therefore constitutionally protected.

First, press entities routinely solicit comment from the subjects of stories. *Gonzalez v. Morse*, 2017 WL 4539262 (E.D. Cal. Oct. 11, 2017), at \*2 (reporter's questions to politician protected under the First Amendment). Thus, even if AMI had reached out to President Trump's representatives, there would have been nothing sinister about seeking comment concerning McDougal's story – a story that the White House denies is true.<sup>15</sup>

Second, paying sources and buying exclusive story rights is routine and has been for a long time. In 1912, the *New York Times* paid \$1,000 to a survivor of the Titanic for his exclusive account. *Rx*, 3.<sup>16</sup> The *New York Times* also allegedly paid Charles Lindbergh \$5,000 for the story

---

control the content of a privately published newspaper rests entirely with the newspaper's publisher. The First Amendment protects the newspaper itself, and grants it a virtually unfettered right to choose what to print and what not to" (emphasis removed); accord *Passaic Daily News v. N.L.R.B.*, 736 F.2d 1543, 1557 (D.C. Cir. 1984) ("newspapers have *absolute* discretion to determine the contents of their newspapers") (emphasis added).

<sup>14</sup> Similarly, the First Circuit ruled that forcing a group to publish information it disagrees with as a mechanism for defining "contribution" is "obnoxious" and "abhorrent" to the First Amendment and "unquestionably" unconstitutional. *Clifton v. FEC*, 114 F.3d 1309, 1313-1314 (1st Cir. 1997).

<sup>15</sup> Seeking comment can help avoid defamation liability. *Newton v. NBC*, 930 F.2d 662, 686 (9th Cir. 1990) (attempts to interview plaintiff dispel accusation of actual malice).

<sup>16</sup> Jeremy W. Peters, "Paying for News? It's Nothing New," *New York Times*, Aug. 6, 2011.

1 of his famous trans-Atlantic flight. Ex. 4.<sup>17</sup> In 1970, *Esquire* magazine paid Lt. William L. Calley  
2 of My Lai massacre infamy for a confessional interview. Ex. 3. Journalist David Frost paid former  
3 President Nixon \$600,000 in 1976 for the right to exclusive interviews, which shed new light on  
4 Watergate. Ex. 5.<sup>18</sup> In 1998, publisher Larry Flynt offered \$1 million for information regarding  
5 politicians who had engaged in extramarital affairs, which eventually led to the resignation of then  
6 House Speaker-Designate Bob Livingston. *Id.*, Ex. 6.<sup>19</sup> Some commentators, including ones  
7 writing in the *Columbia Journalism Review* and the *New York Times*, defend the practice of paying  
8 sources and highlight its ubiquity. *See, e.g.*, Exs. 5, 7.<sup>20</sup>

9 Third, media entities routinely decide not to run stories for all sorts of reasons—*e.g.*, the  
10 story is not sufficiently well-founded, not yet finished, not “on the record,” not newsworthy, or out  
11 of step with the publication’s editorial stance.<sup>21</sup> The First Amendment squarely bars any intrusion  
12 into those decisions. *Miami Herald*, 418 U.S. at 256-58. If McDougal’s position were the law,  
13 First Amendment jurisprudence would get turned on its head. For example, if a publisher paid for a  
14 story about a candidate but ultimately had serious doubts about the story’s veracity, then  
15 McDougal’s rule would put the publisher in an intractable dilemma: publish the story and expose  
16 the publisher to a defamation claim brought by the candidate, or decide not to publish and stand  
17 accused of making an illegal in-kind contribution.<sup>22</sup> Also, under McDougal’s rule, once a media

18 <sup>17</sup> Jack Shafer, “Why Not Pay Sources?,” *Slate*, April 29, 2010.

19 <sup>18</sup> Kelly McBride, *New York Times* op., “When It’s O.K. to Pay for a Story,” June 9, 2015. Former  
Presidents Eisenhower and Johnson also received payments for interviews. *Id.*

20 <sup>19</sup> Kelly Heyboer, “Paying For It,” *American Journalism Review*, April 1999. *See also* John Cook,  
21 “Pay Up: Sources have their agendas. Why can’t money be one?,” *Columbia Journalism Review*,  
May/June 2011.

22 <sup>20</sup> Although some may frown on the practice of paying sources, such ethical questions are not the  
23 province of the courts: a “responsible press is an undoubtedly desirable goal, but press  
responsibility is not mandated by the Constitution and like many other virtues it cannot be  
24 legislated,” *Miami Herald*, 418 U.S. at 256; *McCoy v. Hearst Corp.*, 42 Cal. 3d 835, 858 (1986)  
(same); *see also Savage v. Pacific Gas & Elec. Co.*, 21 Cal. App. 4th 434, 445 (1993) (declining to  
wade into differing opinions about journalistic ethics).

25 <sup>21</sup> *See* Jack Shafer, “Why Did NBC News Sit On The Trump Tape For So Long?,” *Politico*, Oct.  
26 10, 2016; Howard Kurtz, “Newsweek’s Melted Scoop,” *Washington Post*, Jan. 22, 1998 at C1  
(explaining *Newsweek*’s decision not to run Lewinsky story concerning President Clinton).

27 <sup>22</sup> *See St. Amant v. Thompson*, 390 U.S. 727, 731 (1968) (actual malice can be shown with  
28 “sufficient evidence” that a publisher “entertained serious doubts as to the truth of his publication”).

1 entity “coordinates” with a candidate by making a routine inquiry about the veracity of a story, the  
2 publisher faces a Hobson’s choice: either publish, or stand accused of making an illegal in-kind  
3 contribution.

4 Fourth, even assuming AMI’s editorial decision not to run the McDougal story was  
5 animated by a desire to support the candidacy of Donald Trump, and did benefit him – which AMI  
6 does not concede – it is routine and constitutionally protected for the media to express a political  
7 view. *Miami Herald*, 418 U.S. at 255 (newspapers have a right to advance their political views). In  
8 *Pacific Gas & Elec. Co. v. Public Util. Comm’n*, 475 U.S. 1, 12-13 (1986), the high court struck  
9 down an order requiring a utility company to send customers third party materials critical of the  
10 utility’s views. Relying extensively on *Miami Herald*, the plurality explained that, “[w]ere the  
11 government freely able to compel corporate speakers to propound political messages with which  
12 they disagree, this protection [for speech] would be empty, for the government could require  
13 speakers to affirm in one breath that which they deny in the next.” *Id.* at 16. News publishers have  
14 helped and hurt politicians from time immemorial. Leading periodicals often endorse and excoriate  
15 individual candidates. For example, in 2016, among the 100 largest U.S. newspapers, 57  
16 newspapers endorsed Hillary Clinton, while only two endorsed Donald Trump. Ex. 8.

### 17 **3. The Agreement Does Not Violate The Federal Election Campaign Act**

18 McDougal’s allegation that the Agreement is illegal under the Federal Election Campaign  
19 Act (“FECA”) is wrong as a matter of law because the FECA does not regulate the press. The  
20 FECA prohibits corporations from making a “contribution” to a federal candidate, 52 U.S.C. §  
21 30118(a), but a “Press Exemption” exempts from the definition of “expenditure” and “contribution”  
22 all costs incurred by the press in covering or publishing news and editorials:

23 Any cost incurred in covering or carrying a news story, commentary, or editorial  
24 by any . . . newspaper, magazine, or other periodical publication, including any  
25 Internet or electronic publication, is not a contribution unless the facility is owned  
or controlled by any political party, political committee, or candidate.<sup>23</sup>

26 <sup>23</sup> 11 C.F.R. § 100.73; see also 52 U.S.C. § 30101(9)(B)(i); 11 C.F.R. § 100.132. Congress  
27 emphasized when it passed the Press Exemption in 1974 that “it is not the intent of the Congress in  
28 the present legislation to limit or burden in any way the First Amendment freedoms of the press and  
of association. Thus the exclusion assures the unfettered right of the newspapers, TV networks, and

1 The Press Exemption is broad and protects all costs incurred by a press publication to gather  
2 and cover news, pay journalists and researchers, publish and distribute news, as well as its editorial  
3 decisions to publish (or not publish)<sup>24</sup> information about campaigns and candidates.<sup>25</sup> In  
4 accordance with the seminal decision in *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308  
5 (D.D.C. 1981), the FEC has routinely dismissed allegations of FECA violations against press  
6 entities under the Press Exemption so long as the press entity is not owned or controlled by a  
7 political committee, party or candidate and conducts legitimate press functions. Under the  
8 exemption, “[n]o inquiry may be addressed to sources of information, research, motivation,  
9 connection with the campaign, etc.,”<sup>26</sup> including coordination with campaigns.<sup>27</sup> It also exempts  
10 “claims of media bias or breaches of journalistic ethics.”<sup>28</sup>

11 Here, the articles and story right that McDougal contracted to provide AMI are routine  
12 services and content acquired to produce news and information. AMI’s exercise of editorial  
13 discretion to decide whether, when, and how to publish McDougal’s story is also a legitimate press  
14 function exempt from regulation. Therefore, AMI’s costs to acquire this news content are not an  
15 illegal corporate political “expenditure” or “contribution” to a federal candidate as a matter of law.

16 other media to cover and comment on political campaigns.” H.R. Rep. No. 93-1239, 93d Congress,  
17 2d Sess. at 4 (1974) (emphasis added).

18 <sup>24</sup> FEC Matter Under Review (“MUR”) 5562/5570 (Sinclair) (finding no contribution or  
expenditure where Sinclair decided not to air a documentary film critical of John Kerry). Pertinent  
MUR documents are attached as exhibits to the Goodman Declaration.

19 <sup>25</sup> *Reader’s Digest Ass’n, Inc. v. FEC*, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981) (exempting  
20 costs of consultant to prepare special engineering report); MUR 5569 (KFI-AM 640), First Gen.  
Counsel’s Report at 9 (exempting Burbank radio station’s costs of staging “Fire [David] Dreier”  
21 rallies outside candidate’s office).

22 <sup>26</sup> *Reader’s Digest*, 509 F. Supp. at 1215.

23 <sup>27</sup> MUR 5569 (KFI-AM 640), First Gen. Counsel’s Report at 7 (exempting radio show’s on-air  
interviews with David Dreier’s opponent Cynthia Matthews); MURs 5540/5545, Statement of  
Reasons of Comm’rs Toner, Mason, Smith at 3 (finding no in-kind contribution from decision, in  
24 alleged coordination with John Kerry campaign, to air a false story about President Bush’s national  
guard service, in part, because “[a]llegations of coordination are of no import when applying the  
press exemption”).

25 <sup>28</sup> MURs 5540/5545 (CBS), Statement of Comm’r Weintraub at 2; accord MUR 5569 (KFI-AM  
26 640), First Gen. Counsel’s Report at 7 (exempting biased on-site “rally” to “fire [David] Dreier”);  
MURs 4929/5006/5090/5117 (Los Angeles Times), Statement of Reasons by Comm’rs Wold,  
27 McDonald, Mason, Sandstrom, Thomas (“Unbalanced news reporting and commentary are included  
in the activities protected by the media exemption.”).

1 In addition to the Press Exemption, AMI's payment to McDougal is not a "contribution"  
2 because the purpose of the payment manifestly appears on the face of the Agreement to have been  
3 for the purchase of journalistic services, content, and a valuable story right.<sup>29</sup> Moreover, the  
4 expansive interpretation of "contribution" advanced by McDougal would render the FECA  
5 unconstitutionally vague and overbroad. There is no precedent or guidance treating newsgathering  
6 or an editorial decision not to publish as an illegal in-kind contribution.<sup>30</sup> Thus, AMI had no notice  
7 that its conduct might violate McDougal's read of the FECA. McDougal's proposed rule also is  
8 unconstitutionally overbroad because it could be applied to punish any media entity that incurs costs  
9 to secure a source or story, seeks reaction from a candidate, and then decides not to publish the  
10 story.<sup>31</sup> Even were the Court to entertain such a specious statutory interpretation, the Court would  
11 be required to interpret the FECA to avoid constitutional infirmity under the First Amendment.<sup>32</sup>

### 12 **C. The Agreement Is Not Against Public Policy**

13 "[U]nless it is *entirely plain* that a contract is violative of sound public policy, a court will  
14 *never* so declare. The power of the courts to declare a contract void for being in contravention of  
15 sound public policy is a very delicate and undefined power, and ... should be exercised only in cases  
16 *free from doubt.*" *City of Santa Barbara v. Superior Ct.*, 41 Cal. 4th 747, 777 n. 53 (2007)

17  
18 <sup>29</sup> See 52 U.S.C. § 30101(8)(a) (definition of "contribution" requires payment be made "for the  
19 purpose of influencing an election," rather than other, non-election purposes); 11 C.F.R. §  
20 113.1(g)(6) (a payment made "irrespective of candidacy" is not a "contribution"). The fact that  
21 AMI received, in exchange for \$150,000, services and assets, which it has used for journalistic  
22 purposes, confirms that it did not donate the value to a federal campaign. The fact that a business  
23 expense by AMI may have incidentally benefited a campaign does not transform the expense into a  
24 "contribution." See *Orloski v. FEC*, 795 F.2d 156, 167 (D.C. Cir. 1986).

25 <sup>30</sup> *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972) (a law is unconstitutionally vague  
26 if "it 'fails to give a person of ordinary intelligence fair notice that his contemplated conduct is  
27 forbidden by the statute'"); *Baggett v. Bullitt*, 377 U.S. 360, 372 (1964) (vague laws with  
28 "uncertain" boundaries are especially dangerous in the First Amendment arena); *cf. Clifton v. FEC*,  
927 F. Supp. 493, 499 (D. Me. 1996) (observing that the FECA "does not make corporate  
expenditures, occurring after contact with a candidate, into contributions").

<sup>31</sup> *Buckley v. Valeo*, 424 U.S. 1, 80 (1976) (holding the definition of "contribution" must be  
interpreted narrowly to capture only payments "unambiguously related to the campaign"). AMI  
may challenge the law as overbroad even as applied to third parties. *Broadrick v. Oklahoma*, 413  
U.S. 601, 612 (1973).

<sup>32</sup> *Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568,  
575 (1988) (courts must interpret statutes to avoid constitutional doubt).

(emphasis added; internal quotation marks omitted; ellipses in original). There are ample reasons to doubt McDougal's contention that the Agreement violates public policy.

### 1. The Agreement Allows McDougal To Speak, And She Already Has

The basis of McDougal's "public policy" claim is that the Agreement allegedly "represents an impermissible effort to censor and distort" McDougal's speech. Compl., ¶ 105. That claim rings hollow. McDougal alleges that she hoped AMI would exercise its editorial discretion not to publish, or in her words "squash," her story about Trump. She called it the "best of all worlds" and a "win-win for me" if AMI would *not* publish the story. *Id.*, ¶ 47; Ex. 1 at 38:50. In any event, the Amendment expressly allows McDougal to speak to the press about her alleged affair with Trump, and, she did so in her comments to the *New Yorker* and in her one-hour interview on CNN watched by millions. Compl., Ex. B; Exs. 1, 2.<sup>33</sup>

### 2. Public Policy Supports Enforcing Contracts, Including This Agreement

Public policy generally favors enforcing contracts: "Freedom of contract is an important principle, and courts should not blithely apply public policy reasons to void contract provisions." *Kaufman v. Goldman*, 195 Cal. App. 4th 734, 745 (2011) (internal quotations omitted). Last week, the Court of Appeal observed that film and television producers routinely pay for "access" to a "story" the "producers would not otherwise have[.]" *De Havilland v. FX Networks, LLC*, -- Cal. App. 5th --, 2018 WL 1465802 (Mar. 26, 2018), at \*8; *see also Navellier*, 29 Cal. 4th at 94.

### 3. Public Policy Supports The Freedom Of Prelitigation Communications

McDougal's "public policy" argument also is premised on receiving AMI's alleged "threats of legal action" to enforce its rights under the Agreement. Compl., ¶¶ 101, 109. Even if they occurred, such "prelitigation communications" – far from violating general assertions of public policy urged by McDougal – would be *speech absolutely protected from liability* under the

<sup>33</sup> McDougal alleges that AMI "used" a "PR Firm" to "silence" her. Compl., ¶¶ 66-73. The Amendment states only that AMI would "retain the services of" PR professionals for a total of six months beginning December 1, 2016. *Id.*, Ex. B. *Nothing* in the Amendment required McDougal to follow their advice. She was always free under the Amendment to "respond to legitimate press inquiries," which she has done. *Id.* Moreover, the six-month period for which the PR professionals were retained under the Amendment expired at the end of May 2017 – over 10 months ago. *Id.*

litigation privilege, Civil Code § 47(b), which supports the “broadly applicable policy of assuring litigants ‘the utmost freedom of access to the courts to secure and defend their rights.’” *Rubin v. Green*, 4 Cal. 4th 1187, 1193-95, 1203 (1993) (“policies underlying section 47(b)” barred claim for injunctive relief).<sup>34</sup> Public policy supports AMI’s right to engage in prelawsuit communications, not McDougal’s request to void contracts because of AMI’s exercise of such rights.

#### 4. Public Policy Favors AMI’s Exercise Of Its First Amendment Rights

In *Miami Herald*, the Supreme Court rejected some of the same purported “public policy” arguments advanced by McDougal here. Compl., ¶¶ 101-103. The court favored the First Amendment-based “exercise of editorial control and judgment,” which includes “[t]he choice of material to go into a newspaper” and its “treatment of public issues and public officials—whether fair or unfair,” and disapproved a lower court’s opinion that the right of reply statute “enhanced” free speech and “furthered the ‘broad societal interest in the free flow of information to the public.’” 418 U.S. at 245, 258. The Court came to this conclusion over vigorous argument that the “First Amendment interest of the public in being informed is said to be in peril because the ‘marketplace of ideas’ is today a monopoly controlled by the owners of the market,” and that the “‘uninhibited, robust’ debate is not ‘wide-open’ but open only to a monopoly in control of the press.” *Id.* at 251-252. Public policy favors AMI’s First Amendment right to make editorial judgments over McDougal’s private effort to take back the right to re-sell her story.

#### V. CONCLUSION

AMI respectfully requests that the Court grant its anti-SLAPP motion in full.

DATE: April 2, 2018



JEAN-PAUL JASSY  
Counsel for Defendant American Media, Inc.

<sup>34</sup> The “litigation privilege is absolute” – *i.e.*, if it applies, it does not matter “whether the communication was made with malice or the intent to harm.” *Kashian v. Harriman*, 98 Cal. App. 4th 892, 913 (2002). New York offers the same broad protections for prelitigation communications. *Front, Inc. v. Khalil*, 24 N.Y.3d 713, 719-720 (2015).

Kevin L. Vick  
Declaration



1  
2 **DECLARATION OF KEVIN L. VICK**

3 I, Kevin L. Vick, declare as follows:

4 1. I am an attorney authorized to practice before this Court. I am a partner of Jassy  
5 Vick Carolan LLP, counsel of record for Defendant American Media, Inc. ("AMI") in the action  
6 entitled *Karen McDougal v American Media, Inc.*, Superior Court of the State of California, County  
7 of Los Angeles, Case No. BC 698956. The facts stated below are true of my own personal  
8 knowledge.

9 2. On or about March 22, 2018, Cable News Network ("CNN") broadcast an interview  
10 of Plaintiff Karen McDougal by CNN's Anderson Cooper (the "Broadcast"). Lodged concurrently  
11 with this Declaration as **Exhibit 1** is a true and correct copy of the Broadcast.

12 3. Attached as **Exhibit 2** is a true and correct copy of a transcript of the Broadcast,  
13 available at <http://transcripts.cnn.com/TRANSCRIPTS/1803/22/acd.01.html>, which I visited online  
14 and downloaded as PDF on March 28, 2018.

15 4. Attached as **Exhibit 3** is a true and correct copy of an article by Jeremy W. Peters  
16 entitled "Paying for News? It's Nothing New," from the *New York Times Sunday Review*, dated  
17 Aug. 6, 2011, available at [https://www.nytimes.com/2011/08/07/sunday-review/paying-for-news-](https://www.nytimes.com/2011/08/07/sunday-review/paying-for-news-its-nothing-new.html)  
18 [its-nothing-new.html](https://www.nytimes.com/2011/08/07/sunday-review/paying-for-news-its-nothing-new.html), which I visited online and downloaded as a PDF on March 27, 2018.

19 5. Attached as **Exhibit 4** is a true and correct copy of an article by Jack Shafer entitled  
20 "Why Not Pay Sources?" from the online magazine *Slate*, dated April 29, 2010, available at  
21 [http://www.slate.com/articles/news\\_and\\_politics/press\\_box/2010/04/why\\_not\\_pay\\_sources.html](http://www.slate.com/articles/news_and_politics/press_box/2010/04/why_not_pay_sources.html),  
22 which I visited online and downloaded as a PDF on March 27, 2018.

23 6. Attached as **Exhibit 5** is a true and correct copy of an article by Kelly McBride  
24 entitled "When It's O.K. to Pay for a Story," from the *New York Times*, dated June 9, 2015,  
25 available at <https://www.nytimes.com/2015/06/09/opinion/when-its-ok-to-pay-for-a-story.html>,  
26 which I visited online and downloaded as a PDF on March 27, 2018.

27 7. Attached as **Exhibit 6** is a true and correct copy of an article by Kelly Hchoer  
28 entitled "Paying For It," from the *American Journalism Review*, dated April 1999, available at

1 <http://ajrarchive.org/Article.asp?id=461>, which I visited online and downloaded as a PDF on March  
2 27, 2018.

3 8. Attached as **Exhibit 7** is a true and correct copy of an article by John Cook entitled  
4 "Pay Up: Sources have their agendas. Why can't money be one?" from the *Columbia Journalism*  
5 *Review*, dated May/June 2011, available at [https://archives.cjr.org/essay/pay\\_up.php](https://archives.cjr.org/essay/pay_up.php), which I visited  
6 online and downloaded as a PDF on March 27, 2018.

7 9. Attached as **Exhibit 8** is a true and correct copy of an article entitled "2016 General  
8 Election Editorial Endorsements by Major Newspapers" from The American Presidency Project,  
9 available at [http://www.presidency.ucsb.edu/data/2016\\_newspaper\\_endorsements.php](http://www.presidency.ucsb.edu/data/2016_newspaper_endorsements.php), which I  
10 visited online and downloaded as a PDF on March 27, 2018.

11  
12 I declare under penalty of perjury under the laws of the State of California that the foregoing  
13 is true and correct. Executed on March 28, 2018 at Los Angeles, CA.

14  
15  
16 

17 KEVIN L. VICK  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# Exhibit 1

**Lodged Manually with the Clerk of the Court**

**Exhibit 1** to Declaration of Kevin L. Vick, is a disc containing a video of Cable News Network (“CNN”) broadcast interview of Plaintiff Karen McDougal by CNN’s Anderson Cooper on March 22, 2018.

## Exhibit 2

[Home](#)

# TRANSCRIPTS [Transcript Providers](#)

[Shows By Category:](#)[Return to Transcripts main page](#)

## ANDERSON COOPER 360 DEGREES

**CNN's Exclusive Interview with Former Playboy Model Karen McDougal Detailing Her Alleged 10 Month Affair With Donald Trump in 2006. Aired 8-9p ET**

Aired March 22, 2018 - 20:00 ET

THIS IS A RUSH TRANSCRIPT. THIS COPY MAY NOT BE IN ITS FINAL FORM AND MAY BE UPDATED.

[20:00:08] ANDERSON COOPER, CNN HOST: Good evening.

Breaking news tonight involving the adviser who will be at the president's elbow if it ever comes down to pushing the button. The current one, a three-star general, is leaving. His replacement, a former U.N. ambassador, now a TV pundit, who's been called a hard-liner, a hawk and by some, even a loose cannon.

Also tonight, my exclusive conversation with former Playboy model Karen McDougal about the 10-month long intimate relationship she says she had with Donald Trump. A relationship that began just a few months after Melania Trump gave birth.

(BEGIN VIDEO CLIP)

COOPER: If Melania is watching this, what would you want her to know?

KAREN MCDUGAL, ALLEGES AFFAIR WITH DONALD TRUMP: It's a tough one.

COOPER: Or say to her.

MCDUGAL: Yes. What can you say except I'm sorry, I'm sorry, I wouldn't want it done to me. I'm sorry.

(END VIDEO CLIP)

COOPER: More with Karen McDougal tonight. That's ahead.

First, the departure of national security adviser H.R. McMaster and the naming of John Bolton as his successor -- something as recently as last week the White House said was simply not happening.

(BEGIN VIDEO CLIP)

REPORTER: Sarah, you took to Twitter last night to ensure the public that McMaster's job was safe. But has the president spoken directly to either McMaster, Carson, Shulkin to tell them that their jobs are, in fact, safe?

SARAH HUCKABEE SANDERS, WHITE HOUSE PRESS SECRETARY: Again, like I said last night, and I'll echo it again, I spoke directly to the president last night. He asked me to pass that message along to General McMaster.

(END VIDEO CLIP)

COOPER: Well, that was the old message. The new message is more like thanks and good luck.

The latest now from CNN's Jeff Zeleny who's at the White House.

So, Sarah Sanders, that was just a week ago, what happened?

JEFF ZELENY, CNN SENIOR WHITE HOUSE CORRESPONDENT: Anderson, a lot happens in six days. And one of the major things that happened here was indeed that leak earlier this week of the president's phone call with Vladimir Putin. You know, his national security advisers giving him a message, do not congratulate President Putin. The president did congratulate him.

That is one of the things that really set this in motion much faster it appears than it already was going. But the reality is, this has been in the works for weeks. We have been reporting that the president has sort of fallen out a b.

with H.R. McMaster, and they were simply looking for a time to do it.

But at the moment of that press briefing last Friday, Anderson, we spoke to senior advisers throughout the White House on that day and all this week, and no one knew this was coming. Few people knew it was coming at least.

John Bolton didn't know it was coming either. He said in an interview on Fox News this evening, he didn't know it was going to be announced this afternoon. So you get the sense the president trying to speed this up to perhaps interrupt the other programming of the evening.

But it is clear the president had lost support of H.R. McMaster and decided to make that decision after John Bolton met with him for about an hour in the Oval Office this afternoon, Anderson.

COOPER: And I understand that John Bolton made the president a promise. What was that?

ZELENY: He apparently did make the president a promise, in a series of conversations. He's been over here to the White House several times over the last weeks, and indeed months, talking with the president. The president, of course, watches him on Fox News. He watches his commentary.

And our Kaitlan Collins is reporting this evening that John Bolton made the president a promise to not start any wars, perhaps tongue-in-cheek there but certainly a point as it comes to his hard-line view, certainly much different.

So, Anderson, what we're seeing here is a reshaping of the Trump presidency really week by week by week, putting in hardliners, people who agree with the president, yes men.

The question is here, where does this leave James Mattis? The defense secretary, of course, now odd man out. He's meeting with the president and other cabinet secretaries here tomorrow. Anderson, that will be a very interesting meeting.

COOPER: Yes. Jeff Zeleny, thanks very much.

I want to bring in two CNN political analysts. Maggie Haberman, White House correspondent, of course, for "The New York Times". Also, David Gergen, adviser to presidents in both parties dating back to the Nixon administration.

I mean, was this departure, Maggie, as amicable as -- you know, and as mutual as the White House is saying?

MAGGIE HABERMAN, CNN POLITICAL ANALYST: I mean, to the extent that you can be ritually humiliated week after week with stories leaking out about the president being unhappy with you, I suppose it's as amicable as that gets.

I will say that things, look, things between President Trump and H.R. McMaster were never good. And they never had a great relationship. They didn't have a good rapport. The president didn't like H.R. McMaster's briefing style. The president likes to sort of mix up these conversations when they're actual briefings with his shtick, and H.R. McMaster did not respond well to that, typically speaking.

But John Kelly really didn't like H.R. McMaster. And that, I'm told by several people accelerated this timeframe.

COOPER: Do you know why he didn't like him?

HABERMAN: I think there are a variety of reasons, some of it is four-star versus three-star, in terms of their military ranking. Some of it is I think they just disagreed on certain policy aspects. I think stylistically, they didn't get along.

[20:05:02] But H.R. McMaster was generally the odd man out in this sea of military figures with whom the president has surrounded himself. John Kelly did not want John Bolton. I mean, this is not a pick that the chief of staff wanted. Knowing this president and how he makes decisions as you do, as I do, you can envision a world where, yes, maybe it was to knock off your interview with Karen McDougal later tonight, certainly a possibility --

COOPER: Do you really -- you actually think that's possible?

HABERMAN: I think anything is possible with him. I also think there's a possibility because John Bolton resisted he decided to do it for that reason, and made -- you know, the latest of a series of impulse purchases on staff and on policy.

COOPER: David Gergen, what do you make of the choice?

DAVID GERGEN, CNN SENIOR POLITICAL ANALYST: Well, two things. First of all, once again they sort of ushered someone out the door in the least gracious way you can do it. Many of the friends of H.R. McMaster said he wanted out of this was a fourth star. He wanted to command, he wanted to go back out on the field and he was



prepared to do that and come in and serve his country. He didn't particularly want this job but he was prepared to do it.

So, I just think it's so unfair to these people when they come in and sacrifice. And one thing, to hear that Mattis is now talking is really scary, because Bolton represents a very big swing to the right, in terms of the center of gravity among his advisers.

If you think three countries, Iraq, North Korea, and Iran, on all three, he has been very hard-line. He was a big advocate for going into Iraq early on, back in the Bush administration. He has, on the question of North Korea, he thinks, he said publicly, he thinks these talks -- these upcoming talks will fail. He's talked about a fall-back position that may lead to war.

And, on Iran, with a big decision coming up by this president, just a few weeks, he's going to have Bolton there saying this is a horrible deal, we ought to get out of it.

HABERMAN: On North Korea in particular, though, you reminded me of something I've been told a few times. John Bolton apparently was not contacted until yesterday and asked to come to the White House today.

And the big question was, can you -- John Bolton is a pretty strong personality -- can you essentially recognize that you have to put your own positions aside and the president's thoughts or policy? And I think Bolton had to make clear that he could do that, that he could also read the nuances of the president and think ahead of time, which is not something that I think McMaster found easy to do.

My understanding is that Bolton was able to communicate that. So, on North Korea, which this president has prided himself on saying he thinks he can get this deal when almost no one else thinks he can. I think he will see Bolton adhere more to what the president wants. But it is definitely true, the president is surrounding himself -- I think it isn't just hardliners. I mean, the president is surrounding himself with people who are going to acquiesce to him --

GERGEN: Yes.

HABERMAN: -- which is not what he had for most of the last year. You had Gary Cohn, who was sort of a moderating influence. You had a bunch of other people, H.R. McMaster certainly was one. And he is, he is one by one, replacing them with people who are going to make things less hard for him. And I think that is the significance.

COOPER: And that's by design. That's not an accident.

HABERMAN: That's by his design. Yes, look, he -- he -- and I wrote about this the other day. He began -- whether he would ever acknowledge it or not, he had a lot of anxiety heading into this job. He knew it was something you cannot play at, he knew nothing about it, he had not thought about it at all.

He needed other people for a long time, because he couldn't figure things out. He now thinks -- and I'm not saying he's right -- but what he thinks is he understands this -- one current White House adviser described it to me as Trump is starting to view the White House more as he did the Trump Org, in terms of his comfort level with it. And that's what's happening.

GERGEN: Ever since Maggie wrote that great story on "The New York Times" about the emboldened Trump, that was about two weeks ago?

HABERMAN: That was three days ago. It just feels like seven years ago. Yes.

GERGEN: But it's been true. It really has captured exactly where he is. And that is, he's thrown off the training wheels, essentially, he says I can do this on my own. But he's surrounding himself in the meantime with hardliners

The idea that Bolton is going to be in, you know, is simply going to present him with the views of everybody else.

COOPER: And that he won't, quote, start any wars.

GERGEN: He is going to have strong views himself. He's very smart. Bolton is a very smart fellow. And he's principled. He's a very principled hard-liner.

But his views on almost every case are very far to the right of the mainstream and the American foreign policy community.

COOPER: It is interesting to think that this is not a job that requires confirmation --

HABERMAN: Right.

COOPER: -- from the Senate.

And in fact, John Bolton became the U.N. ambassador without actually having to go through confirmation. I think it was a recess appointment.

HABERMAN: I'm not sure if you're right about that, but I'll take your word for it. But it is certainly true that this is somebody who would have challenges going through confirmation. We're already seeing Mike Pompeo in terms of moving from the CIA is going to have confirmation issues. I think the president is seeking to get around that as much as possible.

GERGEN: I think one other thing that shows up that is distinctive about these appointments in recent days is not only are they going further hard-line, but in every case, it's somebody who has made a name for himself on television as a commentator.

[20:10:04] COOPER: Right.

HABERMAN: Absolutely true.

GERGEN: You know, we just had -- you know, CNN just had on Erin tonight, Navarro --

COOPER: Right.

GERGEN: -- coming in. You're going to see a lot more of them on television and that's what he wants. This is a TV-oriented president.

HABERMAN: It is. It's also a president who believes that on TV, no one has really defended him that strongly, save for a couple of people. Kellyanne Conway remains one of his favorites. There are a couple of other people that he generally believes that people are not on TV talking the way he wants them to talking about his administration. And that is a lot of why you're seeing it this way.

COOPER: And he certainly watches, I mean, as your reporting has shown. I mean, he certainly --

HABERMAN: He says he doesn't.

COOPER: Right, he says he doesn't. But it gets to know these people, John Bolton, through television.

GERGEN: Exactly.

HABERMAN: Kudlow I think he actually knew personally. I think he had a different relationship with him. I think that one's a little different.

Bolton, it's funny to your point about sort of the physical aspect of this. Most of what the president talked about, about John Bolton during the transition, when he chose not to give him this job in the first place and not to give him secretary of state and not to give him a host of other jobs was his mustache, that was the singular part of derision. That tells you a lot of how the president looks at things.

GERGEN: Coming off the trade deals and the announcement and how it's rattled the markets, this is going to send a signal to a lot of countries overseas of greater uncertainty in American policy.

COOPER: Yes.

Maggie Haberman, David Gergen, thanks.

Coming up next, my in-depth conversation with former Playboy model Karen McDougal. I spoke to her for more than an hour. She talks about the Donald Trump she says she came to know over a ten-month love affair, the affair she says they had spanned that long. The money she says that he offered her after their first time together and the emotional impact of meeting his wife and mother of his then infant son.

(BEGIN VIDEO CLIP)

COOPER: So, was that the first time you met Melania?

MCDUGAL: It is. And honestly, if you can tell, I tried to keep my distance. I tried to go as far away as I could.

(END VIDEO CLIP)

(COMMERCIAL BREAK) [20:16:00] COOPER: Right now, only on 360, conversation with former Playboy model Karen McDougal about the 10-month long relationship she says she had with Donald Trump, a relationship she says that began in the summer of 2006. McDougal is suing to void an agreement she signed shortly before the 2016 election with the company that owns the "National Enquirer", which bought the rights to her story. Her lawsuit says the magazine bought her story in fact to kill it, thereby protecting the candidacy of Donald Trump.

It's a story that's not been told in full on camera until tonight. As you know, Karen McDougal is just one of three women speaking out just this week about the Donald Trump they say they knew.

(BEGIN VIDEOTAPE)

COOPER: If I could just start at the beginning, how did you meet Donald Trump?

KAREN MCDUGAL, FORMER PLAYBOY PLAYMATE: I met Donald when they were filming "The Celebrity Apprentice" at the Playboy mansion. They were filming there and I was hired as one of the playmates to work at the pool party scene. It was kind of fun, actually. And --

COOPER: You worked for Playboy for some time.

MCDUGAL: Yes. I -- after becoming playmate of the year, I was required to work so many events with Playboy. And that was one of the events I thought would be fun. I worked it and there were a lot of women there. We just saw it as a great time and that's who we met.

COOPER: How did you actually meet?

MCDUGAL: You know, he said hello, like he would to anybody, then throughout the night, it was kind of obvious that there was an attraction from his part to me. And I kind of just blew it off.

COOPER: You could see him looking at you.

MCDUGAL: Oh, I could see it. The Playboy bunny, she's like the house mom, is what we call her. She actually made a comment like, wow, this guy is really into you. And that's kind of when I started like paying attention. And he was.

I kind of smiled at it, I thought it was kind of cute and funny. And then at the end of the night, you know, after striking up many conversations, we exchanged -- he actually asked me to write his phone -- my phone number down for him to keep.

COOPER: Did you -- you wanted to see him again?

MCDUGAL: I thought it would be nice to communicate with him and talk to him. I actually at that point didn't consider dating or going out with him. But I just think he's an interesting person. He's brilliant and I like smart minds. And I think that I was interested in the communication for sure.

COOPER: So when was the next communication?

MCDUGAL: I believe we talked right away on the phone. I think we talked for about a week on the phone before his next visit to L.A. And that was his birthday which I think is June 12th.

COOPER: Would he call you?

MCDUGAL: He would call me, I would call him. Vice versa.

COOPER: So, you had his phone number?

MCDUGAL: I have many of his phone numbers, yes.

COOPER: Do you have his direct number for him, or did you have to go through somebody else?

MCDUGAL: I have his direct phone number. I have quite few of the direct phone numbers. I also had his bodyguard Keith's phone number. I had his personal secretary's phone number.

COOPER: (INAUDIBLE) number.

MCDUGAL: No, at the time, it was Tweetie (ph). I don't know her last name. I just know her Tweetie (ph).

But I have all these phone numbers so I couldn't reach him on one, depending where he was going to be, I would call the other.

COOPER: When he called, did his number show up on the phone?

MCDUGAL: No, it did not.

COOPER: It would show up as what?

MCDUGAL: Gosh, it's been so long, but I think it just showed up as a 212. Just 212.

COOPER: Like a blocked number or --

MCDUGAL: Correct.

COOPER: No caller ID?

MCDUGAL: Right. Correct.

COOPER: And what were the conversations like?

MCDUGAL: The conversations were like any other conversation you have with a nice person. We got along great. We had respect for each other. We had fun. We were funny together. We had a good time.

We would talk about anything and what kind of food do you like, to how's your family? He asked me how my family was, to politics, to anything. Like just normal every day life conversations.

COOPER: When did you actually decide to see him again? MCDUGAL: Before -- you mean after June 12th?

COOPER: Yes. After the initial meeting, and after the phone conversations.

MCDUGAL: After our first meeting on June 12th, I decided to see him again, actually that night, I didn't think I was going to see him again because I was a little bit put off.

COOPER: Wait. I'm sorry. Was the June 12th -- was that the "Apprentice" event?

MCDUGAL: No, that was our first, quote/unquote, date.

COOPER: OK. So, I'm sorry. So, tell me about your first date.

MCDUGAL: Our first date, I was told we were going to go to the Beverly Hills hotel for dinner. So, he had told me that Keith, his bodyguard, was going to pick me up at a certain time and he did. And then we were driving over to the Beverly Hills Hotel. And Keith drove around to the back and he said, we have to get out here, because we don't want to walk to the hotel. And at that minute, I'm like thinking to myself, are we going to a room because I

thought we were having dinner at the Beverly Hills Hotel.

[20:20:02] COOPER: In the actual restaurant?

MCDUGAL: Right. Well, we did have dinner at the Beverly Hills Hotel but in his bungalow instead. We had dinner there for a few hours. We talked for a few hours. We had a great time, we're getting to know each other. We're talking about his birthday, and then as the night ended, we were intimate.

COOPER: When you got to the Beverly Hills Hotel and Keith said, we're not going to go through the lobby, we're going to go -- was it to a room at the Beverly Hills Hotel or a suite or?

MCDUGAL: It was a bungalow in back.

COOPER: A bungalow.

MCDUGAL: It's the one he said he always stayed at. And in fact, every time that I met him there, it was the same exact bungalow. And he's called it the nicest bungalow they have. So, I guess that's why he chose that one. But that's where we went every time.

COOPER: Were you concerned when you realized you're not going to go out to dinner and actually going to be eating at the bungalow?

MCDUGAL: I think that first night I was concerned because I didn't -- I wasn't expecting to go to a hotel room or bungalow, whatever you want to call it. I actually thought we were going to dinner. So, I was a bit concerned, and I think at that moment is when I realized maybe something else is going on.

You know, I'm a smart girl. I probably could have figured it out, but I really wasn't thinking. I think I was so nervous to actually meet with him in general that it kind of just didn't even -- you know, think -- it wasn't my thought process at that moment. I was just too nervous to actually meet him. So --

COOPER: Were you attracted to him?

MCDUGAL: I was attracted to him, yes. He's a nice-looking man. And, you know, I liked his charisma. I think I love -- you know, got great posture. He's got great posture. And he was nice.



COOPER: So the sex was consensual? Just to be clear.

MCDUGAL: It was consensual, yes.

COOPER: And what happened afterward?

MCDUGAL: After that night?

COOPER: You said you sort of ended on a strange note. What happened after you had been intimate?

MCDUGAL: Well, after we had been intimate, he, he tried to pay me. And I actually didn't know how to take that.

COOPER: Did he actually try to hand you money?

MCDUGAL: He did. He did. And I said, I mean, I just had this look of, I don't know -- just, I don't even know how to describe the look on my face must have been so sad, because I had never been offered money like that before, number one. But number two, I thought, does he think I'm in this for money or why I'm here tonight? Or is this a normal thing? I didn't know.

But I looked at him and I said, that's not me. I'm not that kind of girl. And he said, oh, and he said, you're really special, and I was like, thank you.

So, I left, actually, got in the car. Keith taking me home and I started crying. I was really sad. It really hurt me. But I went back.

COOPER: Hurt you that I saw you that way?

MCDUGAL: Yes. Hurt me that he saw me in that light. And he obviously assumed that that's the kind of girl I was, maybe because I was a playmate. I don't know. But --

COOPER: Even though you'd a night of conversation and days of conversations, it hurt you that it boiled down in the end to that.

MCDUGAL: It did hurt me. It did hurt me. I was crying in the back seat of the car. Like I said, I got home and to

my apartment and I cried for a lot. I felt really terrible about myself, let alone what he felt, but I felt terrible about myself. And, you know, I got over it, but I felt hurt.

COOPER: Did you think you would see him again?

MCDUGAL: I didn't. I didn't think I'd see him again. But then when he called, you know, I was in a bad place in my life. I just came out of a bad relationship where I never felt good enough in my relationship, and -- not that that's any excuse, it's not. But I think I was so down on myself that when he called, and he's so sweet, like what everyone sees on TV, I didn't see in that man, because that man was very sweet, very respectful, very loving, very kind and caring. Like that's the man I saw.

COOPER: He's very -- he could be very charming in person.

MCDUGAL: He's very charming. He's very sweet. His personality to me was, wow, like I loved it. It was great.

COOPER: When was the next time you saw him?

MCDUGAL: You know, I'd have to look back at my, I took a journal back in the day, and not for anything in particular, but I -- to this day, I still write down everything I do during the day. That's what I do.

So, if I looked at that, I could find out, but I think it was in that same couple days within a week, because he was in town. When he came to L.A., he was usually there between three, five, six, seven days, and I really saw him.

COOPER: You gave us the journal that you kept. You would write down on days you saw him, you wouldn't write out his full name.

MCDUGAL: No, I either called him T or D.T., because if anybody found this, I wouldn't want to expose myself or expose him.

COOPER: So there's a number of days here, looks like dozens over the course of time with a small little D.T. and sometimes they're hard to see.

MCDUGAL: I purposely kind of chicken scratched a lot on there, because I know what I'm writing. And like I said to this day, I still do that with my notes and where I'm at, who I talked to, whatever. I did. I did write that down.

So, did I see him quite a few times? Quite a bit? Absolutely. We spent a lot of time together.

COOPER: And did you tell friends about it at the time?

[20:25:02] MCDOUGAL: I did. I told a few friends, and I told my sister, I actually told my mother that I knew him and we talked on a regular basis, but I told her that we were just friends. And she kind of scolded me a little bit, like I hope it's only friends, because, you know, he's married and I'm like, yes, I understand.

My sister actually heard him on the phone, she was with me one time and she -- you know, I couldn't hold the phone because I was busy. So, she put him on speaker and we were just talking. I mean, I didn't care. It's like, she knew anyway.

So, when you have a relationship with somebody, you don't hide it, right? If there's feelings, you don't hide that relationship.

COOPER: Did I ever ask you to hide it?

MCDOUGAL: No, he didn't. Never.

COOPER: So, there was never a conversation of don't tell anybody?

MCDOUGAL: Never. In fact, I think once he asked, does your sister know? And I said, yes, she knows. He's like, oh. So, he wasn't afraid to hide it at all.

COOPER: And you knew he was married.

MCDOUGAL: I did.

COOPER: Did he bring up his wife? Did you bring it up?

MCDOUGAL: No, I -- I never brought up his wife. He did once. And that's only time I can remember, when he said she was an intelligent woman. She knew like, I don't know, four or five languages. But other than that, he never talked about his wife, and I never brought it up.

I -- obviously, there's a reason I don't bring her up because I felt guilty about it. So, I -- after never seeing her until the one occasion, I never correlated the two, really. I just kind of out of sight, out of mind.

COOPER: When you met, it was 2006.

MCDUGAL: Correct.

COOPER: Was this shortly after his son had been born?

MCDUGAL: Yes, it was.

COOPER: Would he talk about his child, his son?

MCDUGAL: No. The only thing he said about his son was, isn't the name **Baron** a nice name? And I said, yes, it is. And I said, how did you choose that name? And he told me, and that's it. There's no conversation.

COOPER: As you enter a relationship, obviously, in any relationship, you start to think about where this is going to go, and how you feel, and -- how did you view it? How did you view the relationship?

MCDUGAL: You know, going through it, when I look back, where I was back then, I know it's wrong. Like I'm really sorry for that. I know it's the wrong thing to do.

But back in those days -- sorry.

COOPER: OK.

MCDUGAL: Back in that day, I was a different girl, you know, I had fun. I was in the Playboy scene. I was just enjoying life as much as I could.

And, you know, when I got with him, actually, you know, there was a -- there was a real relationship there. There were feelings between the two of us. Not just myself, not just him. There was a real relationship there.

And I kind of out of sight, out of mind with everything else. And, you know, deep inside, I did have a lot of guilt. But I still continued.

COOPER: You believe, though, that he had real feelings for you?

MCDOUGAL: Of course he did, yes. I know he did.

COOPER: He would say that?

MCDOUGAL: He did.

COOPER: Were you in love with him?

MCDOUGAL: I was, yes.

COOPER: And do you think he was in love with you?

MCDOUGAL: He was, yes.

COOPER: Did Donald Trump ever say to you that he loved you?

MCDOUGAL: All the time. He always told me he loved me. Yes. Of course.

COOPER: Did he have any nicknames for you?

MCDOUGAL: He would call me "baby", or he'd call me "Beautiful Karen".

COOPER: Would you always see him just in Los Angeles?

MCDOUGAL: No. No, I wouldn't.

I actually went to a golf tournament with him in Lake Tahoe. I went to his golf course in California. I went to his golf course home in New Jersey. I went to his home in New York, and -- trying to think where else. I can't recall right now, yes.

COOPER: When you say you would arrange to go someplace, how would it be arranged?

MCDOUGAL: I would pay for the flight, I would book it myself. I would book the hotel room if I wasn't staying

with him. Usually, I stayed with him, but there's been a couple times where I didn't. And then he would reimburse me. So, if the flight was, I don't know, (INAUDIBLE) throw the number, if the flight \$500, he'd give me \$500 and say, here's -- you know, take care of the flight and things like that. So --

COOPER: Why would he have you book all the travel and the hotel room?

MCDUGAL: Well, there's no paper trail.

COOPER: And did you realize that at the time?

MCDUGAL: Yes, I did.

COOPER: Because he was concerned about it being revealed at some point and there being a paper trail?

MCDUGAL: Oh, I was told there is no paper trail. I can't say what his reasons were, but I would assume that's the case, yes, yes.

COOPER: And Keith Schiller, was he very much involved in this, picking you up, sending messages back and forth, things like that?

[20:30:00] MCDUGAL: I did have a lot of correspondences with Keith. Yes. And I got to know Keith pretty well, like Keith always picked me up, dropped me off, take me to and from, whether it's an event, the Beverly Hill Hotel or wherever we're going, Keith was always involved.

Keith is a nice man. Yes, I got to know him. He's funny.

COOPER: You went to the -- you said you went to a golf tournament in Tahoe.

MCDUGAL: I did.

COOPER: There were other people now who have come forward saying that they also had met with him and had sex with him at that event. Were you aware of any other women?

MCDUGAL: No, I was not. I mean, I was with him a lot, so I didn't see anything, but could he have stayed a day longer than me? Sure.

COOPER: Did you think that this relationship was going to last for a long time? Did you have --

MCDUGAL: I did.

COOPER: You did?

MCDUGAL: Yes, I felt it was getting much stronger. You know, there were no gifts ever, but a Christmas gift, I got him a gift. And then he told me the gift he got me was an apartment in New York, but it's being remodeled right now. I never saw the apartment, because I ended up breaking up or ending the relationship, but that was supposedly my gift. I don't know.

COOPER: You went to his actual apartment in Trump Tower.

MCDUGAL: I did. I didn't know I was going there. I actually had a hotel room in the city at that time. Well, for this trip. COOPER: What was it like going up to Trump Tower?

MCDUGAL: I didn't know I was at Trump Tower. We went to the back entrance, so I had no idea where we were going. The back entrance as you know, probably, is more discrete. It's like a little nothing hallway versus like when you walk into the grand -- right?

COOPER: Yes.

MCDUGAL: So we went into the back entrance, and at that point I realized where we were going, and I said, aren't you afraid to bring me here? He's like, they won't say anything. I'm like OK. So, we went upstairs and we looked around and --

COOPER: To his office or to his apartment?

MCDUGAL: His apartment. He showed me around.

COOPER: What did you think of the apartment?

MCDUGAL: It's very gold. No, it's actually quite pretty. The views are amazing. That's a beautiful apartment. They have great taste.

COOPER: And he showed you around the apartment?

MCDUGAL: He did.

COOPER: Did he reference Melania at that point?

(END VIDEOTAPE)

COOPER: Her answer to that and her first encounter with the future first lady when we continue.

(COMMERCIAL BREAK)

COOPER: Before the break, you heard former Playboy model Karen McDougal describe how she says she and Donald Trump met, the sweetness she says she saw in him and her reaction to what she says was an offer of money after their first intimate encounter. Before we go any further, we should know that then White House communications director, Hope Hicks, called Ms. McDougal's allegations of an affair, quote, totally untrue.

But Ms. McDougal stands by her story, as you see. And as we continue to talk today, she told about her account of another emotionally jarring aspect of any affair with a married man, meeting his wife and his family.

Here's part two of our exclusive conversation.

(BEGIN VIDEOTAPE)

COOPER: What did he say? Did he reference Melania at that point?

MCDUGAL: He did. We passed a room, and he said it's Melania's room. She likes to have her alone time or to get her way to read or something like that. I'm like, oh, OK. That's when I kind of thought, maybe they're having issues. I didn't ask. It's not my business at that point.

COOPER: How did you feel being in his apartment?

MCDUGAL: Guilty, very guilty. I kind of didn't -- I couldn't wait to get out of the apartment, actually. I think doing something, doing something wrong is bad enough, and when you're doing something wrong, and you're in



the middle of somebody else's home or bed or whatever, that just puts it a little old stab in your heart, and I just couldn't wait to get out of the apartment. I wanted to go back to my hotel room.

COOPER: It made his other life more real, you think?

MCDUGAL: I was going to say, it made it more real to me, yes. It made it more real.

COOPER: Did you see Baron there?

MCDUGAL: No, I never saw Baron.

COOPER: So, where's this picture from?

MCDUGAL: That picture is from the "Apprentice" release party that they had at the Playboy Mansion. So, they filmed it like a month beforehand, which is where I met him, and then they had the release party when the "Apprentice" actually aired. So, that's when that one was.

COOPER: So, this is a picture with Ivanka Trump, Melania Trump, several of your colleagues and yourself.

MCDUGAL: Correct, yes.

COOPER: Did -- so, was that the first time you met Melania?

MCDUGAL: It is. And honestly, if you can tell, I tried to keep my distance. I tried to go as far away as I could, just because I felt guilty.

COOPER: Do you think she knew?

MCDUGAL: You know, maybe. Maybe. I don't know.

You know, it was told to me that they were arguing that night, and I said, why? And somebody had said, probably because of you. But I don't know if that's a fact or not, so don't quote me on that one.

COOPER: Do you -- there's another picture with, it's you with Eric Trump.

MCDUGAL: Yes.

COOPER: Do you know where that is from? MCDUGAL: I believe is that's from the Trump Vodka release party that

he had, which was within a couple of days of that other party.

COOPER: Did it feel strange to meet his son, Eric?

MCDUGAL: It did, but he was such a friendly guy, like, again, when you're doing something wrong, you try and push everything out of the way and make it as right as you can in your mind. So I met, you know, all his kids, except for Baron, of course. And I just started to shake it. But now, it gets to me, but then it didn't.

COOPER: Did he ever compare you to any of his kids?

MCDUGAL: You know, he, he's very proud of Ivanka, as he should be. I mean, she's a brilliant woman. She's beautiful. She's -- you know, that's his daughter, and he should be proud of her.

He said I was beautiful like her and, you know, you're a smart girl. And there wasn't a lot of comparing, but there was some, yes. I heard a lot about her. Yes.

[20:40:02] COOPER: Did that strike you as odd in any way, or?

MCDUGAL: You know, I know a lot of people think it's odd. I you know, there's been some comments I've heard in the news he's said about her, I think those comments are wrong. But do I think it's strange that a father would love his daughter so much that he brags about her? No, I brags about my dog that much.

COOPER: I guess -- you know, some people seeing this are not going to believe that you had a relationship, I hope Hicks has said categorically you did not have a relationship, there's no truth to this. When you heard that denial, what do you think?

MCDUGAL: Well, I think somebody's lying, and I can tell you it's not me. It's a little hurtful, but at the same time, I have to understand, like if he were to told I hope that he didn't do it, I guess I understand, because he's trying to protect his family, his image. Things like that. But, it was definitely a little, like, wow, you're going to lie about that? OK.

COOPER: When you heard the stories of Stormy Daniels who has come forward who said that she was at the Tahoe Club as well and others who said that they were there, you didn't know about that at the time.

MCDUGAL: No, I did not know.

COOPER: Does it -- what do you think when you heard that?

MCDUGAL: My first thought is how could she have been with him when I was with him? The only time we weren't together on that particular trip was when I -- he was on the golf course golfing. I didn't go, clearly, but I went to every event, every after thing, parties, daytime things, I was there. That's why I can't understand.

Now, I do remember him saying, he came in one day and said, oh, there are a bunch of porn stars out there. They were wanting pictures of me. And I'm like, oh, that's funny, you know, that's cute, whatever. I do remember him saying that, but I can't imagine when he found the time except for maybe the day I left.

So, it's kind of like, wow, how did this happen?

COOPER: Did you think maybe this would lead to a marriage?

(END VIDEOTAPE)

COOPER: Her answer to that just ahead.

I also asked her about the extent of the sexual relationship they had, whether she was worried that this would all come out and how their relationship ended as well as this.

(BEGIN VIDEO CLIP)

COOPER: If Melania Trump is watching this, what would you want her to know?

(END VIDEO CLIP)

[20:46:20] COOPER: Now, more of my exclusive interview with former Playboy model Karen McDougal who says for 10 months, she had an affair with Donald Trump. She says it began in the summer of 2006. He was

married and Melania had recently given birth to their son **Baron**. McDougal says she felt guilty but tried to put all that aside.

(BEGIN VIDEOTAPE)

COOPER: Did you think maybe this would lead to a marriage?

MCDUGAL: Maybe.

COOPER: That's something, though, you liked him enough, that's something you would have liked?

MCDUGAL: Maybe.

COOPER: Did he, at the time, say, tell you that you were his only girlfriend? Or did that subject --

MCDUGAL: You know, we never really discussed that. I knew he talked to ladies, but I didn't know there was anything else. I didn't know he was intimate with other ladies.

But I guess if he's -- makes sense, if he's doing it behind his wife's back, why would he not do it behind my back? So --

COOPER: But at that time, in the frame of mind you were in then, you felt you were the only other person?

MCDUGAL: I thought I was the only one, yes, I did. I thought I was the only one.

COOPER: Do you have any text messages, photographs, videos, anything that would dispute the Hope Hicks' statement that this never happened?

MCDUGAL: Let me just say this; if you're in a loving relationship, do you try and collect evidence?

COOPER: That's not what you were thinking about.

MCDUGAL: No, not at all. Not at all. In fact, the only thing that I have really is my journal that I keep, and like I said, I still do it to this day. It wasn't out to get anybody or, gosh, get anyone in trouble, but those are my notes. Those are for me.

No, when you care about somebody, you don't try and set them up in any way, shape or form. That's my opinion.

COOPER: But I'm just wondering if, you know, some couples take a lot of pictures, put them on Instagram or just take pictures for themselves, that wasn't something you two would do.

MCDUGAL: Privately?

COOPER: Yes.

MCDUGAL: No, I wouldn't want anybody to find me in that compromising position, let alone him. But I guess at the time, I kind of felt more about my myself, I wouldn't want anybody to see pictures of me like that. So, it just so happens that I'm very protective of my image. So, I guess I protected him too without even knowing it.

COOPER: Were you worried about people finding out?

MCDUGAL: I was for a while.

COOPER: I mean, except your sister and other good friends.

MCDUGAL: Yes, I was for a while. There were a couple instances where we were out in public, and he had his hand on my back, and I kept thinking, I'm looking around, there's a lot of people. I'm like, how do these people, like, what are they thinking? I don't know what they're thinking, but I thought it was going to get out.

So, I was scared every time we went to an event. I thought this is going to get out. I didn't want it to get out.

But at the same time, I felt so honored to be with him in a sense that I'm like -- I don't care who knows. But I didn't want that reputation, either. So it's kind of like the saying, damned if you do, damned if you don't.

COOPER: You're saying you didn't want it to get out because --

MCDUGAL: I mean, look at the bad things people are saying about me now. I didn't want it then and I didn't want it for him either.

COOPER: I mean, this is a hard question to ask but you said you had sex that first time. All those times you saw

him, this was an ongoing sexual relationship. MCDUGAL: Absolutely.

COOPER: Can you estimate how many times you actually saw him?

MCDUGAL: Again, when you're in a relationship, do you count how many times you have sex? No. However, I can tell you we saw each other a minimum five times a month, up to bigger numbers per month. So, we --

[20:50:08] COOPER: Over the course of how long?

MCDUGAL: Over the course of 2006 through I think I ended the relationship April 2007. So, we were together 10 months before I chose to end it. So, we saw each other quite frequently.

COOPER: So, dozens of times you were together.

MCDUGAL: Many dozens of times, yes.

COOPER: And you were intimate --

MCDUGAL: Yes.

COOPER: -- many dozens of times?

MCDUGAL: Yes.

COOPER: This is another tough question and again, you don't have to answer it. But it's been raised with other people, did he ever use protection?

MCDUGAL: No. He didn't.

COOPER: Was that something you thought about or it didn't concern you at the time?

MCDUGAL: You know, we talked about it right beforehand. He was starting to and then he's like, I don't like these things. And you know, we discussed things. Did you do, blah, blah. We were just honest with each other and we didn't use any.

MCDUGAL: You talked about ending the relationship. Who ended the relationship?

MCDUGAL: I did.

COOPER: Why?

MCDUGAL: I was just feeling so guilty. It was just digging inside me. I think the excitement of it took over for a while, and I did care about the man. I'm not going to lie. So, that made it hard to end it.

But I think I just started feeling so bad about myself, like how could I do this to, A., myself, to B, to a family? Whether they get along or not, it's still a family.

I just needed to get out of it. You know, I just needed to get out of it. It's just tearing me apart in a long run.

COOPER: That's a hard thing to do to end a relationship, any relationship.

MCDUGAL: It was very hard. But I knew I needed to get out.

COOPER: How did you end it?

MCDUGAL: He wasn't in town. And I just, I'm like, this isn't working for me. He's like why not? And I told him, I blamed it on my mom. I said like, I know my mom knows about you, but she would be really, really devastated if she found out we were having a relationship and being intimate together and, you know, the feelings and I don't want to disappoint my mom.

And he said a few words and that was about it. But, you know, it is what it is. We ended it. We didn't talk for a long time again.

We started talking again in 2009. I went to the Miss -- in one of the pageants in Vegas with this girlfriend of mine. We weren't together, but we talked a lot. We went to this room and just chitchatting.

COOPER: He invited you to the pageant?

MCDUGAL: He did.

He got us a room at the Trump Hotel in Vegas, a suite, really nice one. And, you know, there were no intimate relations. I had a boyfriend at the time. So, there was nothing like that at all. And then we stayed in contact for a little bit and then we lost contact.

(END VIDEOTAPE)

COOPER: Up next, I asked Karen McDougal about whether she ever thought about rekindling the relationship. I also asked her about what happened when Donald Trump announced his candidacy, how at first she says she didn't want her story to come out and then something changed.

(COMMERCIAL BREAK)

[20:57:20] COOPER: Karen McDougal said she and Donald Trump had an affair for ten months, an affair she says that began while he was married to Melania Trump and their son Baron was just a few months old. McDougal told me she felt guilty and that she was the one to end the relationship. Again, the White House has called allegations of an affair, quote, totally untrue.

Ms. McDougal stands by her story. More now of our exclusive interview.

(BEGIN VIDEOTAPE)

COOPER: Did you ever think about rekindling your relationship?

MCDUGAL: Not while he was married. Yes, of course, I did. I had feelings for the guy. But no, I couldn't. No, not while he was married. At that point in time, I would never do that again. No.

COOPER: You didn't speak -- I mean, you told friends as anybody would tell friends about a relationship.

MCDUGAL: Sure.

COOPER: But you didn't at any point during this time, 2006, 2007, 2008 try to reach out or did you at any point after the relationship ended think about telling your story publicly?

MCDUGAL: Never.



COOPER: Talking about the relationship?

MCDUGAL: 2007, 2008. No, in fact I had media contacted me in 2011. I for the life of me couldn't figure out who would leak something like this. I'm asking all my friends.

I even called him. I'm like, did you tell anybody? Like, are you leaking this information? He's like, no, don't worry about it. I didn't do it. So, we didn't worry about it.

But I actually had a manager at the time. I had a couple of journalists following me. And they would not leave me alone. So, I had an old manager at the time write them letters saying, you know, she did not have an affair, relationship, blah, blah, blah, et cetera, et cetera. So, I denied everything. I didn't want it out.

COOPER: So, you actually put out a denial to this --

MCDUGAL: I did.

COOPER: -- in 2011?

MCDUGAL: I did. Not -- did they print that denial, I don't know.

But I'm saying, my manager at the time e-mailed this one reporter that wouldn't give up. You guys are persistent. She wouldn't give up.

So, he had to give her this letter and basically say, leave Karen alone at this point. Like you're done. Leave her alone. So --

COOPER: I mean, some people would have considered telling their story. That never crossed your mind?

MCDUGAL: No. When you have -- when you have feelings and relationship and you cared about somebody, why would you want to destroy their life any more than you might have already destroyed their life? So --

COOPER: At one point did -- I mean, obviously, Donald Trump announces for president. He's going to run. He gets the Republican nomination.

At what point does this start to come back or this becomes suddenly in the forefront for you again? MCDUGAL

I was watching the Republican debate with a friend named

Johnny. He's one of my good friends from many years ago. He said, you know, this story is a big story. I said, no way. It's not going to happen. I go, you know where I stand on this, Johnny. I will never say anything. We dropped it.

COOPER: Your friend Johnny was saying this story, meaning the story of your relationship with --

MCDUGAL: Right. Of course --

COOPER: Your alleged relationship with Donald Trump.

Search CNN...



---

U.S.

---

World

---

---

Opinion

---

---

---

---

---

---

---

---

Video



---

Shop



---

More...

 U.S. Edition 

© 2018 Cable News Network. Turner Broadcasting System, Inc. All Rights Reserved.  
CNN Sans™ & © 2016 Cable News Network.

[Terms of Use](#) | [Privacy Policy](#) | [Accessibility & CC](#) | [AdChoices](#) | [About us](#) | [CNN Studio Tours](#) |  
[CNN Store](#) | [Newsletters](#) | [Transcripts](#) | [License Footage](#) | [CNN Newsource](#)

## Exhibit 3

The New York Times |

SundayReview | NEWS ANALYSIS

## Paying for News? It's Nothing New

By JEREMY W. PETERS AUG. 6, 2011

*Jeremy W. Peters is a media reporter for The New York Times.*

IN April 1912, the surviving operator of the Titanic's wireless communications system was paid a handsome sum for his account of narrowly escaping death aboard the sinking ship.

It will probably surprise some journalistic purists to learn that the news outlet that forked over \$1,000 for Harold Bride's harrowing tale — multiple times his annual salary — was not some sensationalist purveyor of yellow journalism, but The New York Times.

Evolving standards or no, checkbook journalism has been a persistent and problematic feature of news coverage at even the most powerful and reputable news organizations, long predating the hyper-competitive 24-hour cable news cycle and the celebrity gossip boom.

And the issue is not likely to disappear anytime soon, even with ABC News's contrite acknowledgment last month that to protect its reputation, it would have to cut back on the kinds of payments that have helped the network score a string of major exclusives in recent years. In Britain, public tolerance seems to have reached its limit with revelations that journalists working for Rupert Murdoch's recently closed News of the World routinely paid the police for information as well as hacked the phones of crime victims.

Far from existing at the periphery of journalism and society, the payments have reached the highest levels of politics. Newsmakers who have been cut large checks over the years include not just players in courtroom melodramas like the Casey Anthony and O. J. Simpson trials, but former presidents.

When the British journalist David Frost secured his interview with Richard M. Nixon in 1976, it was because he outbid his American competitors, offering the former president a staggering sum of \$600,000. But Mr. Nixon wasn't the only ex-president paid to appear on camera. Dwight D. Eisenhower and Lyndon B. Johnson both received sums from CBS News for sitting for interviews after they left office.

Networks have long employed the use of high-dollar consulting contracts, which allow them to effectively place prominent political figures on retainer. Gerald R. Ford and former Secretary of State Henry A. Kissinger signed exclusive arrangements, each reported to be in the \$1 million range, as NBC News consultants. Exclusive consulting arrangements exist today most visibly on Fox News, with its hiring of Sarah Palin, Karl Rove and other prominent Republicans as contributors.

Every so often, instances of checkbook journalism produce enough of an outcry that the media business does some soul-searching, as it is doing now. ABC News in particular is under scrutiny for a flurry of payments in pursuit of sought-after news subjects like Ms. Anthony, the mother tried and acquitted in the death of her young daughter; Jaycee Lee Dugard, a kidnapping victim held in captivity for almost a decade; and Meagan Broussard, the 26-year-old who received lewd photos from Anthony D. Weiner, the congressman who later resigned.

After each revelation that money has changed hands in pursuit of a major scoop, a familiar cycle of denial followed by a carefully parsed explanation tends to emerge. News outlets twist themselves into logical knots insisting that they do not pay for interviews. The payment is always for something else, tangible or intangible, like one's time or the rights to memorabilia. It is a rare but sometimes necessary evil, they say.

The jargon may be different now, but the debate has been the same for decades. Before there were licensing fees — the arrangement popular with news outlets today, in which they pay an interview subject to broadcast personal photos or video — there

were “memoir” fees paid to newsmakers for recounting their stories at length. Esquire, for instance, paid \$20,000 in 1970 to William L. Calley Jr., the Army lieutenant at the center of the My Lai massacre in Vietnam, for his “confessions,” which the magazine used as the basis for a series of articles.

One of the biggest controversies over such payments erupted in 1975 after CBS News coughed up a reported \$100,000 for an extended interview with the former Nixon chief of staff H. R. Haldeman, who spent 18 months in prison for his role in the Watergate scandal.

At the time, Robert Chandler, a CBS vice president, justified the payment as “a memoir of his five years at the White House. That’s different from paying for a breaking news story.”

The CBS rationalization — after all, its payment was little different from a hefty book advance to a controversial figure — shows that the issue of paying for news is rarely black and white.

More than 30 years later, the gray areas are as opaque as ever. ABC News is correct when it says a \$200,000 payment for videos of Ms. Anthony’s dead daughter didn’t violate network policy. It didn’t pay for an interview, after all. But it did indirectly subsidize Ms. Anthony’s lawyers, who used the money for her legal defense.

It wasn’t the first time a news outlet had subsidized the defense of prominent criminal suspect. During the Lindbergh kidnapping trial in 1935, Hearst Newspapers paid for a high-profile attorney to defend the man accused, Bruno Hauptmann, in an arrangement that guaranteed them exclusive access.

Experts said the practice of paying for news might not keep embarrassing news organizations if they weren’t so murky about their standards.

“It has been handled in a fairly dishonest way by news organizations that view it as a disreputable practice,” said Lorna Veraldi, an associate professor of journalism and mass communications at Florida International University, who has studied and



written about the issue. “They pretend not to engage in it by paying for memoirs or for photographs, but that has made it a subject of more outrage.”

Just how much outrage is focused on the issue is difficult to gauge. Indeed, part of the reason checkbook journalism endures could be that most Americans don’t see it as a major offense.

“I’ll be honest with you,” said Kevin Z. Smith, chairman of the ethics committee of the Society of Professional Journalists, “there’s no groundswell from citizens’ groups’ saying, stop paying for stories because you’re tainting the truth.”

For now, though, ABC News has acknowledged that paying for exclusives harms its reputation, and a criminal inquiry is unfolding in Britain.

But experts said don’t be surprised if checkbook journalism resurfaces, perhaps under another guise.

“These news organizations will have to feign shock and horror and figure out another way to do it surreptitiously,” said Robert Boynton, director of the long-form journalism program at the Arthur L. Carter Journalism Institute at New York University.

“It goes on because money is the literal coin of the realm. It is going to continue no matter what.”

A version of this news analysis appears in print on August 7, 2011, on Page SR4 of the New York edition with the headline: Paying for News? It’s Nothing New.

## Exhibit 4

# Why Not Pay Sources?

My objections are practical, not ethical.

By Jack Shafer



Does paying for news make for worse journalism?

Last week, Gawker Media made new again the old debate about whether journalists should pay sources for information. The company's Gizmodo gadgets site reported that it paid \$5,000 for a iPhone prototype that was "**found lost**" in a Redwood City, Calif., bar.

Yet the Gizmodo case isn't a perfect entry point for a revival of the paid-sources debate. San Mateo County authorities, who appear to be interpreting the transaction as a crime in which the finder moved **stolen goods**, seized the computers of Gizmodo's writer with a **search warrant**. Gawker Media, wallowing in the publicity, has cried foul and has hoisted the California shield law that protects journalists from some warrants and subpoenas.

Assuming, for the purposes of this column, that Gawker's purchase of the iPhone was legal, was it right? Should journalists pay for interviews, documents, photos, and **electronic prototypes**? The ethics cops who police journalists would give you an unqualified no, saying that financial motives taint whatever information is collected with a dollar. That's why these ethics types disdain operations like the *National Enquirer* and **TMZ.com**, which proudly pay sources.

But are there no circumstances under which a reporter should buy a document or interview or gadget? What if Daniel Ellsberg, who photocopied the Pentagon Papers before giving them to the *New York Times*, had—instead of turning over the documents for free—asked the newspaper for \$10,000 to cover those photocopying costs, plus shipping and handling, plus expected legal expenses? Would the average *Times* reader suffer a taint overload? Or, if the payment were disclosed in the *Times*, would readers feel as calm as I suspect most of the millions of readers of the Gizmodo iPhone scoop felt?

If an exchange of money between source and journalist had accelerated the reporting of the Iran-Contra scandal or moved the Abu Ghraib photos into print faster, how much would you protest? You probably would not avert your eyes from the reporting. And when other, more "ethical" news organizations chased and caught the story that paying sources produced, I doubt you'd avert your eyes then, either.

#### Advertisement

Not all payments to sources are automatically evil. *Slate's* Timothy Noah wrote about one of the more defensible payments to sources in a 1998 piece about journalist Michael Massing. In the reporting of *The Fix*, a book about the drug trade and drug policy, Massing bought low-level sources cheeseburgers and cigarettes and disclosed it on the page. "One Spanish Harlem drug lieutenant charged Massing \$200 for four interviews that Massing judged 'a worthwhile investment,' " Noah writes.

My objections to paying sources are mostly practical. If you want more of anything, economists tell us, increase the price. If journalists started paying for information rather than demanding it for free, bushels of that information, accompanied by sellers, would miraculously appear overnight outside the door of every newspaper, broadcaster, and Web site.

The info-glut would come with a catch. If, say, you announced you were paying \$50 a pound for tomatoes, scores of vendors would assemble outside your home offering beautiful tomatoes, rotten tomatoes, canned tomatoes, and tennis balls painted tomato-red. The costs of grading the harvest would probably exceed the cost of the tomatoes you purchased, making you regret your initiative. It would be the same if reporters paid for news. How much truth, as opposed to half-truth, would people sell? How many patently false bundles of information, ginned up solely to collect a bounty, would the dollars generate?

The paid-source debate frequently neglects to acknowledge that sources often profit from feeding journalists free information. Give a journalist some useful information, and, whether or not you're cited in the story, you'll feel an instant ego boost. If cited, you'll probably reap an increase in status or the appreciation of your boss, your fellow club members, or your clan. You may get a better job or win a raise. Or you may find yourself enriched by the knowledge that the document you leaked helped do good or (better still) helped punish your enemies. It's the rare source who has no motive, which means that a journalist must be vigilant whether cash changes hands or not. Removing money from the motive-assessment process may simplify it, but it can never erase it.

#### Advertisement

As a journalist who has never purchased information from a source (note: a meal or two, or a drink or three, or reimbursement for photocopying expenses, or a short lift to the source's destination don't count as payment), I would probably go insane if every source demanded cash for information. In my nightmare scenario, sources of free information would dry up and people would charge a metered rate just to talk. As my questions started to converge upon the answers I was looking for, I'd become hostage to my source as he flipped the flag on his meter and said, "More questions? More money!" Oh, the haggling that would ensue! Where would I ever find the time to file the actual story?

Yet if paying for information is inherently unethical, why do so many respected institutions practice it? Police officers pay snitches on the street for information. **Rewards** are paid to those who report fraud against the government. Legal defenses pay expert witnesses for their testimony.

Besides, "respectable" U.S. news organizations have been buying information from sources for decades. As the *American Journalism Review* reported in 1999, the *New York Times* paid for the *Titanic* scoop in 1912 by giving a wireless operator \$1,000 for his story, the Hearst newspaper chain covered the Lindbergh kidnapping defendant's legal bills during the trial to keep information flowing, and *Life* magazine paid the *Mercury-7* astronauts for their stories. In his book, *If No News, Send Rumors*, Stephen Bates reports that a 19<sup>th</sup>-century speaker of the House charged reporters for interviews, earning hundreds of dollars a week; that the *Times* paid Charles Lindbergh \$5,000 for the story of his flight; and that the *Times* also paid for Robert E. Peary's North Pole expedition in exchange for an "exclusive" on his story.

~~\*\*\*HXX NOT BXX BODICES HXX OBJECTIONS ARE BXXCTICX, NOT ETHICX:~~  
A *Timestory* from 1975 reports that NBC purchased the rights for interviews with the parents of the Fischer quintuplets, and that the network gave money to "German tunnel diggers for the right to film refugees escaping from East Berlin," and that Watergate defendants H.R. Haldeman and G. Gordon Liddy were paid by CBS News for exclusive interviews. According to the *AJR*, Gerald Ford and Henry Kissinger won lucrative contracts with NBC News for their services as "adviser-consultants" to news specials. And just two years ago, Errol Morris **confirmed** that in making his film *Standard Operating Procedure*, he paid some of the soldiers who were convicted of abusing Abu Ghraib inmates.

#### Advertisement

One dodge that the TV networks and pop magazines like *People* avail themselves of is giving sources cash for photos or videotape and bestowing trips and hotels on them. Just last month, court proceedings **revealed** that ABC News paid Casey Anthony \$200,000 in August 2008 for photos and video after her daughter disappeared. Shortly after the payment, authorities later charged Anthony with the murder of the child. The network never disclosed the payment in its reporting, even when it aired the bought footage.

The strongest case against paying sources can be found in Britain, where the tabloids routinely pay for information. British critics complain that payments tend to generate idiotic and sensationalistic stories about celebrities or reckless pieces about politicians and other public figures. In his book *Ethics for Journalists*, Richard Keeble notes that paying sources may lead to a monopoly on the news by the rich. By virtue of their wealth, the rich can inject whatever "news" they want into the press or, by depositing money in the right hands, suppress it.

Who benefits when sources aren't paid? If a whistle-blower gives me a hot scoop for free, I might get a raise or even a book contract out of it. My publisher may sell more ads. Everybody up and down the chain will profit except the source. Is that right? Is that ethical? If the source were really smart, he'd take his whiz-bang material to a book publisher himself. There, selling your story isn't unethical. It's business as usual!

Established media organizations also benefit when no money changes hands. As long as newspapers and magazines don't pay for information, sources will continue to give their best tips to the outlet that will provide the biggest bang, like going to the New York Times, the

~~WASH POST, AND THE WALL STREET JOURNAL. THE ETHICAL PROHIBITION AGAINST PAYING FOR~~  
~~NEWS LARGELY PUNISHES MEDIA ORGANIZATIONS LOWER ON THE EDITORIAL FOOD CHAIN WHILE~~  
~~REWARDING THE ONES ON THE TOP.~~

Advertisement

Although Gawker Media boss Nick Denton loves to play the role of the journalistic gangster, he has paved a fairly ethical path in the reporting of his iPhone story. His publication disclosed what it paid for the "found lost" device and gave the phone back to its rightful owner, Apple (after tearing it apart for as many technical details as could be gleaned). Especially if Denton's Gizmodo editor stays out of jail, we should expect more sources demanding and receiving payment for info.

I can't condone Gawker Media's conduct for the common-sense reasons I've pointed out. But compared with ABC, Gawker looks like the Gandhi News Network.

\*\*\*\*\*

Wired.com's "**Threat Level**" blog has identified the dinkus who sold Gizmodo the prototype. In the future, by which I mean tomorrow, will journalists rely on Pay Pal to report stories, or will they pay sources with their cell phones? Let me hear from those of you with lots of cash and no ego needs at [slate.pressbox@gmail.com](mailto:slate.pressbox@gmail.com). For the time being, my Twitter feed is free. (E-mail may be quoted by name in *Slate's* readers' forums; in a future article; or elsewhere unless the writer stipulates otherwise. Permanent disclosure: *Slate* is owned by the Washington Post Co.)

Track my errors: This **hand-built RSS** feed will ring every time *Slate* runs a "Press Box" correction. For e-mail notification of errors in this specific column, type the word *Gizmodo* in the subject head of an e-mail message, and send it to [slate.pressbox@gmail.com](mailto:slate.pressbox@gmail.com).

*Like **Slate** on Facebook. Follow us on **Twitter**.*

THE SLATE QUIZ    TEST YOUR KNOWLEDGE OF THE WEEK'S NEWS.

MARCH 23 2018 5:52 AM

## Slate News Quiz

Test your knowledge of this week's big stories.

By Ray Hamel



Photo illustration by Slate. Photos by Pascal Le Segretain/Getty Images, Scott Olson/Getty Images, and Angelo Merendino/AFP/Getty Images.

Welcome to Slate's weekly news quiz. It's Friday, which means it's time to test your knowledge of the week's news events. Your host, Ray Hamel, has concocted questions on news topics ranging from politics to business, from culture to sports to science.

Questions are multiple-choice, and time is of the essence: You have 50 seconds to answer, and as the seconds tick away, the question's point value drops from 50 all the way down to zero, so you'll want to click on your answer as fast as you possibly can. There's no penalty for an incorrect answer, so feel free to take a guess.

At the end of the quiz, you'll be able to compare your score with that of the average contestant, as well as with the score of a Slatester who has agreed to take the quiz on the record. This week's contestant is staff writer Isaac Chotiner.

CONTINUE READING

FOLLOW SLATE

SLATE ON [IPHONE](#) [ANDROID](#) [KINDLE](#)

REPRINTS

ADVERTISE WITH US



ABOUT US  
WHY NOT PAY SOURCES? \* OBJECTIONS \* DEFENSIVE ETHICS \* NOT ETHICAL  
CONTACT US  
MODERATE US  
FEEDBACK  
CORRECTIONS  
USER AGREEMENT  
PRIVACY POLICY  
FAQ

Slate is published by The Slate Group, a Graham Holdings Company. All contents © 2018 The Slate Group LLC. All rights reserved.

# Exhibit 5

**The New York Times** | <https://nyti.ms/1QHw17t>

Opinion | OP-ED CONTRIBUTOR

## When It's O.K. to Pay for a Story

By KELLY McBRIDE JUNE 9, 2015

St. Petersburg, Fla. — JOURNALISTS frown on paying sources. This decades-old principle stems from the belief that the tawdry practice corrupts the authenticity of information: If I pay you to tell me your story, you may distort its details to up the value.

So last week, WikiLeaks disturbed many journalists with an initiative to crowd-source a \$100,000 “bounty” on the text of the Trans-Pacific Partnership trade deal. The website, which made headlines in 2010 when it published large caches of leaked documents from the United States military in Afghanistan and Iraq, has been pressing hard for sources to steal the trade documents; it has already published three leaked chapters (a reported 26 remain secret).

Setting a bounty on the treaty text turns journalistic mores on their head. In traditional newsrooms, the idea of offering a cash incentive for the leaking of confidential documents is anathema. But WikiLeaks, like other media disruptors, leaves us no choice but to reconsider this prohibition. If journalism organizations refuse to do so, they relegate themselves either to secondhand reporting on documents obtained by those outside journalism or to being left behind.

It's true that trade deals, which are usually about tariffs and the price of goods, are traditionally negotiated in secret. But the TPP exceeds agreements like Nafta in

scope and scale and involves far-reaching foreign policy decisions.

Its measures will touch the lives of every citizen in the 12 countries expected to sign the pact. Chapters already leaked suggest that the deal restricts fair use of copyrighted material, expands medical patents and weakens public policies that govern net neutrality.

Members of Congress can read the text in a secure room but cannot discuss its contents publicly. Representatives from about 600 private corporations are said to have access to the document via a secure portal. Yet the public is excluded.

The job of journalism in a democracy is to exercise scrutiny to hold power accountable. Given the TPP's secrecy, WikiLeaks' crowd-sourced leak-funding campaign, which has raised about \$56,000 to date, can be seen as a logical response to a process designed to thwart public debate, an investment in democracy even.

In practice, there has long been a gray zone in the media industry. British tabloid newspapers have a long history of "checkbook journalism," while some American TV news shows have often paid large sums for certain material, as when ABC News gave Casey Anthony \$200,000 for photos of her then-missing daughter.

The entertainment news site TMZ generates stories with global appeal by paying for tips and photos, like the harrowing 2011 images of the brutalized face of the pop singer Rihanna. In 2013, Gawker used crowdsourcing to raise money for a video of Toronto's mayor, Rob Ford, smoking crack. (Crowdfunding for leaks may mitigate a traditional objection to paying sources by introducing transparency into dealings that are usually opaque.)

New sites like these are often more concerned with sensationalism than the noble ideals of the Fourth Estate. But in the TPP case, WikiLeaks' bounty would give millions of citizens in signatory countries the ability to debate a major piece of public policy. And without this information, how are they to guide their elected representatives who will ultimately enact or reject the policy?

It seems probable that WikiLeaks will entice someone into breaking the law and passing the website more text of the TPP agreement. WikiLeaks will then have to

figure out if they have the complete and accurate version; or they might just publish and let the rest of us worry about the niceties. Mainstream media newsrooms will be in the interesting position of deciding whether to use the stolen TPP document in their reporting.

This cash-for-leaks venture could forever alter the relationship between those who would leak secret documents and the journalists who would publish them. In the past, whatever ulterior purpose confidential sources had, as long as cash was not involved, journalists could attribute to the leaker the motive of acting in the public interest. Once remuneration comes into the calculus, it places a greater burden on journalists to vet leaked material.

WikiLeaks has arrived at a flawed solution to a very real problem. We have reached a point in the evolution of global democracy at which secrecy and transparency are grotesquely imbalanced.

Right now, the bounty may be the best shot we have at transforming the TPP process from a back-room deal to an open debate. But we need a better system to discourage unjustified secrecy, to protect sources and to encourage public-interest whistle-blowing.

Modern news media organizations must develop new codes of ethics that embrace the best of the Internet's potential for citizen journalism and information sharing. They should not rule out paying sources, but it should happen rarely and be transparent when it does. The guiding idea is not just what's in the public interest, but what serves democracy.

WikiLeaks is a great disrupter, breaking the old conventions. But rather than rejecting its example — or opportunistically adopting it — we must rewrite the conventions. □

Kelly McBride, a media ethicist and a vice president at the Poynter Institute, is a co-editor of "The New Ethics of Journalism: Principles for the 21st Century."

Follow The New York Times Opinion section on Facebook and Twitter, and sign up for the Opinion Today newsletter.

A version of this op-ed appears in print on June 9, 2015, on Page A23 of the New York edition with the headline: When It's O.K. to Pay for a Story.

---

© 2018 The New York Times Company

## Exhibit 6



From AJR, April 1999

## Paying For It

*Larry Flynt offered big money for information and brought down a powerful congressman. How secure is mainstream journalism's taboo against purchasing news?*

By Kelly Heyboer

Kelly Heyboer is a reporter at the Star-Ledger in Newark, New Jersey.

**IT WAS ONE OF THE MOST** brazen moments in the not-altogether-distinguished history of checkbook journalism. Last October, Hustler magazine Publisher Larry Flynt placed an ad in the Washington Post offering up to \$1 million to anyone who could prove a member of Congress or a high-ranking government official had carried on an adulterous affair.

Before the year was over, information turned up by the ad had ended the political career of House Speaker-Designate Bob Livingston. In January, at a heavily attended press conference, Flynt was dishing the dirt on Georgia Republican Rep. Bob Barr.

And this was only the beginning, Flynt promised. Soon, he told the assembled journalists, "all news organizations are going to be paying for stories."

That doesn't seem likely. After all, it's one of the Commandments of Good Journalism: Thou shalt not pay for information. Only the tabloids, of both the supermarket and TV variety, regard news as a tradable commodity.

But, as the Flynt episode suggests, it's not always quite so simple. Once someone goes public with information that was bought and paid for, don't many news organizations simply pick it up? The Livingston story was a no-brainer; the congressman's resignation was news that couldn't be ignored. The Barr disclosures were less clear-cut: Many news organizations made mention of them, although in most cases not very prominently.

Bernard Kalb, panelist on CNN's "Reliable Sources," argued that picking up a paid-for story isn't necessarily bad journalism. "You've got to do the usual legwork on that story, and then maybe you'll go with it," Kalb said on air.

But what about being the first organization to print or broadcast a story based on information with a price tag? If a reporter verifies a story through outside sources, does it really matter if the original tip was paid for?

Politicians regularly pay campaign investigators to unearth dirt on opponents under the rubric of "opposition research." The results are inevitably leaked to the press. Flynt merely cut out the middleman. He hired his own journalists, including investigative reporter and author Dan Moldea, to do the probing.

Press historians say paying for news is not as long-standing a taboo as many journalists think. "A myth of checkbook journalism is no established press has ever paid for a story. The reality is, there is a long history of payments made by the established press when they thought the story was worth pursuing," says Lorna Veraldi, who explored the topic for the book "Contemporary Media Issues," published last year.

The New York Times scooped the competition with an exclusive interview with the Titanic wireless operator by forking over \$1,000 for his story in 1912. Two decades later, the Hearst newspaper chain paid the legal bills of the defendant in the Lindbergh baby kidnapping case to ensure scoops during the trial. In the 1960s, Life caused a minor flap among journalists when it paid the original Mercury astronauts for their stories.

By the time Watergate rolled around, the television networks got involved. CBS News paid Nixon White House Chief of Staff H.R. Haldeman for his story. Shortly after leaving office, both Gerald Ford and Henry Kissinger signed million-dollar contracts with NBC to serve as exclusive "adviser-consultants" in news specials.

Checkbook journalism flourished during the O.J. Simpson saga, with tabloid newspapers and TV shows writing the checks.



Even minor players raked in cash for interviews. A National Enquirer editor went on "Larry King Live" with a \$1 million check to make an unsuccessful public plea for Simpson friend Al Cowlings to tell his story of the infamous Bronco chase. "This has been going on quite a long time. It tends to surface during a crisis, like Watergate or O.J. Simpson," says Veraldi, an associate professor of journalism and broadcasting at Florida International University in Miami. There are signs—with the explosion of news on the Internet and cable and in the tabloids—that the press is entering an era similar to the days when cities had several newspapers fighting vigorously for stories. Today, supermarket tabloids openly solicit stories, as do some tabloid television shows such as "Hard Copy" and "American Journal." With increasing competition, money is again becoming a tool of the trade, and the press might as well stop hiding behind ethics policies, Veraldi argues.

"It undermines the [profession] to pretend they have rules and then find a way to get around them," she says.

"Newsgathering is a business. I'm not sure it's unethical to have to pay sometimes for the information to put together, package and sell."

That argument makes media ethicists cringe. Exchanging money for information, they say, leads to questions about whether the source is being truthful or embellishing for the sake of more cash.

"The standard line is news organizations don't pay for information," says Bob Steele, director of the ethics program at the Poynter Institute for Media Studies. "The public perceives that the information is tainted by financial motives.... They will discount the value of the information."

Steele, who conducts ethics seminars for journalists, says those in the profession who argue there is a place for paying sources are in the minority. Supermarket tabloids have been getting exclusives with cash for years. That doesn't mean the rest of the media should simply fall into line and abandon the high ground, he says.

Oprah Winfrey resisted the temptation to take a back door to landing the most sought-after interview of recent years. Winfrey's negotiations with Monica Lewinsky's representatives fell apart over a demand that Winfrey turn over the marketing rights to videotapes of the interview to Lewinsky. "I do not pay for interviews, no matter what the payment is called," Winfrey declared. "My feeling was giving up the rights was just someone else paying the check."

(The interview, of course, eventually went to ABC's Barbara Walters, who did not pay the former White House intern anything or barter in videotape rights, an ABC spokeswoman says. The interview aired in March.)

"There will be times where you have to wrestle with a perplexing dilemma," Steele says. "Creative, thoughtful journalists will always find a way to get it without paying for it."

But exactly where checkbook journalism starts and stops can be difficult to pinpoint. Is it just the exchange of cash for exclusive interviews, or does it extend to paying for news tips, background information, still images and video clips?

"That's a hard line to draw," Steele admits. Cash is frequently exchanged for videotape or still images. "That's a time-honored tradition," he adds. "One of the distinctions is who is giving you the information, and are they a party to the story...or a casual observer?"

Paying consultants for their expertise on complex stories is a generally accepted practice among television networks, as is paying news sources' travel fees and other expenses.

CBS' "60 Minutes" ran into trouble in 1995 when a tobacco company executive it had paid \$12,000 as a consultant on a previous story came forward as a primary source on a controversial piece about the tobacco industry. CBS denied the previous payment was related to the second story. The piece, which charged the tobacco company knowingly added cancer-causing additives in cigarettes, was killed by CBS lawyers before it aired.

Brant Houston, executive director of Investigative Reporters & Editors, says he used paid consultants three or four times during his 20 years as a print reporter. In each case—like when he needed a civil engineer to consult on an investigative piece involving building plans—the consultant's paid role in the project was disclosed in print. But, he says, paying for help can pose ethical problems.

"Sometimes you could get onto a slippery slope. You have to be careful you are not paying for what you want them to tell you," Houston says. "If you're loose with the term, it's easy for the 'consultant' to be a paid informant."

At local news stations, dilemmas over paying informants are rare, says Alice Johnson Main, executive producer at WLS-TV, the ABC affiliate in Chicago. "That has almost never come up. It is not something I have ever had to deal with," says Main, who also edits The Producer Newsletter, a 1,300-subscriber online forum for television news producers ([www.scripps.ohiou.edu/producer](http://www.scripps.ohiou.edu/producer)).

But the issue of paying for tips is open to debate. Is it wrong to pay for them if a reporter is going to independently verify

the information, as with an unpaid leak? Law enforcement officials, for instance, regularly offer rewards for information leading to an arrest.

Paying for the information does not make it any less true, but it does muddy the motives of everyone involved. Take Larry Flynt's ad for information on the extramarital affairs of members of Congress, says Bob Giles, executive director of the Freedom Forum's Media Studies Center. "He was acting in a political spirit rather than a journalistic spirit," exactly the image an impartial press wants to avoid.

"This then becomes a judgment call on the part of individual editors, as it should be," Giles says. "And in many cases, standards have been reviewed and strengthened."

Griffin Smith Jr., executive editor of the Arkansas Democrat-Gazette, says his paper last April reaffirmed its commitment to not paying for news tips. With so many Little Rock-based scandals swirling around President Clinton, the paper published a Sunday editorial, a sort of "note to consumers," reminding them news for cash is not considered appropriate at the Democrat-Gazette.

"I think it was the whole experience of the time" that prompted editors to restate what the paper stood for, Smith says. Headlined "Checkbook journalism; And why we don't practice it," the editorial said: "Paying for news, like paying for love, tends to cast doubts on the sincerity of the transaction. And on the credibility of those doing the marketing.... Our operating principle is that a story that has to be bought isn't worth the price. So when you read about all that dough the tabloids and television shows pay for titillating stories, please don't confuse the Democrat-Gazette with that kind of paid-for news."

If there is confusion among readers, there may also be confusion among reporters. Few newsrooms have their rules written down. And when the Poynter Institute reviewed codes of ethics at 33 newspapers that do have them on paper, it found only half had meaningful passages about dealing with sources. Few included outright statements that the newspaper never pays sources for information.

To assume a reporter, especially a young or inexperienced one, will instinctively know where to draw the line is dangerous, Steele says. "In the absence of any written standards, it makes it very difficult for reporters and editors to know how to act." Reporter Pat Chargot says she made those instinctive decisions every day working various beats at the Detroit Free Press, where she started her career in 1971 at age 21. "You can take someone out to lunch or buy them coffee or buy them a beer under the right conditions, but paying for information--no," she says.

Still, things can get blurry. Even with what she considered a clear sense of right and wrong, Chargot found herself in the center of a minor journalism scandal in Detroit in 1989.

In a case still used by the Poynter Institute in its ethics seminars, Chargot and photographer Manny Crisostomo spent a day following crack addicts. Chargot's information became the lead anecdote in "24 Hours: The Drug Menace," a special section, and a photo Crisostomo took appeared on the cover.

During the course of the day, Crisostomo—who was on one of his first big assignments after winning a Pulitzer Prize for photography—bought a Polish sausage and a Sony Walkman from one of the crack addicts for more than \$20. The addict used the money from Crisostomo's purchases to buy drugs, which the reporter and photographer watched him use after driving him to a location to make the drug buy.

Chargot says she tried unsuccessfully to stop Crisostomo from buying the items. They failed to tell their editors about the incident until a few days later.

Chargot now considers the episode a major lapse in judgment. She says she knew it was wrong at the time, but minimized the implications in her own mind and chose not to rat out the photographer to editors over a small amount of money.

"I shot myself in the foot," says Chargot, who still works for the Free Press as a writer for Yak's Corner, the paper's new magazine for young readers. (It is also distributed nationally by parent Knight Ridder.)

"Based on my experience, when working with another journalist, you're really responsible for the other person's ethics," she says. "I learned something really important the hard way."

For his part, Crisostomo wasn't convinced buying the sausage and radio was wrong; editors had encouraged him to get close to sources by buying them meals and drinks, he said at the time. The photographer, who left the paper and returned to his native Guam several years ago, told editors he turned over the money to the addict because he feared for his safety. And, having just received the Pulitzer, he said, he felt intense pressure within the newsroom to produce for the high-profile project.

Then-Executive Editor Heath Meriwether wrote a front-page editorial telling readers about the situation, then suspended

Crisostomo for three days and Chagot for two.

Meriwether, now the Free Press' publisher, says the paper was criticized for being too lenient on the reporter and photographer. But there was a general sense in the newsroom, he says, that the Free Press had refused to cross a line and had taken a clear stand against even the hint of checkbook journalism.

"Clearly this stuff matters," Meriwether says. "I understood at that time it was tricky.... But we had said and we had made a specific point to our staff not to give money to facilitate anything."

But the situation isn't always black and white. "We buy lunches and dinners for sources," Meriwether says. "And foreign correspondents...it's part of the culture almost that you are going to pay people off as a foreign correspondent. It's a business expense."

Indeed, journalists in other countries are less wedded to the hard-and-fast prohibition against paying for information. Checkbook journalism is common among the competitive daily tabloids in London. New Zealand and Israel have both had bidding battles over big local stories in recent years. And correspondents in Moscow reported the Glasnost of the late 1980s and early 1990s brought a new insistence on cash for interviews, with some government and law enforcement officials demanding \$100 to \$1,000 to allow camera crews to do their job.

In the United States, prices for interviews are not as low as in Moscow, but they've stopped climbing. Among the supermarket tabloids that pay for information in this country, prices have remained fairly steady since the early 1990s, editors say. The Star paid a six-figure sum, reportedly \$150,000, for Gennifer Flowers' story during the 1992 presidential campaign. In recent years, the Star paid in the low five figures for the story of the woman who had an affair with Clinton advisor Dick Morris and again in the low five figures to the White House steward who said he saw Monica Lewinsky in the Oval Office, says Phil Bunton, Star's editor in chief.

During the Lewinsky extravaganza last year, Bunton says, the Star received weekly calls from major newspapers and television news operations. They wanted to find out what was going to be in the next issue so they could get a jump on working their own sources to verify the latest revelation.

Still, the Star's editor says he can't see the day when the tabloids will compete with the Washington Post over who will write the biggest check for the latest exclusive interview with a White House paramour. "I don't think I want it to ever happen," says Bunton. "I'm quite happy with the way it is.... It gives us an edge."

Similarly, David Perel, executive editor of the National Enquirer, says he would like the mainstream press to stay out of the paid-interview market. "I would not welcome that simply because money is a tool we use to get exclusivity," he says. "I think the New York Times and the Washington Post should simply cover budgetary matters and leave the stories of interest to us."

If there was a clear distinction between the tabloid and mainstream press, some say, it has blurred over the last few years. "I don't think it's a bright dividing line," Perel says. "It is my belief, among the networks, [sources] get something of value." Payment is not necessarily cash, he says. It is free travel, free advertising or simply the image enhancement that comes from appearing with a celebrity journalist.

Echoes the Star's Bunton, "They are finding ways to pay in-kind."

ABC News, for one, has been criticized over the last few years for coming close to crossing the cash-for-interview line. In 1995, the network ran a series of free 30-second commercials for Michael Jackson reportedly worth upward of \$1 million. The same week, Diane Sawyer conducted a live interview with Jackson and his wife at the time, Lisa Marie Presley. (ABC officials said the commercial time was swapped for rights to air Jackson's music video.)

In 1997, ABC News was again dancing on the edge when it paid a six-figure sum for video of an Australian landslide that left 18 people dead. "PrimeTime Live" landed an exclusive interview with a survivor, whose agent had sold ABC the videotape. Then, last year, "PrimeTime Live" (which has since merged into "20/20") aired "an exclusive first look at Paula Jones" after her much-ballyhooed makeover. The segment used video supplied by the National Enquirer after the tabloid paid Jones for a first look at her new nose.

ABC denies that it did anything improper in any of these instances. The network does not pay for interviews, and everyone who works there is aware of the rule, says spokeswoman Eileen Murphy.

That's not to say money is never exchanged for information. "Do we pay consultants? Of course we do," Murphy says.

Compensation is also given for videotaped footage the network does not own.

Paying for video has become common practice at television networks and local stations since the controversy over who owned rights to the amateur video of motorist Rodney King being beaten by police in Los Angeles, says Barbara Cochran,

president of the Radio-Television News Directors Association. But, she adds, "paying for anything more than video is still taboo."

The issue "is addressed in sort of a broad way" in the RTNDA's code of ethics, she says. The code states broadcast journalists should decline gifts or favors, and should not mislead the public in any way. But it doesn't state outright that reporters can't trade money for information.

"I think it's the idea of not paying for interviews and anything in the news that's widely observed," Cochran says. "I don't think whatever rules Larry Flynt plays by apply" to journalists.

Whether the Flynt episode was a scandal-induced aberration or the new norm remains in the hands of individual editors and reporters, says Steele, the media criticist.

"The solution is not to wallow with the pigs but to stake out the high ground," he says. "It doesn't mean you will always win. But we must recognize our responsibility to journalism as a profession."

###



RETURN TO AIR.ORG

ISSUE LISTS

# Exhibit 7

[\(https://www.cjr.org/\)](https://www.cjr.org/)

# Columbia Journalism Review.

[\(https://www.cjr.org/\)](https://www.cjr.org/)

The voice of journalism

---

## Pay Up

Sources have their agendas. Why can't money be one?

Paying for information is, among American journalists, generally regarded as falling in the same moral category as paying for sex. True reporters get their information cleanly and by the sweat of their brow, not by waving around soiled Andrew Jacksons. As the *New York Times's* ethics policy puts it, "We do not pay for interviews or unpublished documents: to do so would create an incentive for sources to falsify material...."

As a former writer for *Brill's Content*, where I was one of founder Steve Brill's ethical shock troops, I subscribed to that logic for many years. I felt dirty every time a source inquired about the possibility of payment for an interview or documents: *Of course not. What sort of reporter do you think I am?*

And then a couple things happened as I went about my career not paying anybody for information: I didn't break the story of how British members of Parliament had been paying for the upkeep of moats around their second homes as taxpayer-financed expenses, a scandal that helped bring down the Labour government. That honor went to *The Daily Telegraph*, which reportedly paid between \$210,000 and \$420,000 for a spreadsheet containing years' worth of egregious expense reports.

Then I failed to break the story of the former presidential candidate who spawned a love-child behind the back of his cancer-stricken wife and made a sex tape with the mistress while repeatedly lying about the affair and cajoling his billionaire backers into paying her hush money. No, *The National Enquirer*—which avowedly pays for information—broke the John Edwards story under the noses of the mainstream political reporters who covered him day in and day out. (The *Enquirer* says it never doled out any money on the Edwards story, but do you believe them?)

And of course I missed out on acquiring an unretouched photo from a *Redbook* cover shoot proving just how radically and creepily women's magazines use Photoshop to digitally hack away at their subjects. Jezebel, the sister site of my current employer, Gawker, paid \$10,000 for that in 2007.

All of the above stories were true and important. None of them are less correct, or less pure, because filthy lucre was involved. And it's not certain that any of them would have come to light absent a monetary inducement. Ethical squeamishness aside, if paying for evidence of massive and systemic abuses of the public trust is wrong, then I don't want to be right.

The main objection to paying sources is that it corrupts the final product. Paying people to talk to you creates a powerful incentive for them to say what you want to hear. That's certainly true in the case of interviews and testimony, and I don't think it's advisable to pay someone to tell their story. But for information or documents that can be independently verified, it's hard to see how the potential for a payday is different from the myriad other incentives there are for sources of news to invent or twist the information they provide to reporters. *The New York Times* understands that sources lie to its reporters for ideological or commercial reasons—indeed, it happens every day, and on most occasions, the *Times*'s estimable reporters are able to filter

out the junk info. Everyone who ever provided a leaked document to the *Times* had an agenda, whether it was political or moral or personal. But if that agenda involves a check? The *Times* wouldn't think of it.

Another reason upright defenders of journalistic propriety oppose payouts is that they're often delivered under the table, hidden from the consumer. Television programs routinely mask such transactions by claiming that video or photographs were "licensed." (No, we are not paying the Octomom to sit down exclusively with the *Today* show—we don't pay for interviews. We do, however, need B-roll of the octuplets playing with mommy, and of course it is our practice to compensate license-holders for the use of their copyrighted material.)

Deals like that are dishonest and farcical. But what's wrong with an open and transparent purchase of newsworthy information? Actual investigators—cops and private investigators—routinely pay for tips, whether in the form of cash or promises of help in reducing an informant's sentence. It's hard to see why reporters should be denied access to a technique that's used all the time in the criminal justice system, where the stakes and standards of evidence are immeasurably higher.

Of course, if *The New York Times* and other papers don't want their reporters paying for news, that's fine. It means that the competitive advantage (for some stories, at least), will continue to go to the outlets that do pay. But it's hard to argue that papers that abstain from payments are morally or professionally superior to those that do, when the latter are catching important stories that might otherwise go untold.

*Has America ever needed a media watchdog more than now? Help us by  
joining CJR today  
([https://ssl.palmcoastd.com/18801/apps/MEMBER1?ikey=5\\*\\*MO2](https://ssl.palmcoastd.com/18801/apps/MEMBER1?ikey=5**MO2)).*

---

John Cook is a reporter for Gawker.



# Exhibit 8

## The American Presidency Project™

HOME DATA DOCUMENTS ELECTIONS MEDIA LINKS



The American  
Presidency Project  
Needs Your Support

## Make a Gift

Consider a  
tax-deductible  
donation &  
click here



## Document Archive

- Public Papers of the Presidents
- State of the Union
- Addresses & Messages
- Inaugural Addresses
- Farewell Addresses
- Weekly Addresses
- Fireside Chats
- News Conferences
- Executive Orders
- Proclamations
- Signing Statements
- Press Briefings
- Statements of Administration Policy
- Economic Report of the President
- Debates
- Convention Speeches
- Party Platforms
- 2016 Election Documents
- 2012 Election Documents
- 2008 Election Documents
- 2004 Election Documents
- 1996 Election Documents
- 1988 Election Documents
- 1980 Election Documents
- 2017 Transition
- 2009 Transition
- 2001 Transition
- White House Media Pool Reports
- Data Archive
- Media Archive
- Audio/Video Index
- Elections
- Election Index
- Honda 2000
- Links
- Presidential Libraries

## 2016 General Election Editorial Endorsements by Major Newspapers

### Top 100 Newspapers Based on Daily Circulation

Click on Link to Read Each Editorial - **Changed Party Endorsements Indicated in Bold Italics**  
Significant deviations from a paper's party or ideological history are listed in the footnotes  
Last Updated on November 8 @ 06:05 GMT (Final Update)

## Scorecard



Hillary Clinton  
*Democratic*



Donald Trump  
*Republican*



Gary Johnson  
*Libertarian*

"NOT  
TRUMP"  
NONE  
OF  
THE  
ABOVE  
DID  
NOT  
ENDORSE

	57	2	4	3	5	26
Total Endorsements	57	2	4	3	5	26
Total Circulation	13,095,067	315,666	139,750	3,243,140	440,076	6,102,190
Endorsed Obama in 2012	40	0	1	0	0	3
Endorsed Romney in 2012	14	2	3	1	4	7
Endorsed Johnson in 2012	0	0	0	0	1	0
Did not endorse in 2012	2	0	0	2	0	15
SPOT in 2012	1	0	0	0	0	0

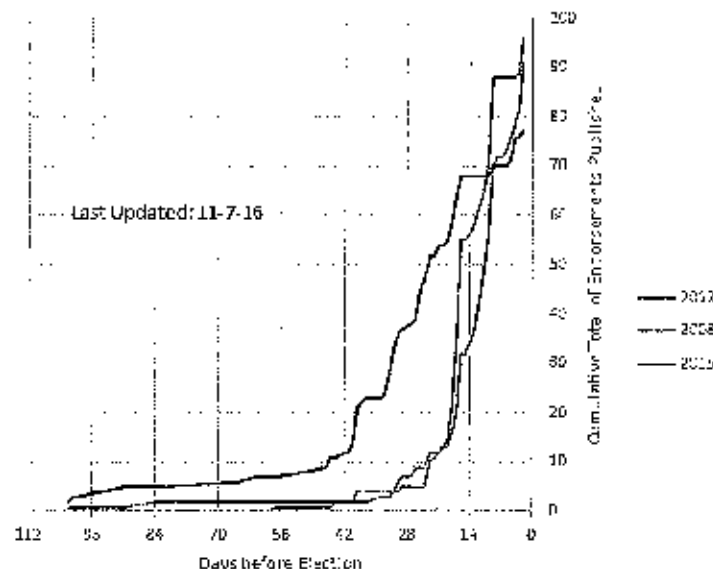
[view 2012 editorial endorsements page](#)  
[view 2008 editorial endorsements page](#)

Newspaper	Circulation	Endorsee	Published	2012 Endorsee
USA Today (6)	2,876,586	NOT Trump	September 30	did not endorse
The Wall Street Journal	2,273,767	<i>Does not endorse candidates (19)</i>		
The New York Times (5)	1,897,800	Clinton	September 24	Obama
Los Angeles Times	671,797	Clinton	September 23	Obama
New York Post	576,711	<i>Did not endorse (22)</i>		
San Jose Mercury News	548,282	Clinton	October 21	Obama
<i>Daily News (New York, NY)</i>	487,110	Clinton	July 28	Romney
<i>Chicago Tribune (9)</i>	453,567	Johnson	September 30	Obama
<i>Newsday (Long Island, NY)</i>	437,457	Clinton	October 21	Romney
The Washington Post	431,521	Clinton	October 13	Obama
Chicago Sun-Times	419,364	Clinton	September 30	did not endorse
<i>The Dallas Morning News (3)</i>	411,629	Clinton	September 7	Romney
The Denver Post	403,039	Clinton	October 7	Obama
Daily News (Los Angeles, CA)	389,626	<i>Did not endorse (22)</i>		
The Orange County (CA) Register	362,242	NONE	November 8	NONE
<i>Houston Chronicle</i>	356,347	Clinton	July 28	Romney
The Philadelphia Inquirer	310,002	Clinton	October 21	Obama
Star Tribune (Minneapolis-St. Paul, MN)	300,495	Clinton	October 22	Obama
Tampa Bay Times (St. Petersburg)	299,955	Clinton	October 6	Obama
The Star-Ledger (Newark, NJ)	285,249	Clinton	October 23	Obama
Honolulu Star-Advertiser	265,090	Clinton	October 23	Obama
The Boston Globe	253,373	Clinton	October 8	Obama
The Atlanta Journal-Constitution	249,390	<i>Does not endorse candidates (1)</i>		
<i>The Arizona Republic (Phoenix, AZ) (7)</i>	245,133	Clinton	September 27	Romney
The Seattle Times	241,320	Clinton	October 7	Obama
Las Vegas Review-Journal	233,326	Trump	October 22	Romney
The Oregonian (Portland, OR)	225,868	<i>Does not endorse candidates (21)</i>		
<i>The San Diego Union-Tribune (10)</i>	222,541	Clinton	September 30	Romney
The Plain Dealer (Cleveland, OH)	213,670	Clinton	October 9	Obama
San Francisco Chronicle	212,179	Clinton	August 5	Obama
Pittsburgh Tribune-Review	199,182	<i>Did not endorse (22)</i>		

Pioneer Press (St. Paul, MN)	197,727	<i>Does not endorse candidates (1)</i>		
Detroit Free Press	196,955	Clinton	October 30	Obama
Milwaukee-Wisconsin Journal Sentinel	194,321	NOT Trump	November 4	NONE
The Sacramento Bee	190,204	Clinton	September 30	Obama
The Tampa Tribune	181,589	<i>Ceased operations in May 2016</i>		
Star-Telegram (Fort Worth, TX)	172,233	NOT Trump	October 21	Romney
Kansas City Star	168,936	Clinton	October 14	Obama
El Nuevo Dia (San Juan, PR)	168,274	<i>Located in a U.S. territory without electoral votes</i>		
St. Louis Post-Dispatch	161,343	Clinton	October 8	Obama
The Salt Lake Tribune	161,108	Clinton	October 12	Obama
Investor's Business Daily (Los Angeles, CA)	156,119	<i>Did not endorse (22)</i>		
The Baltimore Sun	155,352	Clinton	September 29	Obama
Pittsburgh Post-Gazette	153,078	NONE	November 7	Obama
<i>Orlando Sentinel</i>	152,923	Clinton	October 14	Romney
<i>Sun-Sentinel (Ft. Lauderdale, FL)</i>	151,413	Clinton	September 30	Romney
The Record (Hackensack, NJ)	148,087	Clinton	October 10	Obama
The Indianapolis Star	147,342	<i>Did not endorse (22)</i>		
Arkansas Democrat-Gazette (Little Rock, AR)	146,292	<i>Did not endorse (22)</i>		
The Buffalo News	142,509	Clinton	October 27	Obama
<i>The Columbus (OH) Dispatch</i>	131,276	Clinton	October 9	Romney
Austin American-Statesman	130,457	NONE	February 15	NONE
San Antonio Express-News	130,019	Clinton	October 2	Obama
The Miami Herald	128,907	Clinton	October 14	Obama
Charlotte Observer	128,344	Clinton	October 1	Obama
<i>Omaha World-Herald (11)</i>	125,470	Clinton	October 16	Romney
The Courier-Journal (Louisville, KY)	124,828	Clinton	October 16	Obama
The Virginian-Pilot (Hampton Roads, VA)	124,381	<i>Does not endorse candidates (1)</i>		
The Hartford Courant	124,074	Clinton	October 7	Obama
The Press-Enterprise (Riverside, CA)	124,051	NONE	November 7	Romney
La Opinión	118,483	Clinton	October 18	Obama
<i>The Cincinnati Enquirer (4)</i>	117,754	Clinton	September 23	Romney
News & Observer (Raleigh, NC)	115,017	Clinton	October 8	Obama
The Oklahoman (Oklahoma City, OK) (12)	112,226	NONE	October 16	Romney
<i>The Detroit News (6)</i>	108,377	Johnson	September 28	Romney
The Providence Journal	106,606	Clinton	October 15	Obama
Deseret News (Salt Lake City, UT)	106,424	<i>Does not endorse candidates</i>		
Baton Rouge Advocate	103,990	<i>Does not endorse candidates</i>		
<i>Richmond Times-Dispatch</i>	99,373	Johnson	September 3	Romney
Democrat and Chronicle (Rochester, NY) (13)	96,967	Clinton	October 14	Obama
The Fresno Bee	96,287	Clinton	October 7	Obama
The Blade (Toledo, OH)	95,939	<i>Did not endorse (22)</i>		
Dayton Daily News	95,282	<i>Does not endorse candidates (1)</i>		
The Tennessean (Nashville, TN) (14)	94,233	NONE	October 23	Romney
Tulsa World (2)	91,810	NONE	August 9	Romney
<i>Daily Herald (Arlington Heights, IL)</i>	91,746	Clinton	October 22	Romney
Asbury Park Press	89,888	Clinton	October 14	Obama
<i>The Des Moines Register</i>	89,684	Clinton	October 15	Romney
The Commercial Appeal (Memphis, TN)	89,654	Clinton	October 8	NONE
Boston Herald	88,052	NONE	October 20	Romney
The Palm Beach Post Clinton   Trump (18)	87,699	NONE	November 4	NONE
Northwest Indiana Times (15)	86,549	NONE	October 23	Romney
Albuquerque Journal (16)	82,416	NONE	October 30	Romney
The Florida Times-Union (Jacksonville, FL)	82,340	Trump	November 5	Romney
<i>Wisconsin State Journal (Madison, WI)</i>	81,103	Clinton	October 16	Romney
Graeter Philadelphia Newspaper Group	80,096	<i>Does not endorse candidates</i>		
Arizona Daily Star (Tucson, AZ)	77,547	Clinton	October 9	Obama
<i>The Post and Courier (Charleston, SC)</i>	77,433	Johnson	November 6	Romney
The News Journal (New Castle County, DE)	76,186	Clinton	November 4	Obama
The Akron Beacon Journal	75,627	Clinton	September 24	Obama
LNP News (Lancaster, PA)	74,626	Clinton	October 18	SPLIT
Telegram and Gazette (Worcester, MA)	73,968	<i>Did not endorse (22)</i>		
Lexington (KY) Herald Leader	73,276	Clinton	October 14	Obama
El Paso Times	72,517	Clinton	September 30	Obama
Knoxville News Sentinel	72,350	<i>Does not endorse candidates (20)</i>		

The Morning Call (Allentown, PA)	70,865	Does not endorse candidates		
Rockford Register Times (Rockford, IL)	69,253	Clinton	October 22	Obama
New Haven Register (CT) Clinton   Trump (2/)	68,148	NONE	November 3	Obama
The News Tribune (Tacoma, WA)	67,135	Clinton	October 22	Obama
Times Free Press (Chattanooga, TN)	66,473	NONE	October 16	Johnson

Publication of Newspaper Endorsement Decision,  
Days before Election, 2008, 2012, 2016\*



\*"Decisions" include not endorsing either candidate; or opposing one candidate without positively endorsing the other.

**Citation:** Gerhard Peters and John T. Woolley. "2016 General Election Editorial Endorsements by Major Newspapers." *The American Presidency Project*. Ed. John T. Woolley and Gerhard Peters. Santa Barbara, CA: University of California, 1999-2017. Available from the World Wide Web: [http://www.presidency.ucsb.edu/data/2016\\_newspaper\\_endorsements.php](http://www.presidency.ucsb.edu/data/2016_newspaper_endorsements.php).

Data compiled by Gerhard Peters and John T. Woolley after reviewing original editorials of the listed newspapers.

- (1) See footnotes on our 2012 endorsements page ([http://www.presidency.ucsb.edu/data/2012\\_newspaper\\_endorsements.php](http://www.presidency.ucsb.edu/data/2012_newspaper_endorsements.php))
- (2) On August 9, 2016, *The Tulsa World* announced that after having endorsed the Republican nominee in every election since 1940, it could not endorse any candidate in 2016 stating, "Two major party candidates who leave voters with more questions about their character, integrity and policies than anyone can answer." See: [http://www.tulsaworld.com/opinion/editorials/tulsa-world-editorial-endorsement-for-president-none-of-the-above/article\\_8cd669eb-a7cd-51ee-9675-246a090fa9a4.html](http://www.tulsaworld.com/opinion/editorials/tulsa-world-editorial-endorsement-for-president-none-of-the-above/article_8cd669eb-a7cd-51ee-9675-246a090fa9a4.html)
- (3) The last time *The Dallas Morning News* endorsed a Democrat for president was for Franklin Roosevelt in 1944.
- (4) The last time *The Cincinnati Enquirer* endorsed a Democrat for president was for Woodrow Wilson in 1916.
- (5) The *New York Times* also noted that it would publish a separate editorial explaining in more detail why Donald Trump should not be president. That additional editorial is available here: <http://www.nytimes.com/2016/09/26/opinion/why-donald-trump-should-not-be-president.html>.
- (6) *USA Today* broke from its tradition of not endorsing presidential candidates by publishing an editorial urging voters not to vote for Donald Trump, and instead choose from among the other candidates.
- (7) This was the first time in the 125 year history of the *Arizona Republic* that it endorsed a Democrat for president.
- (8) This was the first time in the 143 year history of the *Detroit News* that it did not endorse a Republican for president. (It did not endorse in three elections in its history.)
- (9) The last time the *Chicago Tribune* endorsed a third party candidate was in 1912 for Theodore Roosevelt. It has a history of endorsing Republican candidates although it endorsed Barack Obama in 2008 & 2012.
- (10) This was the first time in the 148 year history of the *San Diego Union-Tribune* that it endorsed a Democrat for president.
- (11) The last time the *Omaha World-Herald* endorsed a Democrat for president was for Franklin Roosevelt in 1932.
- (12) The *Oklahoman* did not endorse either candidate and instead told voters to focus on protecting the Republican majority in Congress. "Our conclusion: Vote to preserve Republican control of Congress, regardless of which presidential candidate wins." & "Our advice: By all means vote on Nov. 8, then pray for this country."
- (13) On October 15, the *Democrat and Chronicle* also published a "dissenting" opinion from a "citizen member" of the editorial board who did not agree with the paper's endorsement of Clinton. That dissent can be found here: <http://www.democratandchronicle.com/story/opinion/columnist/2016/10/14/democrat-chronicle-citizen-editorial-board-member-dissent-endorsement/97047130/>
- (14) For the first time since 1836 the *Tennessean* chose not to endorse a candidate. On October 23 it published an editorial titled, "We Endorse the Legitimacy of the U.S. Electoral System" in which it criticized Donald Trump's assertions that the U.S. electoral system is illegitimate. In addition, its decision not to endorse is related to the fact that neither Clinton nor Trump chose to be interviewed by the editorial board. The editorial includes the arguments of six citizens making their cases for Clinton, Trump, and Johnson.
- (15) *Times Media Company* editor Bob Heisse wrote that *The Northwest Indiana Times* would not endorse in the presidential election in 2016. "We're endorsing only in races where we can meet and question the candidates. We will not endorse in the presidential race."
- (16) On October 30 the *Albuquerque Journal* Editorial Board declined to endorse any candidate and stated, "The Journal has not withheld a presidential endorsement in recent memory. But given their records, it isn't possible to recommend any of the candidates. Still, it's important to vote, making your best judgment."
- (17) The *New Haven Register* declined to endorse a candidate in 2016. Instead, it published two separate editorials on November 2 outlining the positive and negative qualities of each candidate. Each editorial included an explanation and stated, "But given that a vast swathe of the American public very much sees one or the other of these candidates as the lesser of two evils, the decision was made to offer fair information here about the positive and negative attributes of both candidates." The APP includes the link to each editorial in the table above.

- (18) The Palm Beach Post did not endorse a candidate in 2016. Instead, it published two separate editorials on November 4 outlining the case for each candidate. The APP includes the link to each editorial in the table above.
- (19) The Wall Street Journal continued its practice of not having endorsed a presidential candidate since 1928. On November 4 it published two editorials focusing on each candidate's strengths and weaknesses. At the end of the editorial covering Trump, it stated, "The Wall Street Journal hasn't endorsed a presidential candidate since 1928, and if we didn't endorse Ronald Reagan we aren't about to revive the practice for Mrs. Clinton or Mr. Trump."
- (20) The Knoxville News Sentinel continued its practice of not endorsing presidential candidates. In a November 7 editorial encouraging people to vote, it stated, "The News Sentinel does not endorse a candidate for president, primarily because the editorial board does not have the opportunity to interview the candidates."
- (21) In an editorial on October 14, The Oregonian stated, "Our editorial board decided in 2012 to abandon presidential endorsements after supporting a long line of mostly Republican presidential candidates. There were, however, exceptions for Bill Clinton, John Kerry and Barack Obama, who received our last presidential endorsement in 2008."
- (22) As of 06:00 GMT November 8, 2016 (election day), this paper did not publish an endorsement of any candidate.

\* Top 100 Newspapers determined by circulation data available from BurrellesLuce's March 2014 edition (the most current as of publication date for this page). Available at: [https://www.burrellesluce.com/resources/top\\_media\\_outlets](https://www.burrellesluce.com/resources/top_media_outlets)

[Home](#)      [Contact](#)

© 1999-2016 - Gerhard Peters and John T. Woolley - The American Presidency Project™



# Dylan Howard

## Declaration

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3  
4  
5  
6

7  
8  
9  
10

11  
12

13  
14

15  
16

17  
1820  
21

22  
23  
24  
25

## Exhibit 9



Karen McDougal



# LOOK YOUNGER, FEEL BETTER & LIVE LIFE!

HEALTH AND FITNESS TIPS  
FROM ACTRESS/MODEL  
KAREN MCDUGAL

**FITNESS** is a passion and a way of life for model, actress and sports-radio personality **Karen McDougal**. The first-ever female cover model for *Men's Fitness* credits a healthy lifestyle for a fulfilling life and successful career. "Fitness has kept me healthy, happy and youthful!" she says. "But everybody has the ability to achieve the same results. It just takes knowledge and discipline." The good news is that Karen is happy to share her health and wellness secrets with you. "I want everyone to have the tools to reach their goals to experience the best life possible!"

## How important is what you eat when it comes to how you feel?

Diet is critical to feeling good and being healthy. Eating well maximizes your potential to perform at a peak level physically, mentally *and* emotionally. My four meals a day are sensible and fairly clean. I always start with a good breakfast — a bowl of oatmeal with brown sugar, protein powder and almond milk. My other meals center on lean chicken, salmon and a daily shake with protein powder, spinach, blueberries, a veggie powder and coconut water. I allow myself one coffee a day and three to five green teas! When I'm weak, I allow myself a snack. But it's important that you have a high protein and nutrient-filled diet to fuel your body and give you the energy to take on your daily tasks. Keep alcohol and soda to a minimum... and you'll lose weight *and* feel better. Tip? Give yourself one cheat meal a week to keep your body from craving and *you* from bingeing.

## What is your workout routine?

I hit the gym five times a week and rotate body parts to focus on. On Mondays and Thursdays I do 10 minutes of cardio and move on to working my lower body with squats, lunges, hamstring curls and other leg exercises. Tuesdays and Fridays I do 30 minutes of cardio and then work my triceps and biceps with free weights and cables. On Wednesdays I make sure to do 30 minutes of cardio and then work my shoulders, back and chest. The results are amazing. My doctor marvels at my heart health. It helps me keep a positive attitude and overcome depression. It helps me feel healthy from the inside out.

## How do you combat the aging process?

I'm a big believer in moisturizing and protecting your skin. During the day I use a high SPF sunscreen to protect my skin and make sure to take Vitamin D whenever possible. It helps reduce wrinkles and makes your skin soft, strong and smooth! Also make sure to use a moisturizer to keep the skin fresh, reduce blemishes and prevent dryness and flaking. At night I make sure to wash off my makeup and use a face and eye cream to allow the skin to breathe and rejuvenate while I sleep. Adequate rest is critical for your body and brain to achieve peak performance... and for you to be at your best to take on the day! ★

# FIT & FAB POWELL

OUR NEW WELLNESS COLUMNIST  
KAREN McDUGAL HAS THE  
SECRETS TO A LONG, HAPPY LIFE

**F**or model, actress and radio personality **Karen McDougal**, fitness is a way of life. The first-ever female cover model for *Men's Fitness*, she credits her fulfilling life and career to her healthy lifestyle. "Fitness has kept me healthy, happy and youthful," Karen says. "But everybody has the ability to achieve the same results. It just takes knowledge and discipline." The good news is that Karen is ready to share her expertise.

#### How important is diet to how you feel?

It's critical. Eating well maximizes your potential to perform at a peak level physically, mentally and emotionally. I recommend a high-protein, nutrient-filled diet to fuel you for daily tasks. My four meals a day are sensible and fairly clean. I always start with a good breakfast: a bowl of oatmeal with brown sugar, protein powder and almond milk. My other meals center around lean chicken, salmon and a daily shake with protein powder, spinach, blueberries, a veggie powder and coconut water. I allow myself one coffee a day plus three to five green teas—and I keep alcohol and soda to a minimum. Finally, to keep cravings and binging at bay, give yourself one cheat meal a week.

#### How regularly do you work out?

I hit the gym five times a week and rotate body parts to focus on. [See chart.] The results are amazing. My doctor marvels at my heart health. It also helps keep a positive attitude and fight depression.

#### You're 45 and easily look 10 years younger. How do you combat the effects of the aging process?

I'm a big believer in moisturizing and protecting your skin. During the day I use a high-SPF sunscreen. At night, I make sure to wash off my makeup to allow my skin to breathe, then I apply a face moisturizer and eye cream that help to rejuvenate my skin while I sleep. Adequate rest is critical for your body and brain to achieve peak performance, and for you to be at your best to take on each day!



## KAREN'S WEEKLY WORKOUT

MON.

10 mins. cardio. Lower body work including squats, lunges and hamstring curls.

TUES.

30 mins. cardio. Triceps and biceps using free weights and cable.

WED.

30 mins. cardio. Shoulders, back and chest using free weights and cables.

THURS.

10 mins. cardio. Repeat Monday's lower body routine.

FRI.

30 mins. cardio. Repeat Tuesday's upper body routine.

OK! WELLNESS  
EXPERT KAREN  
MCDUGAL'S TOP FIVE  
TIPS FOR MAKING IT  
THROUGH THE FESTIVE  
SEASON WITH YOUR  
WALLET INTACT

Jennifer Aniston and  
hubby Justin Theroux  
know how to celebrate  
without gaining weight!

# SURVIVAL GUIDE

The holidays are the toughest time of the year for anyone to eat well and stay fit. Holiday parties! Family dinners! Office toasts! But you don't need to limit yourself to eating coal from your Christmas stocking. Just follow these simple strategies and you can stay on track until you get back to your regular routine in the New Year.



## 1 DON'T GORGE

It's tempting to "save" your calories for a big holiday party at night, but the better move is to eat three to five small meals throughout the day. This will help you make healthier food choices, limit your cravings and boost your body's fat-burning potential. Starving yourself will only prompt your body to conserve calories by storing fat and burning muscle.

## 2 EAT LEAN PROTEIN

If you're at the buffet table, make sensible choices to limit the damage and even maximize your benefit. Lean proteins (fish, chicken, eggs) and high-fiber foods (avocados, pears, berries) are delicious and lower in bad fats than casseroles and cakes.

## 3 SNACK SMART

You'll have plenty of big meals throughout the holiday season, so keep snacking to a minimum. If you do find yourself nibbling, avoid carb-heavy breads or sugary cookies. Instead, fuel up on fresh options like figs, dates or nuts—tasty and healthy!

## 4 DON'T DRINK YOUR CALORIES

Sodas are packed with sugar or unhealthy sweeteners—and so are cocktails. If you want to celebrate the season with an alcoholic beverage, limit your intake to one glass of wine, or choose a clear alcohol like vodka, which is low in sugar and has fewer calories than that creamy cup of eggnog.

## 5 HYDRATE, HYDRATE, HYDRATE

Having one glass of water in between each cup of holiday cheer will help you keep your wits while everyone else is donning lampshades, and will help flush out excess calories. Down one more glass of water before bed to wake up fresh and well-rested.

See more from Karen on social media!

Twitter: @karenmcdougal98

Instagram: KarenMcDougal

Facebook: Karen McDougal

# HEALTH Holiday Edition

Laverne Cox, Jenna Dewan Tatum and Dania Ramirez (from left) celebrated the 2016 Young Women's Honor with Moët & Chandon.

## Cheers To Your Health.

KAREN MCDUGAL

The holidays are the toughest time of the year for anyone to eat well and stay fit. Holiday parties! Family dinners! Office toasts! But you don't need to limit yourself to eating coal from your Christmas stocking. Just follow these simple strategies and you can stay on track until you get back to your regular routine in the New Year.

1

### DON'T GO HUNGRY

It's tempting to "save" your calories for a big holiday party at night, but the better move is to eat three to five small meals throughout the day. This will help you make healthier food choices, limit your cravings and boost your body's fat-burning potential. Starving yourself will only prompt your body to conserve calories by storing fat and burning muscle.

2

### MAKE AHEAD

If you're at the buffet table, make sensible choices to limit the damage and even maximize your benefit. Lean proteins (fish, chicken, eggs) and high-fiber foods (avocados, pears, berries) are delicious and lower in bad fats than casseroles and cakes.

3

### SNACK SMART

You'll have plenty of big meals throughout the holiday season, so keep snacking to a minimum. If you do find yourself nibbling, avoid carb-heavy breads or sugary cookies. Instead, fuel up on fresh options like figs, dates or nuts — tasty and healthy!

4

### DON'T DRINK TOO MUCH

Sodas are packed with sugar or unhealthy sweeteners — and so are cocktails. If you want to celebrate the season with an alcoholic beverage, limit your intake to one glass of wine, or choose a clear alcohol like vodka, which is low in sugar and has fewer calories than that creamy cup of eggnog.

5

### HYDRATE

Having one glass of water in between each cup of holiday cheer will help you keep your wits while everyone else is donning lampshades, and will help flush out excess calories. Down one more glass of water before bed to wake up fresh and well-rested.

See more from Karen on social media!  
Twitter: @karenmcdougal98  
Instagram: KarenMcDougal  
Facebook: Karen McDougal

KAREN MCDUGAL



# PICTURE PERFECT

MODEL AND FITNESS PERSONALITY KIM KARDASHIAN ON HOW TO LOOK YOUR BEST IN PHOTOS — WHETHER YOU'RE POSING LIKE PRO AT A BIG SOIREE OR JUST TAKING A SELFIE

## WHY SO SERIOUS?

When it comes to your smile, less is more. A too-wide grin will accentuate wrinkles and make you look crazed. To look perfectly happy, try this celeb trick: Put your tongue against the back of your teeth, as it prevents an overzealous grin.

## LIGHT IT UP

Stars swear by backlighting — especially at dusk — since it illuminates you without being too harsh. If you're a selfie star, invest in a light-up cellphone case like the LuMee (\$60), a celeb favorite.

## MIND YOUR MAKEUP

When it comes to foundation, stick to HD; the silica in mineral makeup creates a dull look in photos. I love Revlon Photoready Airbrush Effect (\$14), Marc Jacobs Beauty Re(marc)able Full Cover Foundation Concentrate (\$55) and Kat Von D Lock-It Foundation (\$35). Choose the proper shade, as too-pale makeup will look more pronounced under a flash.

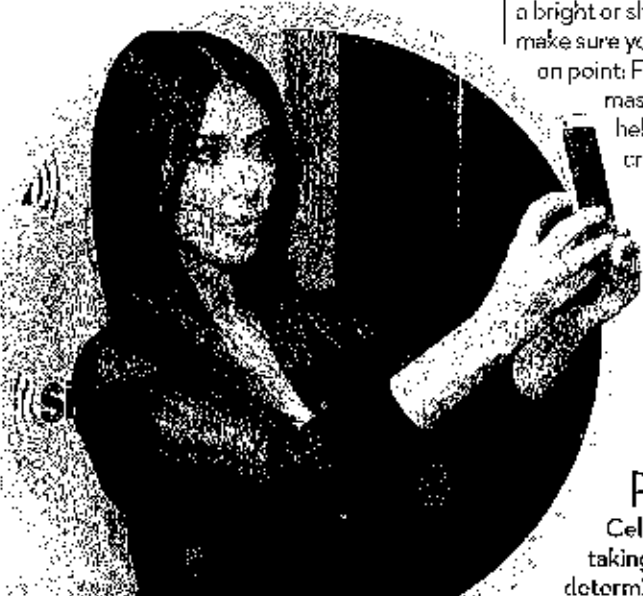
Steer clear of dark matte lip color, which will minimize your mouth; opt for a bright or shiny shade instead. And make sure your eyes and brows are on point: Filled-in brows and curled, mascara-coated lashes will help frame your face and create a youthful look.

Finally, to stave off shine, pat forehead, nose and chin with a blotting paper like Palladio's Rice Paper (\$4) or, in a pinch, a toilet seat cover will do!

## FIND A POWER POSE

Celebs spend a ton of time taking practice snapshots to determine their ideal angles.

Using a webcam or a pal, snap a ton of trial photos with your head at different angles and get (honest!) feedback on which ones look best. Usually, a quarter turn with your chin tilted slightly down is the most flattering. And posture is key: Always stand up straight!



## C'MON, GET APPY!

Think Kim Kardashian + Co. really are that flawless? Ha! There's nothing wrong with giving your pics a little 21st-century help — for \$3, the Facetune app lets you smooth out skin to create a line-free look.

★ **Star**

# Picture Perfect!

As a model and fitness personality, **Karen McDougal** knows a thing or two about looking your best in photos. And with awards season in full swing, who better to dish out advice on how to emulate your favorite red carpet stars? Read on for some can't-miss tips on how to pose like a pro either at a big soiree or for a simple selfie!



## C'mon, Get Appy!

Think **Kim Kardashian** • Go, really are that flawless? Not. There's nothing wrong with giving your pics a little 21st-century help — for \$3, the Facetune app lets you smooth out skin to create a line-free look.

## Make Makeup Your Ally

While mineral makeup is great for your skin, the silica in it creates a dull look in photos, so stick to HD foundations. I love Revlon Photoready Airbrush Effect (\$14), Marc Jacobs Beauty Ref(r)marc'able Full Cover Foundation Concentrate (\$55, sephora.com) and Kat Von D Lock-It Foundation (\$35, sephora.com).

Make sure you choose the proper shade: Too-pale makeup will look even more pronounced under a camera flash.

To stave off shine, pat forehead, nose and chin with a blotting paper like Palladio's Rice Paper (\$4) or, in a pinch, a toilet seat cover will do!

Steer clear of dark matte lip looks as they'll minimize your mouth, so opt for a bright or shiny shade instead.

And make sure your eyes and brows are on point: Filled-in brows and curled, mascara-coated lashes will help frame your face and create a youthful look.

## Smile Small

When it comes to smiling, less is more. A too-wide, ultra LOL smile will accentuate wrinkles and make you look crazed. To look happy and not nutty, celebs put their tongue against the back of their teeth as it prevents an overzealous grin.

## Light It Up!

Stars swear by backlighting — especially at dusk — since it illuminates you without being too harsh. If you're a selfie star, invest in a light-up cellphone case like the Lumee (\$60), a celeb favorite.

## Shoulder The Burden

Your mama was right: posture, posture, posture! No matter how much you suck in or how expensive that blouse was, you'll never get a good pic if you don't stand up straight!

## Know Your Angles!

Celebs spend a ton of time taking practice snapshots to find their ideal angles. Using a webcam or a pal, snap a ton of trial photos with your head at different angles and get (honest!) feedback on which ones look best. Usually, a quarter turn with your chin tilted slightly down is the most flattering.





## Road To Recovery

"None of the doctors I saw believed in Breast Implant Illness," Karen shared. "But I have strong faith, and I just prayed and was led to this decision to get them removed."

# Karen McDougal: MY BREAST IMPLANTS ALMOST KILLED ME!

THE MODEL AND FITNESS PERSONALITY OPENS UP  
TO TALK ABOUT HER SCARY MYSTERY ILLNESS.

**A**s a fitness expert and professional model, Karen McDougal has built a career on her good looks and flawless figure. But after her health began to fail, Karen set off on a 10-year odyssey that ended up saving her life.

"In 1996, I thought, foolishly, that bigger boobs would make me more of a woman," she tells *Star* in an exclusive interview. "Now I want to kick myself!"

For the first eight years, her new additions were problem-free, but then she experienced a range of puzzling—and frightening—ailments.

"I had thyroid issues, fatigue, severe allergies and would get sick for eight weeks at a time," explains the 45-year-old. "I thought, 'OK, maybe I'm getting older and this is what happens?'"

But in January 2016, she started having migraines, blurred vision and noise sensitivity, and was blacking out multiple times

a day. By October, she was bedridden, but doctors couldn't identify the problem.

"A top neurosurgeon told me I just needed antidepressants," she says with a snort, revealing that it was a friend who finally suggested that her implants could be the culprit. "At first I blew him off," she says. "It seemed so crazy."

But after many hours on the Internet, she learned that Breast Implant Illness (BII) was all too real; one online support group swelled to 20,000 members. Indeed, Yolanda Foster and Hugh Hefner's wife, Crystal, have both had their implants removed after years of confounding health issues. Unfortunately, little is known about BII. On its website, the FDA lists numerous potential complications from implants but doesn't disclose that implants contain some 40 different neurotoxins.

"Will every woman get sick? Probably not. But there are too many who are, and it's not being addressed," Karen says.

"With prescription drugs, they tell you what the side effects are, and they need to do that with implants."

Karen was determined to find a physician who believed in BII and finally did in Dr. David Rankin of Aqua Plastic Surgery in Jupiter, Fla.

"At this time, there's no empirical evidence that implants are causing these symptoms," explains Dr. Rankin, "but I'm seeing a lot of immediate improvement in the women who choose to remove them."

The day after the surgery, Karen said her health had already done a 180.

"I wasn't dizzy, no migraines, no noise sensitivity—it felt like a miracle," she gushes. Admittedly, dropping three cup sizes has been an adjustment, but Karen reminds herself every day that looking good starts with feeling good.

"Lies, small boobs and bralettes are having a moment," she says with a smile. "I'm totally in fashion!" ★

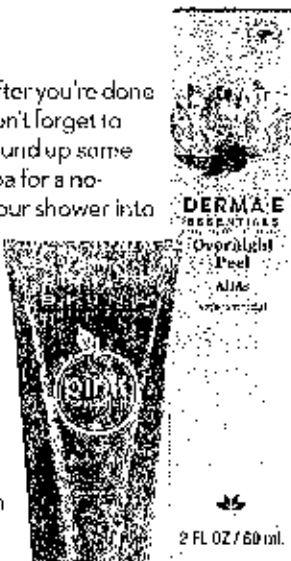
OK! BUZZ

# SPRING TUNE-UP

NIP WINTER IN THE BUD WITH MODEL AND LIFESTYLE EXPERT KAREN MCDUGAL'S TIPS FOR LOOKING BLOOMIN' LOVELY

## REFRESH

Doing some spring-cleaning? After you're done tossing those pilled sweaters, don't forget to ditch dry, dull winter skin, too. Round up some galpals and head to a Korean spa for a non-sense body scrub, or turn your shower into an oasis with Skinn's zingy Pink Grapefruit Exfoliating Body Wash (skinn.com, \$18.50), which will leave your body smooth and soft. Then put your cells to work while you try to recoup that lost daylight savings hour with Derma E's Overnight Peel (ulta.com, \$18.99). And feed your face from the inside out with Oralcell Complex, my go-to antiaging vitamins that help with hair, skin, fatigue and even libido!



## HOP TO IT!

Need to get spring break-ready? Fitness model Karen swears by a favorite childhood activity: "I like to jump rope when I need to get lean," she says. "It's quicker than a full workout but burns double the calories!"

## REVAMP

The final touch? Put a spring in your step by incorporating "happy colors" like pink, coral and yellow into your wardrobe. Since springtime temps can be fickle, keep sweaters and jeans ready, but add bright statement accessories to your ensemble, like these strappy heels from AM! Clubwear (\$44.99) and a pastel clutch from Nina (\$84). Spring is also the time to let your hair down — literally! If you've spent winter with hat-head, give your coil an update with some damage-free clip-in extensions. RPZL Hair Extension &

Blowout Bar in NYC — a celeb favorite — makes a great, affordable line of temporary locks in a slew of colors, and even ponytails. Scoop some up at RPZL.com, and rock your sunny new look!



## RECHARGE

Now that you've sloughed off the rough stuff, give your pores the hydration they've been craving. Between winter air and parching heaters, you may feel freeze-dried, so reconstitute skin with Beautigenix's life-changing sheet masks (\$280, beautigenix.com) or scoop up some from Sephora for just \$6 — Kylie Jenner is a fan! And if all that fireside red wine did a number on your teeth, hit the dentist for a professional cleaning followed by a round of Zoom Whitening.





# SPRING TUNE UP

NIP WINTER IN THE BUD WITH  
MODEL AND LIFESTYLE EXPERT  
KAREN MCDUGAL'S TIPS FOR  
LOOKING BLOOMIN' LOVELY!

## REFRESH

Doing some spring-cleaning? After you've tossed out that eggnog-stained ugly holiday sweater, ditch dry dull winter skin too!

Round up your galpals for a trip to a Korean spa for a no-nonsense body scrub, or turn your shower into an oasis with Skinn's zingy Pink Grapefruit Exfoliating Body Wash (skinn.com, \$18.50), which will leave your skin smooth and soft. Then put your cells to work while you try to recoup that lost daylight savings hour with Derma-E's Overnight Peel (ulta.com, \$18.99). And feed your face from the inside out with Oralcell Complex, my go-to antiaging vitamins that help boost skin, energy and even libido!



## I Hop To It!

Need to get spring-break ready? Fitness model Karen swears by your favorite childhood activity. "I like to jump rope when I need to lean out," she says. "It's quicker than a full workout but burns double the calories!"



## RECHARGE

Now that you've sloughed off the rough stuff, give your pores the hydration they've been craving. Between winter air and parching heaters, you may feel freeze-dried, so reconstitute yourself with Beautigenix's life-changing sheet masks (\$280, beautigenix.com) or scoop up some from Sephora for just \$6 — Kylie Jenner is a fan!

And, cruel mistress that she is, winter probably did a number on your teeth too. Dr. Timothy Chase of SmilesNY recommends hitting the dentist for a professional cleaning then a round of Zoom Whitening to undo all that red wine you sipped by the fireside.

SEE MORE FROM KAREN ON SOCIAL MEDIA!

Twitter: @KarenMcDougal98, Instagram & Facebook: @KarenMcDougal

## REVAMP

The final touch? Put a spring in your step by incorporating what I call "happy colors" like pink, coral and yellow. Since springtime temps can be fickle, keep your sweater and jeans ready, but add in bold bright statement accessories like these strappy heels from AMI Clubwear (\$44.99) and this Easter-ready clutch from Nina (\$84) to freshen up your wardrobe without blowing your budget.

Spring is also the time to let your hair down — literally! If you've spent winter with hat hair, give your coif an update with some damage-free clip-in extensions. RPZL Hair Extension & Blowout Bar in NYC — a celeb favorite — makes a great affordable line of temporary locks in a slew of colors, and even ponytails! Scoop some up at RPZL.com and go bask in your sunny new look!



# HOW TO SHINE ALL SUMMER

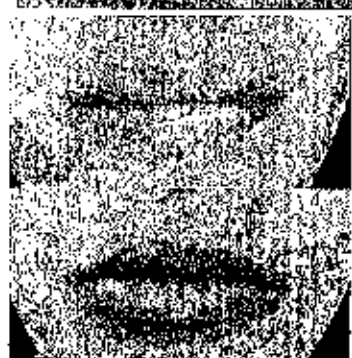
Model and fitness personality **Karen McDougal** teamed up with cutting-edge experts to get the scoop on the latest products and procedures



**BEST FACE FORWARD**  
Karen keeps a youthful glow with **Dermaplaning**, where a special blade (painless!) scrapes off dead skin and unwanted hair to reveal a smooth, radiant surface.

## SPRIF-UP YOUR SMILE

And no frown about it! While fillers of yesterday often appeared fake, new lip on the block Volbella creates lush and natural-looking lips with less swelling, says New York-based plastic surgeon Dr. David Shafer. But don't stop there: Light



up your grin with Zoom, an in-office laser teeth-whitening procedure recently improved to suit even those with sensitive chompers. "Switching from halogen to LED lights generates less heat and less potential pain,"

explains NYC dentist Dr. Timothy Chase. "And there's now a lot of gel to keep the 'zings' away."

## SOOTHE SKIN AFTER LASERS

I love a good chemical peel or laser treatment, but hiding indoors for days after isn't realistic. Oxygenetix makeup uses aloe and minerals not only to cover redness but to relieve raw skin as well. A good hydrator is Glenn Avenue Soap Company's Healing Blend Body Butter (\$14, [GlennAveSoap.com](http://GlennAveSoap.com)), made with all organic ingredients. And remember, the sun isn't your friend! EltaMD's new UV Clear Broad-Spectrum SPF 46 sunscreen (visit [EltaMD.com](http://EltaMD.com) for purchase info) not only fights rays, it combats acne and discoloration.



## FREEZE THE FROWN

Botox is great, but many people become "immune" to it after years of treatment. Fortunately, you may not have that problem with Xeomin, the newest injectable that's great for getting rid of fine lines and wrinkles à la Botox—and it will run you about \$100 less!

## RESURFACE YOUR FACE

Dr. Kenneth Mark is my go-to when I need a refresh, and his Fxfoliating & Hydrating Mask (\$85, [KennethMarkMD.com](http://KennethMarkMD.com)) helps lighten, firm and reduce wrinkles, as well as promote cell turnover. Amore Pacific's Enzyrna Peel (\$60, [AmorePacific.com](http://AmorePacific.com)) is another must-have and gentle enough to use every day.



## LIFT SAGGY JOWLS



Is there by Ultherapy, the only FDA-approved nonsurgical procedure for lifting the lower face and ditching the dreaded jowls that can make you look so much older? "There's no downtime and minimal discomfort," says plastic surgeon Dr. Shafer. "It's far less invasive than a face lift."

SEE MORE FROM KAREN ON SOCIAL MEDIA! TWITTER:

@KARENMCDOUGAL98  
INSTAGRAM & FACEBOOK:  
@KARENMCDOUGAL

# New Season NEW YOU!

Model and fitness personality **Karen McDougal** teamed up with cutting-edge experts to get the scoop on the latest products and procedures!

## FREEZE THE FROWN

Botox is great, but many people become "immune" to it after years of treatment. Fortunately, you may not have that problem with Xeomin, the newest injectable that's great for getting rid of fine lines and wrinkles à la Botox — and it will run you about \$100 less!

## SPIFF UP YOUR SMILE

Adios, trout pout! While filler of yesteryear often appeared fake, new kid on the block Vollbella creates lush and natural-looking lips with less

swelling, says plastic surgeon Dr. David Shafer. But don't stop there: Light up your grin with Zoom laser teeth whitening, now updated so it's A-OK for those with sensitive chompers. "Switching from halogen to LED lights generates less heat and less potential

pain," explains NYC dentist Dr. Timothy Chase. "And there's now a relief gel to keep the zings away."

## LIFT SAGGING SKIN

I swear by Ultherapy, the only FDA-approved nonsurgical procedure for lifting the lower face and ditching the dreaded "jowls" that can make you look so much older. "There's no downtime and minimal discomfort," shares plastic surgeon Dr. Shafer. "It's far less invasive than a face-lift."



**Best Face Forward**  
Karen keeps that youthful glow with Dermaplaning, where a special blade (painlessly!) scrapes off dead skin and unwanted hair to reveal a smooth, radiant surface!

## RESURFACE YOUR FACE

Dr. Kenneth Mark MD usually only recommends a chemical peel if you really need it. But his Extracell Hydrating Mask by Kenneth Mark MD.com helps lighten and reduce wrinkles, as well as promote cell turnover. Amore Pacific's Enzyme Peel (\$60, AmorePacific.com) is another must-have and gentle enough to use every day!



## LOOK GOOD AFTER LASERS

I love a good chemical peel or laser treatment, but hiding indoors for days after isn't an option! Oxygenetix makeup uses aloe and minerals to not only cover redness but soothe raw skin as well. A good hydrator is Glenn Avenue Soap Company's Healing Blend Body Butter (\$14, GlennAveSoap.com), made with all organic ingredients. And remember, the sun isn't your friend! EltaMD's new UV Clear Broad-Spectrum SPF 46 sunscreen (visit EltaMD.com for purchase info) not only fights rays, it combats acne and discoloration!



Before



After 50 Days (1 Skin Only)

SEE MORE FROM KAREN ON SOCIAL MEDIA!

Twitter: @KarenMcDougal98 Instagram: @KarenMcDougal



# Star FITNESS

# Beauty Body HACKS!



## Lean, Green & Mean!

To maintain her fab figure, Karen swears by algae-based Fucoxanthin supplement. "It specifically attacks fat," raves the fit 46-year-old.

## LASER IT AWAY!



Bugging out over bikini season? Star's experts teamed up with fitness model **Karen McDougal** to get you summer ready ASAP.

## IF YOU HAVE WEEKS

Shed pounds fast with Karen's easy workout routine — no gym membership required! "Interval training is amazing for fat burning," says Karen, who recently graced the cover of *Muscle & Fitness Hers*. She advises alternating 30 seconds of sprints with 30 seconds of jogging to burn the most calories, plus weighted lunges and planks to lean out your legs and core. To flatten that tummy, Karen cuts out processed carbs and sticks to leafy veggies, salmon and eggs. "To boost metabolism, I love apple cider vinegar and green tea!" she says. "And I drink several liters of water a day."

A juice cleanse can also help kickstart weight loss before you hit the sand, but if sweating or sipping just isn't your style, New York plastic surgeon Dr. Jennifer Levine says non-invasive **SculpSure** promises a 25 percent reduction of belly fat and love handles after each session. "Patients can get back into their normal routine as soon as they leave my office," explains Dr. Levine. "There's no downtime."

**Pressed Vibrance**  
Vibrant Undergarments  
with Natural Body Oil  
Elastic Undergarments

**Shed Weight**  
SculpSure  
Non-Invasive Body Contouring  
and Fat Reduction

**JANET'S**

**VersaSpa's Souffle Bronzer**  
hydrates and rejuvenates skin.

## IF YOU HAVE DAYS

No time to workout? Reach for the self-tanner! A faux glow will help camouflage cellulite and varicose veins. Then, choose strategic swimwear. Runfless should highlight your hips while a one-piece draws the eye in and minimizes waistline. Top your look with a beach-to-bar cover-up and soak up that sun!

## SWIMSUITS & COVER-UPS

**Kenneth Cole, \$99**

**Trina Turk, \$160**

**Ashley Graham x Swimsuits for All, \$84**

**Salty Mermaid, \$120**

**Yandy Swim, \$44**

SEE MORE FROM KAREN ON SOCIAL MEDIA!  
@karenmcdougal @karenmcdougal Facebook @karenmcdougal



# BEACH BODY HACKS!

BUGGING OUT OVER BIKINI SEASON? FITNESS MODEL KAREN MCDUGAL CAN GET YOU READY IN A HURRY

## LEAN GREEN & MEAN!

To maintain her fab figure, Karen swears by algae-based Fucoxanthin supplement. "It specifically attacks fat," raves the fit 40-year-old.



**S**hed pounds fast with Karen's easy workout routine — no gym membership required! "Interval training is amazing for fat burning," says Karen, who recently graced the cover of *Muscle & Fitness Hers*. She advises alternating 30 seconds of sprints with 30 seconds of jogging to burn the most calories, plus weighted lunges and planks to lean out your legs and core. To flatten that tummy, Karen cuts out processed carbs and sticks to leafy

greens, salmon and eggs. "To boost metabolism, I love apple cider vinegar and green tea," she says. "And I drink several liters of water a day."

A juice cleanse can also help kick-start weight loss before you hit the sand, but if sweating or sipping just isn't your style, New York plastic surgeon Dr. Jennifer Levine says non-invasive SculpSure promises a 25 percent reduction of belly fat and love handles after each session. "Patients can get back into their normal routine as soon as they leave my office," says Dr. Levine. "There's no downtime."

**10 DAYS NOT WEEKS?**

If you've ever wondered how you can get a more radiant complexion, look no further than the skin care line from Pressed Vibration. The brand's new line of products is designed to help you achieve a more youthful and vibrant complexion. Also, don't forget to use the brand's new skin care products to help you achieve a more youthful and vibrant complexion. The brand's new line of products is designed to help you achieve a more youthful and vibrant complexion.

Safer than lipo, SculpSure is touted as the newest — and quickest — way to whittle your middle.

Pressed Vibration's five-day juice regime will melt pounds and clear up your skin.



SEE MORE FROM KAREN ON SOCIAL MEDIA: Twitter: @KarenMcDougal98, Instagram & Facebook: @KarenMcDougal

# Star SUMMER FUN

SEE MORE FROM KAREN ON SOCIAL MEDIA!  
Twitter: @KarenMcDougal98, Instagram & Facebook: @karenMcDougal

## Party PERFECTION

Star's lifestyle expert Karen McDougal offers her top tips for crafting a sizzling summer soiree!

### PICK A THEME

"I send out invites that incorporate the theme so guests can get an idea of what the party will be like beforehand," shares Karen, who loves to mix this season's palm leaf trend with fun flamingo details. "It's a classy yet unfussy vibe."

And ditch the "Kiss The Cook" apron! "Be sure to take a moment to get yourself together," she advises. "I love a nice flowy dress in a solid color so it won't compete with the decor."



**Sunday Forever**  
Tribe Candle, \$48,  
sundayforever.com

**Arlington Designs,**  
Sago Palm Round  
Plates, \$20,  
tjmaxx.com

**Arlington Designs,**  
Enjoy Palm Leaf Platter,  
\$10, tjmaxx.com

### Sounds like summer!

"I ask guests to write their favorite summertime song on the RSVP, then add that to the playlist on my phone," notes Karen. "I go for Top 40 with some country music mixed in."

### KEEP THE KIDDOS HAPPY

"Children are always welcome at my parties," says Karen, who occupies little ones with a dessert they can build AND eat!

"It's called 'dirt bucket pudding' the model tells Star.

"I layer a kid's sand pail with vanilla pudding and crushed Oreos, then top it with a few gummy worms and an edible flower."

Sticky hands? Lure little ones into the pool with fun floats!

**Skinnydip**  
Flamingo Print  
Liquid Case, \$30,  
skinnydipdondon.com

### Funboy

Flamingo Festival Float,  
\$99, funboy.com

### MIX UP THE MENU

"I like to serve a blend of healthy and classic foods. My summer salad — lettuce mixed with mandarin oranges, berries, walnuts, avocado and a

poppyseed dressing — is always a hit," adds Karen. "But I also make crockpot BBQ meatballs with Sweet Baby Ray's sauces, and of course something from the grill!"

A signature cocktail will take your cookout from casual to chic, so whip up a pitcher ahead of time so you can "flamingo," not play mixologist!

### CORONA SLIM ORGANIC MARGARITA

12 oz. Corona Light  
2 oz. Casa Noble Crystal Tequila  
1 oz. lime juice  
2/3 oz. agave nectar  
Garnish with lime wedge

### THE NEW OLD FASHIONED

3 oz. pre-made Old Fashioned  
mix, watersheddistillery.com  
Add a splash of club soda, and  
garnish with orange and cherry





# PARTY PERFECTION

LIFESTYLE EXPERT KAREN MCDUGAL OFFERS HER TOP TIPS FOR HOSTING A REFINED YLT FESTIVE LABOR DAY SOIREE

## PICK A THEME

"I send out invites that incorporate the theme so guests can get an idea of what the party will be like beforehand," says Karen, who focused this summer on palm leaves and fun flamingo details. "It's a classy yet unfussy vibe." And ditch the "Kiss the Cook" apron! "Be sure to take a moment to get yourself together," she advises. "I love a nice flowy dress in a solid color that won't compete with the decor."



Sunday Forever  
Tribe Candle, \$48,  
sundayforever.com

Arlington  
Designs  
Sago Palm  
Round  
Plates



Arlington Designs  
Enjoy Palm Leaf Platter



## MIX UP THE MENU

"I like to serve a blend of healthy and classic foods. My go-to salad—lettuce mixed with mandarin oranges, berries, walnuts, avocado and a poppyseed dressing—is always a hit," says Karen. "But I also make crockpot BBQ meatballs with Sweet Baby Ray's sauces and of course something from the grill." A signature cocktail will take your cookout from casual to chic, so whip up a pitcher ahead of time so you can mingle, not play mixologist.

## CORONA SLIM ORGANIC MARGARITA

- 12 oz. Corona Light
  - 2 oz. Casa Noble Crystal Tequila
  - 1 oz. lime juice
  - 3/4 oz. agave nectar
- Garnish with lime wedge



## THE NEW OLD FASHIONED

3 oz. pre-made Old Fashioned mix, watershed distillery.com

Add a splash of club soda, and garnish with orange and cherry



**SOUNDS LIKE FUN!** Ask guests to write their favorite song on the RSVP, then add that to the playlist on my phone," says Karen. "I go for Top 40 with some country music mixed in."

## KEEP THE KIDDOS HAPPY

"Children are always welcome at my parties," says Karen, who occupies little ones with a dessert they can build and eat! "It's called 'dirt bucket pudding,'" she says. "I layer a kid's sand pail with vanilla pudding and crushed Oreos, then top it with a few gummy worms and an edible flower."



**Skinnydip** Flamingo Print Liquid Case, \$30, us.skinnydip.london.com

SEE MORE FROM KAREN ON SOCIAL MEDIA!

Twitter: @KarenMcDougal98,  
Instagram & Facebook: @KarenMcDougal

# AGELESS Beauty!

OVER 40? WE'RE SHARING THE BEST MAKEUP AND TECHNIQUES TO KEEP YOU FOREVER YOUNG!

**T**hink the hottest new makeup is only for millennials? Wrong! *Star* teamed up with model **Karen McDougal** and her makeup artist, Kimberly Carlson, to reveal the best products to help you look as vivacious as you feel. Prepare to get carded, ladies...



## Timeless Tips

At 46 (!) Karen looks half her age thanks to regular facials, lots of SPF and these beauty hacks she and her makeup artist share exclusively with *Star*!

### 1. HYDRATE

**KIM SAYS:** Hydrated skin is the key to beautiful makeup. Charlotte Tilbury's Magic Cream (\$100, charlottetilbury.com) is a must and Glycelene Eye Repair Oil (\$68, glycelene.com) reduces puffiness.

**STAR LOVES:** Tatcha Ageless Revitalizing Eye Cream (\$135, tatcha.com) helps keep crow's feet at bay.

### 2. LIGHTEN UP

**KIM SAYS:** Heavy makeup will settle into wrinkles, but for full coverage without caking, try tarte's Amazonian Clay Foundation (\$39, sephora.com).

**STAR LOVES:** IT Cosmetics' Bye Bye Lines Foundation (\$38, itcosmetics.com) uses patented blurring technology, while Luminess' goof-proof Epic 2 Airbrush Machine (\$299, luminessair.com) delivers smooth, buildable pigment.

### 3. POWDER LIKE A PRO

**KIM SAYS:** Sweep Vita Liberate Trystal Pressed Minerals Bronzer (\$35, sephora.com) along hairline and temples, and Artist Couture Diamond Glow Powder (\$27, artistcouture.com) on cheekbones to mimic the glow of your girlhood!

**STAR LOVES:** Top your foundation with Perricone MD's No Makeup Instant Blur Powder (\$55, sephora.com) to create a soft focus that erases lines.

### 4. LASH OUT

**KIM SAYS:** Full lashes create that fresh-faced look and I Love House of Lashes' Le Petit Double (\$7, houseoflashes.com). They blend

naturally and are easy to apply!

**STAR LOVES:** I gave the smokey eye to millennials but borrow their bushy brow trend — a key marker of youth — with Laura Mercier's Brow Dimension Fiber Infused Colour Gel (\$24, lauramercier.com).

### 5. KISS UP TO GLOSSES

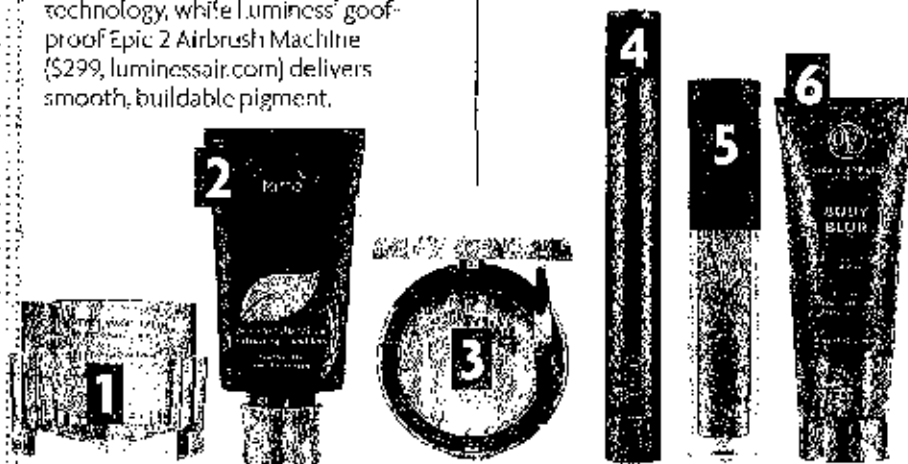
**KIM SAYS:** Matte lipsticks can minimize mature lips, but Buxom's Wildly Whipped Lipstick (\$21, sephora.com) provides moisture and color, all while plumping up your pout.

**STAR LOVES:** MAC's Pro Longwear Lip Liner (\$21, maccosmetics.com) — topped with the brand's coordinating Lipglass (\$17) — will keep color from creeping into fine lines around the mouth.

### 6. THINK OUTSIDE THE FACE

**KIM SAYS:** Get a full-body sheen courtesy of Vita Liberata's cult favorite Body Blur beloved by Victoria's Secret models! It reflects light for a photo-ready finish.

**STAR LOVES:** Boost thinning hair with RPZL.com's clip-in extensions (\$250) that come in 16 shades.



SEE MORE FROM KAREN ON SOCIAL MEDIA!

Twitter: @KarenMcDougal98

Instagram & Facebook: @KarenMcDougal



OK! BUZZ

# Ageless Beauty

OVER 40? CHECK OUT PRO-GRADE MAKEUP AND TECHNIQUES THAT'LL KEEP YOU LOOKING FOREVER YOUNG

The hottest new makeup isn't just for millennials. Here, model and OK! lifestyle contributor **Karen McDougal** teams with her makeup artist, **Kimberly Carlson**, to reveal the best products to help you look as vivacious as you feel.

## 1. MOISTURIZE LIKE MAD

**KIMBERLY SAYS:** Hydrated skin is the key to beautiful makeup. (1) Charlotte's Magic Cream (\$100, charlottetilbury.com) is a must, and Glycelene Eye Repair Oil (\$68, glycelene.com) reduces puffiness.

**OK! LOVES:** 'tatcha Ageless Revitalizing Eye Cream (\$135, tatcha.com) helps keep crow's feet at bay.

## 2. LIGHTEN UP

**KIM SAYS:** Heavy makeup will settle into wrinkles. For full coverage without caking, try (2) Tarte's Amazonian Clay Foundation (\$39, sephora.com).

**OK! LOVES:** IT Cosmetics' Bye Bye Lines Foundation (\$38, itcosmetics.com) uses patented blurring technology, while Luminess' goof-proof Epic 2 Airbrush machine (\$299, luminessair.com) delivers smooth, buildable pigment.

## 3. DUST AWAY THE DAYS

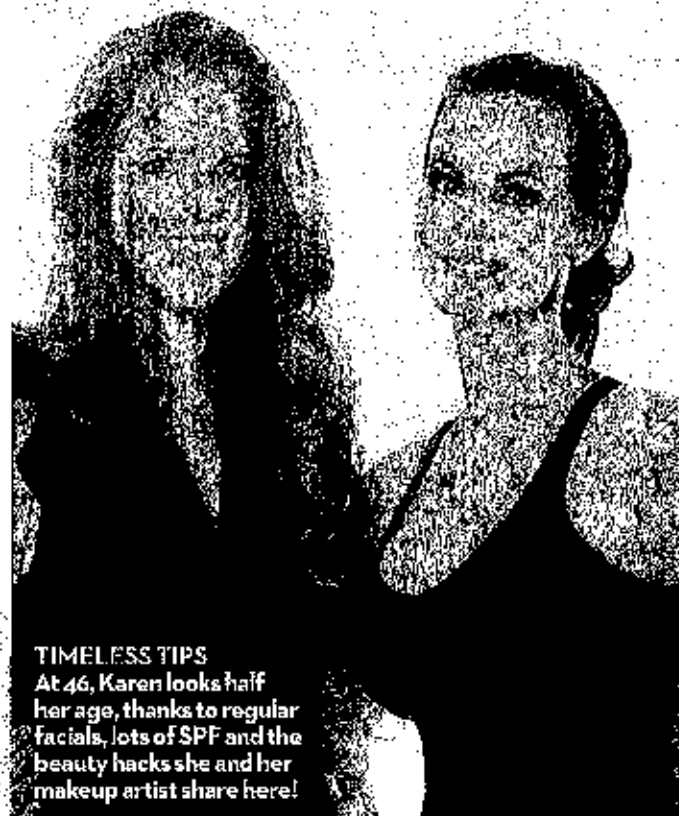
**KIM SAYS:** Sweep Vita Liberata Trystal Pressed Bronzing Minerals (\$35, sephora.com) along hairline and temples and Artist Couture Diamond Glow Powder (\$27, artistcouture.com) on cheekbones to mimic the glow of your girlhood.

**OK! LOVES:** Top your foundation with (3) Perricone MD's No Makeup Instant Blur Powder (\$55, sephora.com) to create a soft focus that erases lines.

## 4. LASH OUT

**KIM SAYS:** Full lashes create that fresh-faced look. I love House of Lashes' Le Petit Double (\$7, houseoflashes.com)—they blend naturally and are easy to apply!

**OK! LOVES:** Leave the smoky eye to



### TIMELESS TIPS

At 46, Karen looks half her age, thanks to regular facials, lots of SPF and the beauty hacks she and her makeup artist share here!

the younger crowd but borrow their bushy brow trend—a key marker of youth—with (4) Laura Mercier's Brow Dimension Fiber Infused Colour Gel (\$24, lauramercier.com).

## 5. KISS UP TO GLOSSES

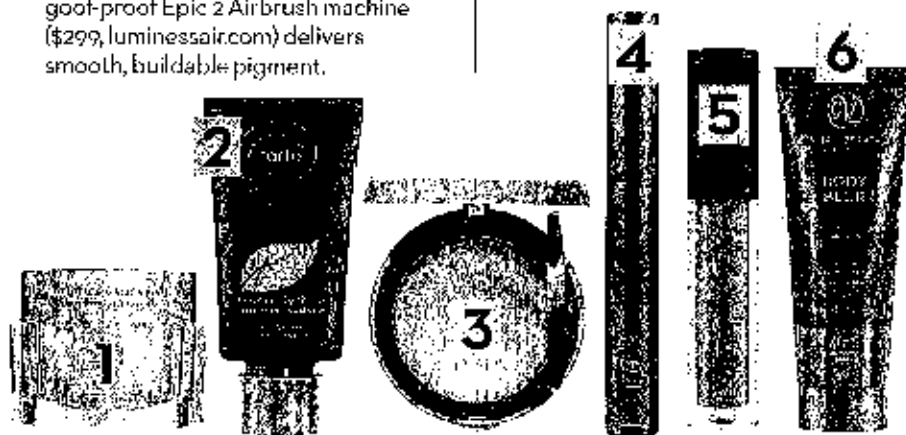
**KIM SAYS:** Matte lipsticks can minimize mature lips, but Buxom's Wildly Whipped Lipstick (\$21, sephora.com) provides moisture and color, all while plumping up your pout.

**OK! LOVES:** MAC's Pro Longwear Lip Pencil (\$21, maccosmetics.com)—topped with (5) the brand's coordinating Lipglass (\$17)—will keep color from creeping into fine lines around the mouth.

## 6. GO HEAD TO TOE

**KIM SAYS:** Get a full-body sheen courtesy of (6) Vita Liberata's cult favorite Body Blur (\$45, sephora.com), beloved by Victoria's Secret models. It reflects light for a photo-ready finish.

**OK! LOVES:** Boost thinning hair with RPZL.com's clip-in extensions (\$250), which come in 16 shades.



SEE MORE FROM KAREN ON SOCIAL MEDIA!

Twitter: @KarenMcDougal98  
Instagram & Facebook:  
@KarenMcDougal

# GUEST OF HONOR

Party-going,  
Perfected

From what to wear to  
what to bring, Karen has  
the answers!

SEE MORE FROM KAREN ON SOCIAL MEDIA!  
Twitter: @KarenMcDougal98  
Instagram & Facebook: @KarenMcDougal

STAR TEAMS UP WITH MODEL  
AND LIFESTYLE EXPERT KAREN  
MCDUGAL FOR TIPS ON HOW  
TO BE THE PARTY GUEST HOSTS  
WILL LOVE THE MOST!

## NIFTY GIFTING

## ETIQUETTE IS EVERYTHING

"No matter how casual a get-together, a host has worked hard to prepare, so always RSVP and arrive on time for a sit-down dinner, 15 to 20 minutes later for all other soirees," advises Karen, adding that you don't need to bring a casserole to show your appreciation. "Avoid things that need to be heated up or put in a vase — the host has enough to do," she says. "Opt for a nice wine, candle, or quality chocolates. I also love fancy olive oil — just toss it in a cute gift bag and go!"



**Tobin Tobin**  
Grande Box of  
Chocolates, \$138



**Gaea Fresh**  
Extra Virgin  
Olive Oil, \$18.99



**Voluspa**  
Classic Masion  
Candle Crisp  
Champagne, \$27



**Sterling Vineyards**  
Napa Valley Cabernet  
Sauvignon 2014, \$25

**Kim Crawford**  
Sauvignon Blanc  
Holiday Bottle, \$17.99

**Moët Impérial**  
Golden Sparkle  
Bottle, \$39.99



**Best Home Fashion**  
Luxe Faux Mink Fur  
Throw, \$179.99

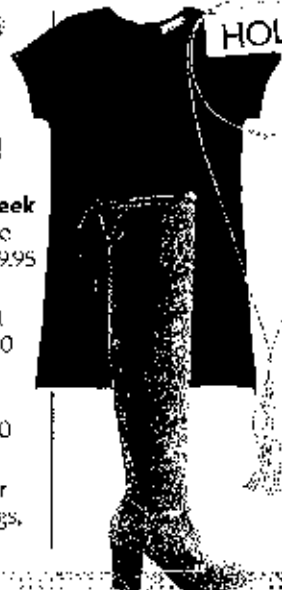
## DRESS CODE

### FRIENDSGIVING



**Coldwater Creek**  
Go With The  
Flow Tunic, \$79.95  
**COUP**  
Day & Night  
earrings, \$350  
**Birdies**  
The Wren  
slippers, \$140  
**Spanx**  
Faux Leather  
Moto Leggings,  
\$110

### HOLI-DATE



**Grana**  
Silk Tee Dress, \$85  
**LC Lauren Conrad**  
for Kohl's  
Starburst  
necklace, \$18  
**JustFab**  
Adina Heeled  
Boot, \$42.95

### COCKTAIL PARTY



**Selfie Leslie**  
Ivy Lace Up Bodycon  
Dress, \$64.99  
**Iris Apfel for HSN**  
Rara Avis  
Mongolian Fur  
Reader's Wrap, 799.95  
**Steve Madden**  
Carabu heels, \$99.95

BUZZ

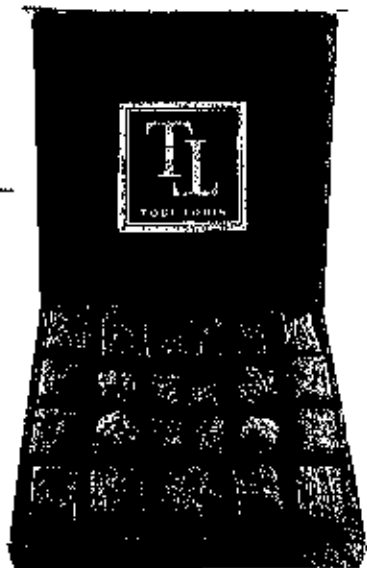
**PARTYGOING, PERFECTED**  
From what to wear to what to bring, Karen has the answers.

## ETIQUETTE IS EVERYTHING

"No matter how casual a get-together, a host has worked hard to prepare, so always RSVP and arrive on time for a sit-down dinner, 15 to 20 minutes later for all other soirees," advises Karen. As for a gift, you don't need to bring a casserole to show your appreciation. "Avoid things that need to be heated up or put in a vase—the host has enough to do," she says. "Opt for nice wine, a candle or quality chocolates. I also love fancy olive oil—just toss it in a cute gift bag and go!" Check out her picks here.

# GUEST of HONOR

MODEL AND LIFESTYLE EXPERT  
**KAREN McDOUGAL**  
ON HOW TO BE THE PARTYGOER HOSTS WILL LOVE THE MOST



**Tobin Tobin**  
Grande  
Box of  
Chocolates,  
\$138



**Gaea Fresh**  
Extra Virgin  
Olive Oil, \$19

**Moët**  
Impérial  
Golden  
Sparkle  
Bottle, \$40



**Kim Crawford**  
Sauvignon Blanc  
Holiday Bottle, \$18



**Sterling Vineyards**  
Napa Valley  
Cabernet  
Sauvignon,  
2014, \$32



**Best Home**  
Fashion  
Luxe Faux Fur Pom  
Pom Throw, \$80



**Voluspa**  
Classic  
Maison  
Candle Crisp  
Champagne,  
\$27

SEE MORE FROM KAREN ON SOCIAL MEDIA

Twitter: @KarenMcDougal98, Instagram & Facebook: @KarenMcDougal

# Exhibit 10

MUSCLE & FITNESS Special Pullout Workout Poster FREE!

# HEALS

YOUR FAST TRACK TO FITNESS

MODEL & FITNESS PERSONALITY

## KAREN MCDUGAL

Learn Her Secrets  
To Ageless Beauty!

**BLAST  
FAT!**  
WITH A  
BARBELL  
P84

**8 Week  
ABS  
PLAN**

**TRANSFORM  
YOUR BODY**  
With These Healthy Meals P118

SHED  
WEIGHT  
FAST!  
P156

**20  
WAYS TO  
GET LEAN  
NOW**  
P16



# Exhibit 11

FEEL GOOD!

## Karen McDougal's Map To Living Well And Feeling Better!



By Radar Staff

Posted on Nov 14, 2016 @ 14:44PM

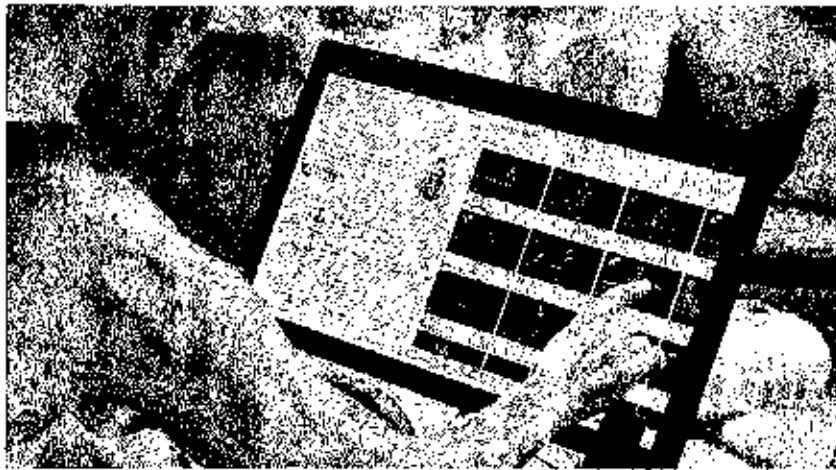


Fitness is a passion and a way of life for model, actress and sports radio personality **Karen McDougal**. The first-ever female cover model for **Men's Fitness** credits a healthy lifestyle for a fulfilling life and successful career. "Fitness has made kept me healthy, happy and youthful!" she says. "But everybody has the ability to achieve the same results. It just takes knowledge and discipline." The good news is that Karen is happy to share her health and wellness secrets with you. "I want everyone to have the tools to reach their goals to experience the best life possible!"

**FASENRA® (benralizumab) - Now Approved Treatment Option**

Physicians - Visit The Official Website To Learn About Now Approved FASENRA. [www.fasenrahop.com](http://www.fasenrahop.com)

***How important is what you eat to how you feel?***



Sponsored by Peloton

## Experience The Energy Of Live Studio Cycling Taught By Elite Instructors, On Your Time.

This new year, experience the rush of studio cy...

[SEE MORE](#)

"Diet is critical to feeling good and being healthy. Eating well maximizes your potential to perform at a peak level physically, mentally AND emotionally. My four meals a day are sensible and fairly clean. I always start with a good breakfast — a bowl of oatmeal with brown sugar, protein powder and almond milk. My other meals center around lean chicken, salmon and a daily shake with protein powder, spinach, blueberries, a veggie powder and coconut water. I allow myself one coffee a day and three-to-five green teas! When I'm weak, I allow myself a snack. But it's important that you have a high protein and nutrient-filled diet to fuel your body and give you the energy to take on your daily tasks. Keep alcohol and soda to a minimum...and you'll lose weight AND feel better. Tip? Give yourself one cheat meal a week to keep your body from craving and YOU from binging."


### Trending Articles



'BACHELOR' STAR SHAYNE LAMARPOUR  
HEARTBREAKING MESSAGE...





Powered By 

### ***How do you work in working out?***

"I hit the gym five times a week and rotate body parts to focus on. On Monday and Thursday's I do 10 minutes of cardio and move onto working my lower body with squats, lunges, hamstring curls, and other leg exercises. Tuesdays and Fridays I do 30 minutes of cardio and then work my triceps and biceps with free weights and cables. On Wednesdays I make sure to do 30 minutes of cardio and then work my shoulders, back and chest. The results are amazing. My doctor marvels at my heart health. It helps keep a positive attitude and overcome depression. It helps me feel healthy from the inside out."

### ***How do you combat the aging process?***

"I'm a big believer in moisturizing and protecting your skin. During the day I use a high sunscreen to protect my skin. It helps reduce wrinkles and makes your skin soft, strong and smooth! Also make sure to use a moisturizer to keep the skin fresh, and prevent dryness and flaking. At night I make sure to wash off my makeup and use a face and eye cream to allow the skin to breath and rejuvenate while I sleep. Adequate rest is critical for you body and brain to achieve peak performance ... and for you to be at your best to take on the day!"

## EXCLUSIVE INTERVIEW

# Top Five Secrets For Staying Slim During The Holiday Season!

Model-actress Karen McDougal shares her favorite diet tips.



By Radar Staff

Posted on Dec 19, 2016 @ 14:51PM



The holidays are the toughest time of the year to eat well and stay fit. But model, actress and sports-radio personality **Karen McDougal** tells RadarOnline.com **that you don't need to limit yourself to eating coal** from your Christmas stocking! Just follow her five simple strategies to stay on track well into the New Year.

### Official HCP Website - FASENRA® (benralizumab)

Learn More About FASENRA & How It May Help Your Patients.[www.fasenrahcp.com](http://www.fasenrahcp.com)



The **first rule of thumb** is to **never gorge** in an attempt to save calories for a big holiday party at night.



Sponsored by Peloton

## Even Runners Can't Get Enough Of This

This new year, experience the rush of studio cy...

[SEE MORE](#)

"The better move is to eat three to five small meals throughout the day," said McDougal. "This will help you make healthier food choices, limit your cravings and boost your body's fat-burning potential."

### Trending Articles



#### IS VENUS WILLIAMS ENGAGED?

Check out Venus Williams' bling! (OK! Magazine) Five

Powered By 

And when at the holiday buffet table, **make sensible choices to limit the damage and maximize the benefit.** "Lean proteins (fish, chicken, eggs) and high-fiber foods (avocados, pears, berries) are delicious and lower in bad fats than casseroles and cakes," McDougal noted.

Another good idea is to snack smart.

"You'll have plenty of **big meals** throughout the holiday season, so keep snacking to a minimum," said McDougal.

But if you do find yourself nibbling?

"Avoid carb-heavy breads or sugary cookies," she said, recommending to load up instead on **fresher** options, like figs, dates or nuts.

Unfortunately, **one of the trickiest holiday dangers** to try to avoid are calorie-filled drinks.

"Sodas are packed with sugar or unhealthy sweeteners — and so are cocktails," said McDougal. "If you want to celebrate the season with an alcoholic beverage, limit your intake to one glass of wine, or choose a clear alcohol like vodka, which is low in sugar and has fewer calories than that creamy cup of eggnog."

And **the last important rule for slimming down while surviving the holidays** is to always be sure to hydrate, hydrate, hydrate," McDougal told Radar.

"Having a one glass of water in between each cup of holiday cheer will help you keep your wits while everyone is donning lampshades, and will help flush out excess calories," she explained. "Down one more glass of water before bed to wake up fresh and well-rested."

For more on McDougal's advice, follow her on social media:

Twitter: **@karenmcdougal98**

Instagram: **KarenMcDougal**

Facebook: **Karen McDougal**

PICTURE PERFECT!

## Model Karen McDougal Reveals Tips To Make ANYONE Photogenic

Want to follow all the celebrity drama? Download the RadarOnline App to get it directly on your phone! [Get App Now](#)

From makeup products to posing advice and more!



By Radar Staff

Posted on Feb 22, 2017 @ 14:43PM



As a model and fitness personality, **Karen MacDougalk** knows a thing or two about looking your best in photos. And with awards season in full swing, who better to dish out tips on how to emulate your favorite red carpet stars? Read on for some can't-miss tips on how to pose like pro either at a big soiree or for a simple selfie!

**FASENRA® (benralizumab) - Now Approved Treatment Option**

Physicians - Visit The Official Website To Learn About Now Approved FASENRA. [www.fasenrahcp.com](http://www.fasenrahcp.com)

**Know Your Angles!**



Sponsored by Allstate


## Bundle And Save

A 30-year mortgage means 30 years of mortgage p...

SEE MORE +

Celebs spend a ton of time taking practice snapshots to find their ideal angles. Using a webcam or a pal, snap a ton of trial photos with your head at different angles and get (honest!) feedback on which ones look best. Usually, a quarter turn with your chin tilted slightly down is the most flattering.

### Trending Articles



BACHELOR STAR SHA'DIE LEADS POSTS  
HEARTBREAKING MESSAGE...

Powered By 

Stand Out In The Squad

When posing with a large group, it can be tempting to sacrifice yourself and squat in the front row, but don't—the closer you are to the camera the bigger you'll look! End spots will offer the most slimming angles, and always pose with your hand on your hip, shoulders down, elbows pointing behind you, to look the leanest. Pressing your arm against your body makes it look as wide as your head.

If you can't snag the end spot, opt for the middle: put your arms around your pals' waists, and stand with your legs crossed to elongate them.

### **Smile Small**

When it comes to smiling, less is more. A too-wide, ultra-LOL smile will accentuate wrinkles and make you look crazed. To look happy and not nutty, celebs put their tongue against the back of their teeth as it prevents an overzealous grin.

### **Light It Up!**

Stars swear by backlighting—especially at dusk—since it illuminates you without being too harsh. If you're a selfie star, invest in a light-up cell phone case like the LuMee (\$60), a celeb favorite.

### **Ditch Double Chins**

A sharp jawline is a hallmark of hotness so to prevent the dreaded double chin, press your tongue against the roof of your mouth while focusing on elongating your neck and pushing your face slightly forward.

### **Make Makeup Your Ally**

While mineral makeup is great for your skin, the silica in them creates a dull look in photos, so stick to HD foundations—I love Revlon Photoready Airbrush Effect (\$14), Marc Jacobs Beauty Re(marc)able Full Cover Foundation Concentrate (\$55, Sephora.com) and Kat Von D Lock-It Foundation (\$35, Sephora.com)).

Make sure you choose the proper shade: too-pale makeup will look even more pronounced under a camera flash.

To stave off shine, pat forehead, nose and chin with a blotting paper like Palladio's Rice Paper (\$4) or in a pinch, a toilet seat cover will do!

Steer clear of dark matte lip looks—they'll minimize your mouth, so opt for a bright or shiny shade instead.

And make sure your lashes and brows are on point: filled-in brows and curled, mascara-coated lashes will help frame your face and create a youthful look.

### **The Eyes Have It**

Always blinking in pics? Close eyes and open slowly as the photographer counts to three. And if you're always the victim of red-eye, glance at a light before the photo is taken—it will shrink your pupil and keep you from looking like a possum.

### **C'mon Get Appy!**

Think Kim + co really are that flawless? Ha! There's nothing wrong with giving your pics a little 21st century help—for \$3, the Facetune app lets you smooth out skin to create a line-free look.

### **Find Your Prints Charming**

I love a good fun print, but if you're going to be at an event with busy setting (like a kids party or holiday bash), stick to solids so the photo doesn't look too busy. Don't always believe the hype that black is better: it tends to stand out against any backdrop, so if you're trying to look slimmer (and who isn't) navy or brown are minimizing without being as stark.

### **Shoulder The Burden**

You mama was right: posture, posture, posture! No matter how much you suck in are or how expensive that blouse was, you'll never get a good pic if you don't stand up straight!

See more from Karen on social media!

Twitter: @KarenMcDougal98

Instagram & Facebook: @KarenMcDougal



**TERRIFYING!**

# First Ever Men's Fitness Cover-Girl Reveals She Had To Get Breast Implants Removed

Want to follow all the celebrity drama? Download the RadarOnline App to get it directly on your phone! [Get App Now](#)

'I truly thought I was dying,' revealed Karen McDougal.



By Radar Staff

Posted on Mar 7, 2017 @ 17:52PM



Getty Images

[VIEW GALLERY](#)



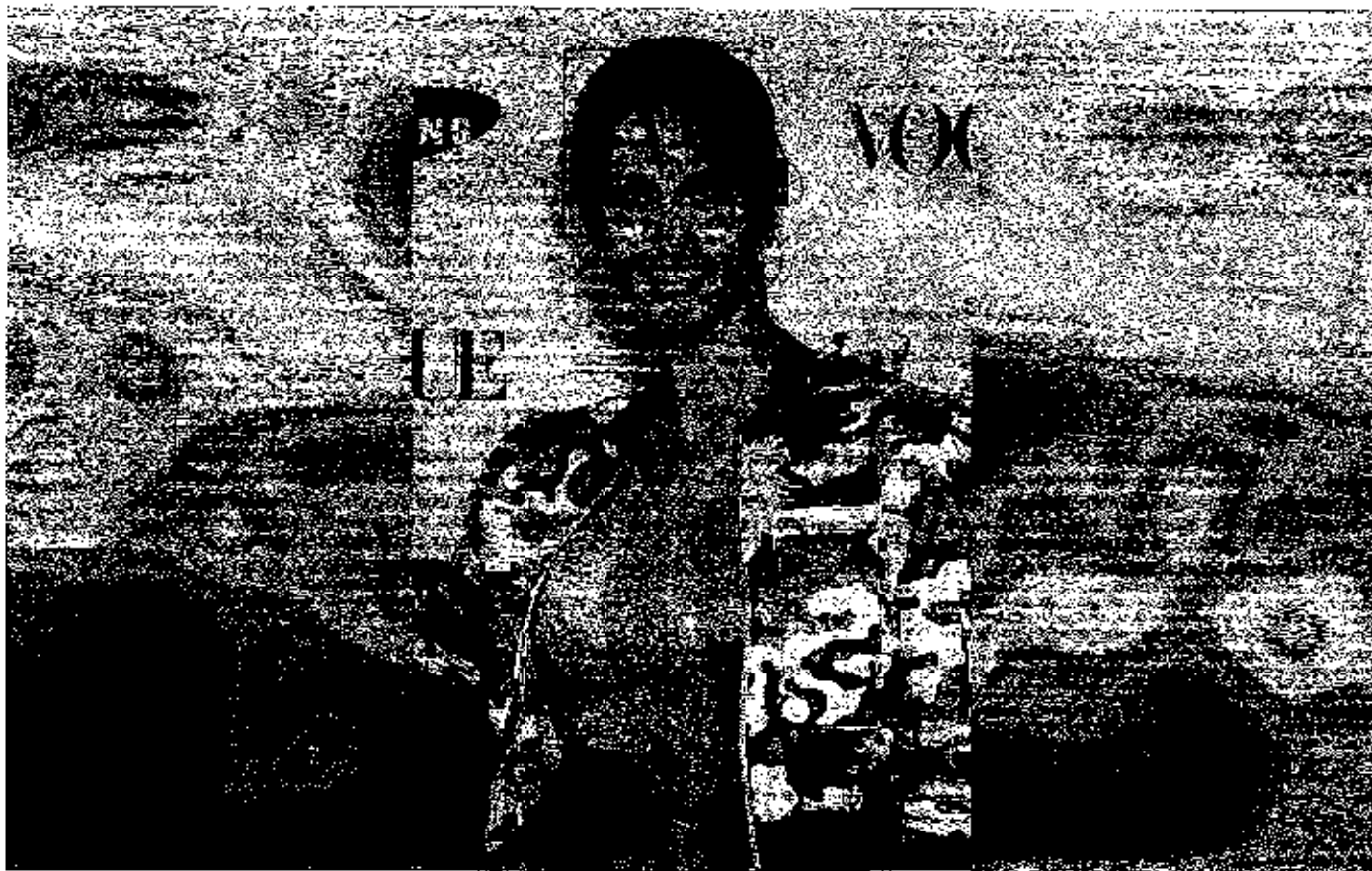


ALL MODERN

**\*WARNING GRAPHIC PHOTOS\***

As a model and fitness personality, **Karen McDougal** has built a career off her enviable body, but after a decade of mysterious illnesses, she finally realized her beauty had come at a frightening cost!

PHOTO CREDIT: GETTY IMAGES



In an exclusive interview with OK!, Karen revealed that eight years after getting breast implants, she began experiencing a series of scary ailments, including "thyroid issues, fatigue, [and] severe allergies."



PHOTO CREDIT: GETTY IMAGES





At first, Karen thought her sudden and unexplainable issues were simply the result of aging, but in January 2016, things grew worse when she started having migraines, blurred vision, noise sensitivity, and was blacking out multiple times a day.



PHOTO: GREGG/GETTY IMAGES

Can't get comfortable at night?





By October, she was bedridden. "I truly thought I was dying," she said. While doctors insisted she was fine, a friend suggested Karen's breast implants may be to blame.



PHOTO CREDIT: KAREN WOODHULL

Can't get  
comfortable  
at night?  
Try a body



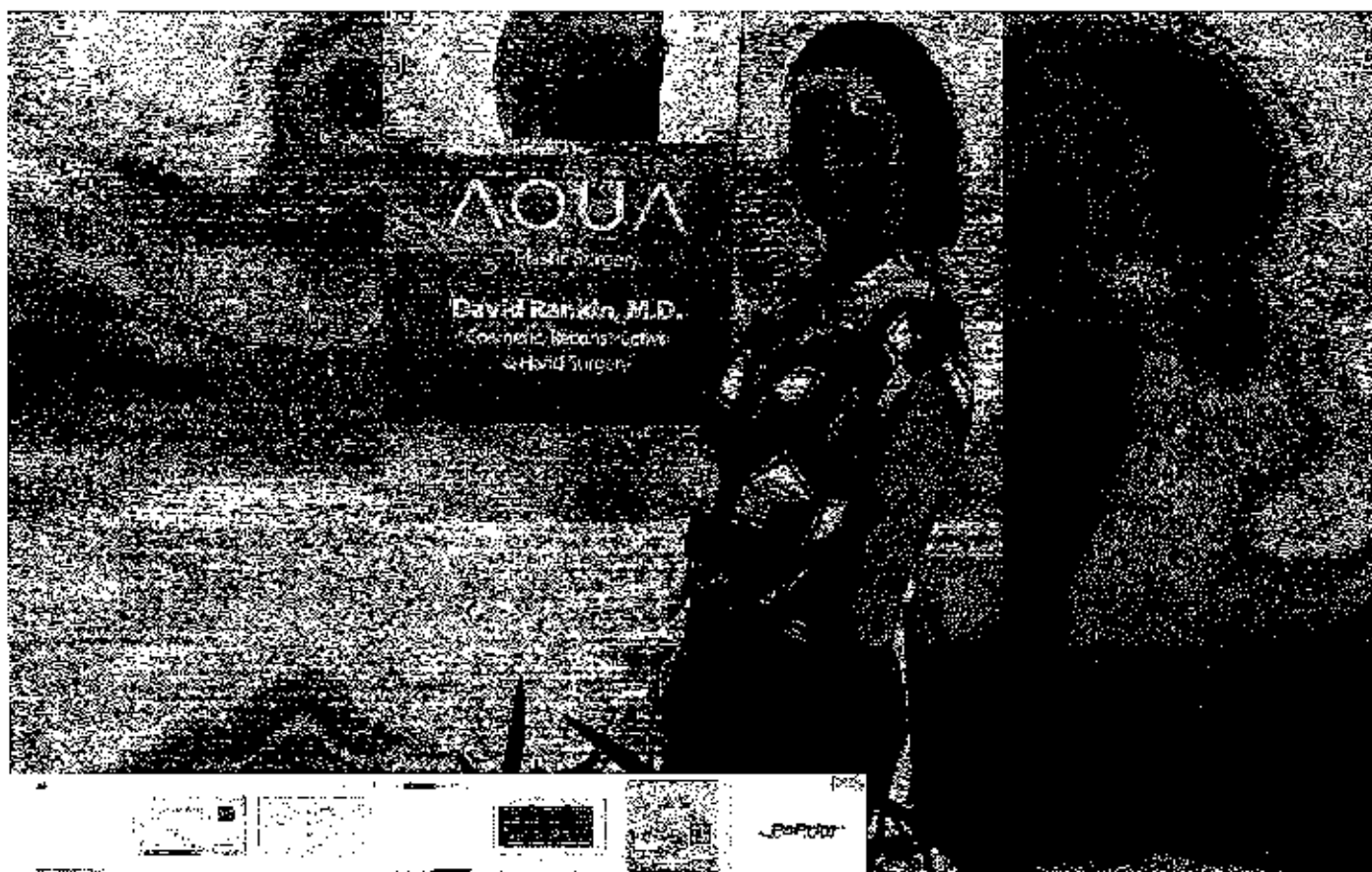
"I blew him off—it seemed so crazy," she admitted. Still, Karen did some research, and discovered a frightening reality, Breast Implant Illness, which affects thousands of people.

PHOTO CREDIT: KAREN NILDORF

OAK

Up to 80% off

SALE



A month later, Karen admits she misses her old self but knows her health is worth the adjustment. "Hey, small boobs and bralettes are having a moment," she said with a smile. "I'm totally in fashion."



PHOTO CREDIT: JARSH MCDONALD

OAK

Up to 80% off

SALE



GAP

UP TO  
**50% OFF**  
(ALMOST) EVERYTHING  
ENDS SOON



SHOP NOW

Don't see what you like?  
See Shop for details



She soon turned to Dr. **David Rankin** of Aqua Plastic Surgery in Jupiter, FL, to remove her implants, and immediately, her health improved. "I wasn't dizzy, no migraines, no noise sensitivity—it felt like a miracle," she said.



BEAUTY TIPS

# New Season, New You! Karen McDougal Reveals Latest Products & Procedures

Want to follow all the celebrity drama? Download the RadarOnline App to get it directly on your phone! [Get App Now](#)

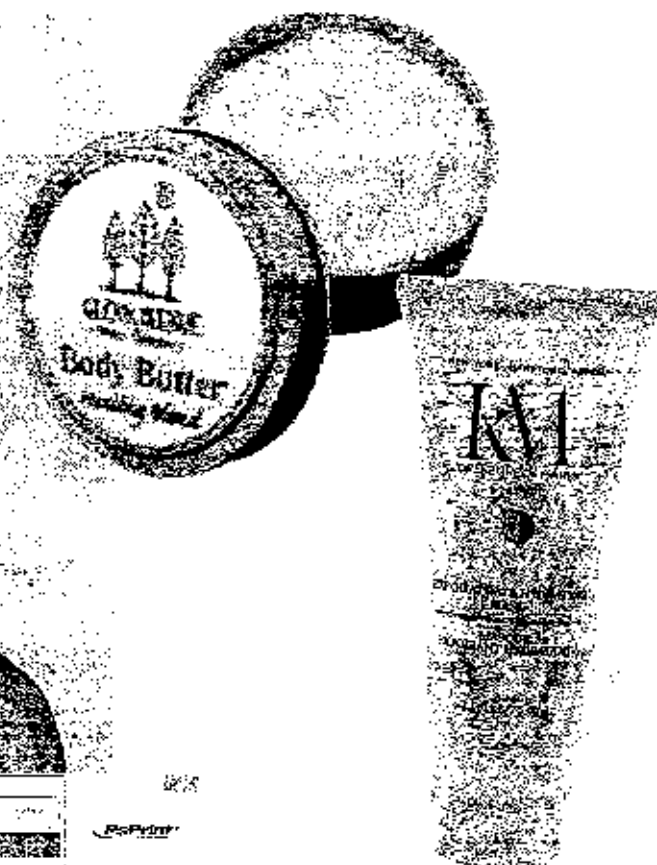
Get all of the fitness guru and model's summer secrets.



By Radar Staff

Posted on May 8, 2017 @ 14:04PM





Model and fitness personality **Karen McDougal** teamed up with cutting-edge experts to get the scoop on the latest products and procedures!



USPS  
PostNet





NET-A-PORTER

 \$470  
 \$150  
 \$285

RTD Jordan - Hinge Eau  
 Van Fairplay - Dream Le...  
 & more  
 SHOP NOW >



Freeze the Frown: Botox is great, but many people become "immune" to it after years of treatment. Fortunately, you may not have that problem with Xeomin, the newest injectable that's great for getting rid of fine lines and wrinkles à la Botox — and it will run you about \$100 less!



  
 UP TO  
**50%**



**NET-A-PORTER**

**Burberry**

**Rita Ora - Adore Me...**  
**Sally Hadden - Graham & Co...**  
 & more

**SHOP NOW**

**\$370**  
**\$150**  
**\$245**



**Spiff Up Your Smile:** Adios, trout pout! While fillers of yesteryear often appeared fake, new kid on the block Volbella creates lush and natural-looking lips with less swelling, says Dr. David Shafer. But don't stop there: Light up your grin with Zoom laser teeth whitening, now updated so it's A-OK for those with sensitive chompers. "Switching from halogen to LED lights generates less heat and less potential pain," explains NYC dentist Dr. Timothy Chase. "And there's now a relief gel to keep the 'zings' away."



**Why drink**  
**Apple Cider**  
**Vinegar...**

**ULTRA**  
**Apple Cider**  
**VINEGAR**

# Ultherapy

SEE THE BEAUTY OF SKIN LIFT



is (1.5mm only)



Lift Sagging Skin: I swear by Ultherapy, the only FDA-approved nonsurgical procedure for lifting the lower face and ditching the dreaded "jowls" that can make you look so much older. "There's no downtime and minimal discomfort," shares plastic surgeon Dr. Shafer. "It's far less invasive than a face-lift."



Why drink  
**Apple Cider  
Vinegar...**





NET-A-PORTER



\$470



\$150



\$285

ESTO London - Marie Perle  
San. Editor - Roman J. ...  
& more

SHOP NOW



Resurface Your Face: Dr. Kenneth Mark is my go-to when I need a refresh, and his Exfoliating & Hydrating Mask (\$85, [KennethMarkMD.com](http://KennethMarkMD.com)) helps lighten, firm and reduce wrinkles, as well as promote cell turnover. Amore Pacific's Enzyme Peel (\$60, [AmorePacific.com](http://AmorePacific.com)) is another must-have and gentle enough to use every day!



NORDSTROM

AERIN Beauty  
Hibiscus Palm



GAP

UP TO  
**50% OFF**  
(ALMOST) EVERYTHING  
ENDS 2/28/11

SHOP NOW

Online only.  
See store for details.



**Look Good After Lasers:** I love a good chemical peel or laser treatment, but hiding indoors for days after isn't an option!

Oxygeneix makeup uses aloe and minerals to not only cover redness but soothe raw skin as well. A good hydrator is Glenn Avenue Soap Company's Healing Blend Body Butter (\$14, [GlennAveSoap.com](http://GlennAveSoap.com)), made with all organic ingredients. And remember, the sun isn't your friend!



EltaMD's new UV Clear Broad-Spectrum SPF 46 sunscreen (visit [EltaMD.com](http://EltaMD.com) for purchase info) not only fights rays, it combats acne and discoloration!



NORDSTROM

AERIN Beauty  
Hibiscus Pain



See more from Karen on social media! Twitter:

@KarenMcDougal98, Instagram &



Facebook: @KarenMcDougal

Enjoy 6 months to  
pay on every  
purchase of \$99+.



GUEST OF HONOR

# STAR MAGAZINE GETS HOLIDAY PARTY ADVICE FROM KAREN MCDUGAL

Want to follow all the celebrity drama? Download the RadarOnline App to get it directly on your phone! [Get App Now](#)

MODEL & LIFESTYLE EXPERT TELLS US HOW TO BE THE PARTY  
GUEST HOSTS WILL LOVE THE MOST



By Radar Staff

Posted on Dec 18, 2017 @ 14:01PM





**ETIQUETTE IS EVERYTHING** "No matter how casual a get-together, a host has worked hard to prepare, so always RSVP and arrive on time for a sit-down dinner, 15 to 20 minutes later for all other soirees," advises Karen, adding that you don't need to bring a casserole to show your appreciation. "Avoid things that need to be heated up or put in a vase — the host has enough to do," she says. "Opt for a nice wine, candle, or quality chocolates. I also love fancy olive oil — just toss it in a cute gift bag and go."



**GAP**

UP TO  
**50% OFF**



**THE \$100K ACCURACY GUARANTEE.**  
Only at TaxAct.

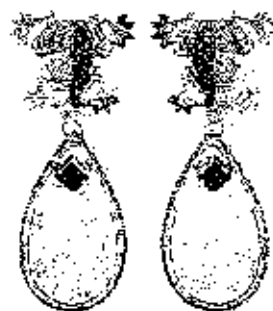
**TaxAct**  
Tax Software

**NIFTY GIFTING:** Voluspa Classic Mason Candle Crisp Champagne, \$27 Tobin Tobin Grande Box of Chocolates, \$138 Gaea Fresh Extra Virgin Olive Oil, \$18.99 Best Home Fashions Luxe Faux Mink Fur Throw, \$47.99 Sterling Vineyards Napa Valley Cabernet Sauvignon 2014, \$25 Kim Crawford Sauvignon Blanc Holiday Bottle, \$17.99 Moët Imperial Golden Sparkle Bottle, \$39.99

**GAP**  
UP TO  
**50% OFF**



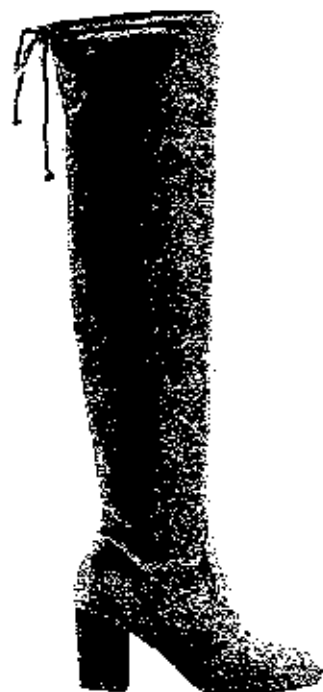
© 2014 TaxAct, Inc. All rights reserved. TaxAct is a registered trademark of TaxAct, Inc. All other trademarks are the property of their respective owners.



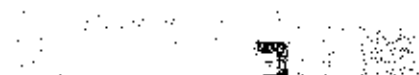
**FRIENDSGIVING:** Coldwater Creek Go With The Flow Tunic, \$79.95 COUP Day & Night earrings, \$350 Birdies The Wren slippers, \$140 Spanx Faux Leather Moto Leggings, \$110



NAEQ



**HOLI-DATE:** Grana Silk Tee Dress,  
\$85 LC Lauren Conrad for Kohl's  
Starburst necklace, \$18 JustFab  
Adina Heeled Boot, \$42.95





**COCKTAIL PARTY:** Selfie Leslie  
Ivy Lace Up Bodycon Dress,  
\$64.99 Iris Apfel for HSN Rara  
Avis Mongolian Fur Reader's  
Wrap, \$299.95 Steve Madden  
Carabu heels, \$99.95



Help grow your business with PayPal.



**GAP**

UP TO

**50%**





**GAP** UP TO  
**50% OFF**  
(ALMOST) EVERYTHING  
ENDS SOON



**SHOP NOW**  
SEE TODAY'S  
EXCLUSIVE OFFER



Dress dilemma? "An LBD with heels is always right!" says Karen... Party-going, Perfected! From what to wear to what to bring, Karen has the answers! **SEE MORE FROM KAREN ON SOCIAL MEDIA! Twitter: @KarenMcDougal98, Instagram & Facebook: @KarenMcDougal**



**GAP**  
UP TO  
**50%**

**SALE**

Lee E. Goodman  
Declaration



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3  
4  
5  
6  
7  
8

9  
10  
11

12  
13  
14

- 15  
16  
17  
18  
19  
20  
21  
22

23  
24  
25  
26

1           5.       Attached as **Exhibit 12** is a true and correct copy of the Statement for the Record of  
2 Commissioner Ellen L. Weintraub in MURs 5540, 5545, 5562, and 5570, which underscores the  
3 Press Exemption's application to, *inter alia*, CBS Broadcasting, Inc. and Sinclair Broadcast Group.

4           6.       Attached as **Exhibit 13** is a true and correct copy of the Statement of Reasons of  
5 Commissioners David M. Mason and Bradley A. Smith in MURs 5540, 5545, 5562, and 5570,  
6 which underscores the Press Exemption's application to, *inter alia*, CBS Broadcasting, Inc. and  
7 Sinclair Broadcast Group.

8           7.       Attached as **Exhibit 14** is a true and correct copy of the Statement of Reasons of  
9 Vice Chairman Michael E. Toner, Commissioners David M. Mason and Bradley A. Smith in MURs  
10 5540 and 5545 (CBS Broadcasting, Inc.).

11          8.       Attached as **Exhibit 15** is a true and correct copy of the Commissioners David M.  
12 Mason and Bradley A. Smith in MURs 5540 and 5545 (CBS Broadcasting, Inc.).

13          9.       Attached as **Exhibit 16** is a true and correct copy of the Statement of Reasons of  
14 Chairman Michael E. Toner and Commissioners David M. Mason and Hans A. von Spakovsky in  
15 MUR 5569 (The John and Ken Show on KFI AM-640).

16          10.      Attached as **Exhibit 17** is a true and correct copy of the First General Counsel's  
17 Report in MUR 5569 (The John and Ken Show on KFI AM-640).

18          11.      Attached as **Exhibit 18** is a true and correct copy of the Statement of Reasons of  
19 Chairman Darryl R. Wold, Vice Chairman Danny L. McDonald, Commissioners David M. Mason,  
20 Karl J. Sandstrom, Scott E. Thomas in MURs 4929, 5006, 5090, and 5117, which involved  
21 application of the Press Exemption to, *inter alia*, the *Los Angeles Times*.

22           I declare under penalty of perjury under the laws of the State of California that the foregoing  
23 is true and correct. Executed on March 29, 2018 in Washington, DC.

24  
25  
26  
27  
28



Lee E. Goodman

# Exhibit 12



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 5540  
CBS Broadcasting, Inc., )  
Kerry-Edwards 2004, Inc., and )  
Robert Farmer, in his official )  
capacity as treasurer )

In the Matter of )  
 ) MUR 5545  
Dan Rather, CBS News, )  
CBS, and Viacom, Inc. )

In the Matter of )  
 ) MUR 5562  
Sinclair Broadcast Group, Inc. )

In the Matter of )  
 ) MUR 5570  
Sinclair Broadcast Group, Inc., )  
Mark Hyman, and Frederick G. Smith )

**STATEMENT FOR THE RECORD OF  
COMMISSIONER ELLEN L. WEINTRAUB**

I agreed with the General Counsel's conclusions and voted to approve the recommendations. I believe it important to emphasize that the press exemption shields press entities from investigations into alleged coordination. This agency cannot and should not attempt to arbitrate claims of media bias or breaches of journalistic ethics.<sup>1</sup>

<sup>1</sup> It is unclear to me why commissioners who argue so persuasively in one statement that "the press exemption protects each respondent, specifically against the claims of bias, professional irresponsibility, or suspect motivations raised in the complaints" would then issue a separate statement assuming all those claims to be true.

25044120096

It is not the role of the Federal Election Commission to determine whether a news story issued by a press entity is legitimate, responsible, or verified. When faced with allegations against the press, the FEC need only determine whether the press entity is owned or controlled by a party or candidate and whether the press entity was acting as a press entity in disseminating the story or commentary at issue. *Reader's Digest Ass'n, Inc. v. FEC*, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981). That is the absolute limit of the FEC's investigative reach into a press entity's activities. "No inquiry may be addressed to sources of information, research, motivation, connection with the campaign, etc. Indeed all such investigation is permanently barred by the statute unless it is shown that the press exemption is not applicable." *Id.*

Whether particular broadcasts were fair, balanced, or accurate is irrelevant given the applicability of the press exemption. Whether the media entities communicated with political parties or candidates before the airing of the broadcasts is similarly irrelevant. Indeed, it is difficult to fathom how journalists could cover campaigns if they had to worry that communicating with campaign workers could trigger a government investigation into supposed improper coordination. Merely investigating such allegations would intrude upon Constitutional guarantees of freedom of the press.

Ellen L. Weintraub  
Ellen L. Weintraub, Commissioner

7/12/05  
Date

# Exhibit 13



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 5540  
CBS Broadcasting, Inc., )  
Kerry-Edwards 2004, Inc., and )  
Robert Farmer, in his official capacity as treasurer )

In the Matter of )  
 ) MUR 5545  
Dan Rather, )  
CBS News, )  
CBS, and )  
Viacom, Inc. )

In the Matter of )  
 ) MUR 5562  
Sinclair Broadcast Group, Inc. )

In the Matter of )  
 ) MUR 5570  
Sinclair Broadcast Group, Inc. )  
Mark Hyman )  
Frederick G. Smith )

**STATEMENT OF REASONS OF COMMISSIONERS  
DAVID M. MASON AND BRADLEY A. SMITH**

This statement of reasons ("SOR") addresses four matters under review ("MURs").

• The Center for Individual Freedom filed the complaint in MUR 5540 against Respondents CBS Broadcasting, Inc., Kerry-Edwards 2004, Inc., and Robert Farmer, in his official capacity as treasurer.

• Jeffrey Smith filed the complaint in MUR 5545 against Respondents Dan Rather, CBS News, CBS, and Viacom, Inc.

25042120083

- The Democratic National Committee filed the complaint in MUR 5562 against Respondent Sinclair Broadcasting Group, Inc.

- Sam Osborne filed the complaint in MUR 5570 against Respondents Sinclair Broadcast Group, Inc., Mark Hyman, and Frederick G. Smith.

The Commission unanimously found no reason to believe that any of the respondents in the four MURs violated the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431 *et seq.*, and closed the files. We agree with the analyses of the Office of General Counsel ("OGC") in these matters and write separately to emphasize that the press exemption protects each respondent, specifically against the claims of bias, professional irresponsibility or suspect motivations raised in the complaints. Under the First Amendment of the United States Constitution, U.S. CONST. amend. I (1789), and the "news story, commentary, or editorial" exemption, designed to incorporate First Amendment press freedoms into FECA, *see* 11 C.F.R. § 100.73 (2002) (exemption from the definition of "contribution"); 2 U.S.C. § 431(9)(B) (2002) (exemption from the definition of "expenditure"); *id.* § 434(f)(3)(B) (2002) (exemption from the definition of "electioneering communication"), the government simply has no role or authority in policing alleged mendacity, bias or unprofessional conduct by the media.

## I. BACKGROUND

### A. CBS MURs

CBS Broadcasting, Inc., a subsidiary of Viacom, Inc., owns the CBS television network, including CBS News. On September 8, 2004 – shortly before the 2004 presidential and vice-presidential election between President George W. Bush and Vice President Dick Cheney, and Senators John Kerry and John Edwards – *60 Minutes Wednesday*, a CBS News program, broadcast a segment unfavorable toward President Bush. Subsequent reports discredited the broadcast.<sup>1</sup>

It later came to light that there had been contact among the CBS segment's producer, a senior Kerry-Edwards advisor and a CBS source for the segment. The source "said he would be more forthcoming with documents if he were allowed to communicate with the Kerry campaign."<sup>2</sup> The producer spoke with the senior advisor, who then called the source. The senior advisor said he and the source did not discuss the documents. Rather, he said he listened to campaign advice from the source.<sup>3</sup>

None of the respondents is owned or controlled by a political party, committee or candidate.<sup>4</sup>

The complaint in MUR 5540 alleges (1) the broadcast was a prohibited electioneering communication that was (2) coordinated with the Kerry-Edwards campaign, and thereby became a

<sup>1</sup> First General Counsel's Report in MURs 5540 and 5545 ("OGC Report on CBS") at 3-4.

<sup>2</sup> *Id.* at 4 (citation omitted).

<sup>3</sup> *Id.* (citation omitted).

<sup>4</sup> *See id.* at 5.



prohibited contribution. Further, the complaint alleges (3) the campaign should have reported the broadcast as a contribution, and CBS should have reported it as an expenditure.<sup>5</sup>

The complaint in MUR 5545 alleges the broadcast was an independent expenditure and a prohibited contribution.<sup>6</sup>

Both complaints assert that the press exemption does not apply.<sup>7</sup>

#### B. Sinclair MURs

The complaint in MUR 5562 alleges Sinclair Broadcasting, Inc. ("Sinclair") was about to broadcast a film unfavorable toward Senator Kerry. The complaint alleged this would be a prohibited electioneering communication and a prohibited in-kind contribution.<sup>8</sup> However, Sinclair did not broadcast the film.<sup>9</sup>

The complaint in MUR 5570 alleges Sinclair, as well as corporate officers Frederick G. Smith and Mark Hyman,<sup>10</sup> made a corporate contribution by broadcasting comments unfavorable to Senator Kerry<sup>11</sup> on KGAN, a Sinclair station in Cedar Rapids, Iowa. OGC has concluded that these comments appear to have been made during a news broadcast.<sup>12</sup>

None of the respondents is owned or controlled by a political party, committee or candidate.<sup>13</sup>

### II. DISCUSSION

#### A. Sinclair MUR 5562

Because Sinclair did not broadcast the film that is the subject of MUR 5562, OGC has correctly concluded, without investigating the substance of the complaint, that there is no reason to believe that Sinclair violated FECA, as alleged in the complaint.<sup>14</sup> Furthermore, because the complaint was wholly speculative when filed, it should have been rejected on that basis alone, *see* 2 U.S.C. § 437g(a)(1)

<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 2-3.

<sup>8</sup> First General Counsel's Report in MURs 5562 and 5570 ("OGC Report on Sinclair") at 2, 3-4.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.* at 6.

<sup>13</sup> *See id.* at 3.

<sup>14</sup> *Id.* at 4-5.

200811240943

(2002); see *In the Matter of Phillip Morris Cos.*, MUR 4766, SOR of Comm'r Mason at 3-5 (Fed. Election Comm'n May 5, 2000).<sup>15</sup>

## B. CBS MUR 5540, CBS MUR 5545, and Sinclair MUR 5570

### 1. The Statute and Regulations

#### a. Contributions and the Press Exemption

This MUR involves corporate respondents. FECA prohibits corporations from making contributions. 2 U.S.C. § 441b(a) (2002).

FECA defines "contribution" as:

- (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or
- (ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

*Id.* § 431(8)(A).

There are exceptions to the definition of "contribution." One exception, found in Commission regulations, provides:

Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story:

- (a) That represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility; and
- (b) That is part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

11 C.F.R. § 100.73. In other words, for our purposes here, what may otherwise be a contribution is not a contribution if (1) it is a "cost incurred in covering or carrying a news story, commentary, or

<sup>15</sup> While there may be some argument that the Commission may consider a complaint alleging a violation of FECA has not, but is about to occur, see 2 U.S.C. § 437g(a)(2), the Commission could not rely on a complaint, such as that in MUR 4960, with nothing more than speculation and hearsay as the basis to investigate an allegedly contemplated violation. See *In re Hillary Rodham Clinton for US Senate Exploratory Cmte.*, MUR 4960, SOR of Comm'rs Mason, Sandstrom, Smith and Thomas at 2-3 (Fed. Election Comm'n Dec. 21, 2000). Doing so would amount to investigating an allegation that a broadcaster (in this case) is considering doing something that might violate the law.

25044120088

editorial[.]” (2) the news story, commentary, or editorial is carried or covered by broadcasting station, newspaper, magazine, or other periodical, and (3) the facilities are not “owned or controlled by any political party, political committee, or candidate ...” *Id.*

#### **b. Expenditures and the Press Exemption**

FECA also prohibits corporations, with an exception not applicable in this matter, from making expenditures. 2 U.S.C. § 441b(a).

FECA defines “expenditure” as:

- (i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and
- (ii) a written contract, promise, or agreement to make an expenditure.

*Id.* § 431(9)(A).

There are limits on the definition of “expenditure.” For example, as a matter of statutory construction to avoid unconstitutional overbreadth and vagueness, see *McConnell v. FEC*, 540 U.S. 93, 191-92 (2003); *Anderson v. Spear*, 356 F.3d 651, 663-66 (6th Cir.), *cert. denied*, 125 S.Ct. 453 (2004), the Supreme Court has limited the term “expenditure” to words expressly advocating the election or defeat of a clearly identified candidate. See *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 248-49 (1986) (“*MCFL*”) (applying the express-advocacy test to corporations (citing *Buckley v. Valeo*, 424 U.S. 1, 42, 44 n.52, 80 (1976) (establishing the express-advocacy test))). Moreover, the statute itself includes the press exemption, which provides:

The term “expenditure” does not include—

- (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate ....

2 U.S.C. § 431(9)(B). In other words, what may otherwise be an expenditure is not an expenditure if (1) it is a “news story, commentary, or editorial[.]” (2) it is “distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication,” and (3) the facilities are not “owned or controlled by any political party, political committee, or candidate ...” *Id.*

In the context of alleged corporate expenditures, one court has held that there is an additional limit on the press exemption: The press activity must (4) “fall broadly within the press entity’s legitimate press function.” *Reader’s Digest Ass’n, Inc. v. FEC*, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981). However, “legitimate press function” is a broad concept. For example, another court held that the press exemption applies to a solicitation letter seeking new subscribers to a publication. *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308, 1313 (D.D.C. 1981).

**c. Electioneering Communications and the Press Exemption**

FECA prohibits corporations other than MCFL corporations, *see McConnell*, 540 U.S. at 209-11, from making electioneering communications. FECA defines "electioneering communication" as follows:

(i) The term "electioneering communication" means any broadcast, cable, or satellite communication which—

(I) refers to a clearly identified candidate for Federal office;

(II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

2 U.S.C. § 434(f)(3)(A).

The press exemption for electioneering communications is similar to the press exemption for expenditures. Thus, FECA provides:

The term "electioneering communication" does not include—

(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate . . .

*Id.* § 434(f)(3)(B). In other words, what may otherwise be an electioneering communication is not an electioneering communication if (1) it is in a "news story, commentary, or editorial[.]" (2) it is "distributed through the facilities of any broadcasting station," and (3) the facilities are not "owned or controlled by any political party, political committee, or candidate . . ." *Id.*

**2. Applying the Press Exemption**

The MUR 5440 complaint asserts that the press exemption does not apply to the *60 Minutes Wednesday* broadcast because CBS did not verify its sources. Similarly, the MUR 5445 complaint

25044120090

asserts that the press exemption does not apply to the broadcast because it, in the complainant's view, expressly advocated the defeat of President Bush.<sup>16</sup>

**a. The Statute and Regulations**

However, neither of these factors – verification or express advocacy – affects whether the press exemption applies. See 11 C.F.R. § 100.73 (contributions); 2 U.S.C. § 431(9)(B)(i) (expenditures); *id.* § 434(f)(3)(B) (electioneering communications). Neither the statute nor the regulations speak of a “verified news story, commentary or editorial,” nor do they speak of a “news story, commentary or editorial that does not expressly advocate.” The statute, for example, requires only that the news story, commentary or editorial be distributed through the specified facilities and that such facilities not be “owned or controlled by any political party, political committee, or candidate ....” *Id.* § 431(9)(B)(i); see also *id.* § 434(f)(3)(B). Nor do regulations on the press exemption speak of verification or express advocacy. See 11 C.F.R. § 100.73 (contributions); *id.* § 100.132 (2002) (expenditures); *id.* § 100.29(c)(2) (2002) (electioneering communications).

Neither the statute nor the regulations require that for the press exemption to apply, the press verify its stories, be accurate, be fair or be balanced. See *In re KBHK Channel 45, ABC News et al.*, MURs 5110 and 5162, SOR of Chairman McDonald, Vice Chairman Mason and Comm'rs Sandstrom, Smith and Wold at 3 (Fed. Election Comm'n July 24, 2001).

And even if a news story, commentary, or editorial in the press contains express advocacy, the press exemption still applies. If this were not so, then an incorporated newspaper would violate FECA every time it ran an editorial endorsing a federal candidate. That cannot be. The content of the news “is beyond the jurisdiction of this agency.” *Id.*

**b. Previous MURs**

SORs in several other MURs affirm these principles either directly or indirectly.

In a MUR involving the appearance of former Congressman and new congressional candidate Robert Dornan as a guest host on radio talk shows, four commissioners observed that allegations of what Congressman Dornan said on the programs are irrelevant to determining whether the press exemption applies. *In the Matter of Robert K. Dornan*, MUR 4689, SOR of Vice Chairman Wold and Comm'rs Elliott, Mason and Sandstrom at 4 (Fed. Election Comm'n Dec. 20, 1999).

A separate SOR noted the press exemption has no requirement of fairness or equal access. *Id.* SOR of Comm'r Mason at 7 and n.6 (Fed. Election Comm'n Feb. 14, 2000). The press exemption also is not limited by express advocacy or a solicitation. *Id.* at 11. Moreover, an investigation into a press entity's editorial policies has no place. See *id.* at 6, 9. “It is difficult to imagine an assertion more contrary to the First Amendment than the claim that the FEC, a federal agency, has the authority to control the news media's choice of formats, hosts, commentators and editorial policies ....” *Id.* at 6.

<sup>16</sup> OGC Report on CBS at 2. The term “express advocacy” derives from *Buckley*, 424 U.S. at 44 & n.52.

Five commissioners later struck a similar chord, holding that the press exemption protects unbalanced reporting and commentary. *In re ABC, CBS, NBC, New York Times, Los Angeles Times, Washington Post et al.*, MUR 4929, 5006, 5090, 5117, SOR of Chairman Wold, Vice Chairman McDonald and Comm'rs Mason, Sandstrom and Thomas at 3 (Fed. Election Comm'n Dec. 20, 2000). Allegations that Republican National Committee suggestions may have influenced coverage did not suffice to find reason to believe that the *New York Times* violated FECA, because the press exemption protected the newspaper, *id.* at 3-4, regardless of whether it credulously or recklessly accepted and reported claims by a political party or candidate. *Id.* at 4.

On another occasion, a complaint alleged that the respondents' biased news broadcasts had advocated the election of individual candidates and political groups. *In the Matter of CBS News, et al.*, MUR 4946, SOR of Chairman Wold and Comm'r Mason at 1 (Fed. Election Comm'n June 30, 2000). The SOR recalled that courts have held that the press exemption applies when the press operates within its "legitimate press function." *Id.* at 1-2 (citing *Reader's Digest*, 509 F. Supp. at 1214; *Phillips Publishing*, 517 F. Supp. at 1313). The reasoning of the SOR rejected the complaint as a threshold matter by noting that the content of any news story, commentary, or editorial is irrelevant to determining whether the press is exercising its legitimate press function. *See id.* at 2. Political bias in news reporting does not violate FECA. *See id.*

In a MUR involving candidate debates, an SOR noted that the press exemption allows the press to use whatever criteria it deems appropriate to select candidates, regardless of how slanted the debate may be. *In re Union Leader Corp., et al.*, MURs 4956, 4962 and 4963, SOR of Comm'r Mason at 2 (Fed. Election Comm'n Feb. 13, 2001). The press exemption covers express advocacy in debates. *Id.* at 3 (citation omitted).

Still another SOR noted the importance of the press exemption even in matters of lesser significance. The Commission's proper course is not merely to take no action and close the file under *Heckler v. Chaney*, 470 U.S. 821 (1985). Rather, the Commission should find no reason to believe that the respondents violated FECA, and then close the file. *See in the Matter of Clear Channel Communications, Inc., Nick Lampson for Congress and William S. Leonard, as treasurer*, MUR 5261, SOR of Vice Chairman Smith and Comm'rs Mason, McDonald and Toner at 2 (Fed. Election Comm'n Oct. 9, 2003).

### c. Court Orders

The *Reader's Digest* court properly concluded that the press exemption is important because

freedom of the press is substantially eroded by investigation of the press, even if legal action is not taken following the investigation. Those concerns are particularly acute where a governmental entity is investigating the press in connection with the dissemination of political matter. These factors support the interpretation of the statutory exemption as barring even investigation of press activities which fall within the exemption.

509 F. Supp. at 1214. Thus, "until and unless the press exemption were found inapplicable, the FEC is barred from investigating the substance of the complaint." *Id.* at 1215. The press exemption "authorizes court intervention if the FEC oversteps the limit[]." *Id.* at 1214.

That does not mean the Commission may not conduct an investigation limited to determining whether the exemption applies. It may, *see id.*, if there is a need for additional information to determine whether the exemption applies. *See Phillips Publishing*, 517 F. Supp. at 1313 (citing *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 396 (D.C. Cir. 1981) ("*MNPL*").

In addition, before any such limited investigation, there must be "a threshold showing of wrongdoing" on the part of the respondent. In assessing whether this threshold is met,

"mere 'official curiosity' will not suffice as the basis for FEC investigations, as it might in others," *MNPL*, *supra* at 388, and the Supreme Court has warned that "the power of compulsory process (must) be carefully circumscribed when the investigative process tends to impinge on such highly sensitive areas of freedom of speech or press, freedom of political association, and freedom of communication of ideas." *Sweezy v. New Hampshire*, 354 U.S. 234, 245 (1957).

*Phillips Publishing*, 517 F. Supp. at 1314 (alteration in original) (parallel citations omitted).

There should be no misunderstanding of the "legitimate press function" criterion of *Reader's Digest* as somehow limiting the "news story, commentary, or editorial" exemption, 11 C.F.R. § 100.73; 2 U.S.C. § 431(9)(B); *id.* § 434(f)(3)(B), to "legitimate" news stories, commentaries or editorials. Rather, news stories, commentaries or editorials carried in broadcast programming or in the pages of publications are absolutely exempt. *Reader's Digest*, 509 F. Supp. at 1214-15, and *Phillips Publishing*, 517 F. Supp. at 1312-14, both involved press activities outside the pages of the publications at issue. The courts held, and the Commission has long conceded, that the exemption should be construed to include such activities beyond actual broadcasts or outside the pages of a publication, including (in these cases) publicity or subscription solicitations for the publications involved. The *Reader's Digest* court contrasted such efforts with a hypothetical example of a newspaper hiring persons to denounce alleged illegal acts of a candidate. 509 F. Supp. at 1214. Thus the "legitimate press function" criterion goes to the nature of the activity at issue, not to the veracity, professionalism or motivation of the publisher, editor, producers, reporters or writers. There is no question that investigations into past activities of political candidates is a "legitimate press function."

#### d. Applying the Press Exemption Here

The assertions regarding verification and express advocacy are incorrect, and the press exemption applies.

Regarding the allegations of corporate contributions, in CBS MURs 5540 and 5545 and Sinclair MUR 5570, the respondents (1) incurred costs in carrying a news story, commentary, or editorial (2) carried or covered by a broadcasting station that is (3) not "owned or controlled by any political party, political committee, or candidate ... ." See 11 C.F.R. § 100.73.

Regarding the allegations of corporate expenditures, in CBS MUR 5545, the MUR involves (1) a news story, commentary, or editorial (2) distributed through the facilities of a broadcasting station (3)

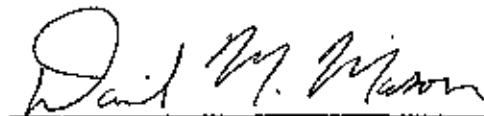
not "owned or controlled by any political party, political committee, or candidate." *See* 2 U.S.C. §§ 431(9)(B)(i).

Regarding the allegations of corporate electioneering communications, in CBS MUR 5540, the MUR involves (1) a news story, commentary, or editorial (2) distributed through the facilities of a broadcasting station (3) not "owned or controlled by any political party, political committee, or candidate." *See* 2 U.S.C. §§ 434(f)(3)(B)(i).

### III. CONCLUSION

For the foregoing reasons, in addition to those OGC stated, the Commission was correct in finding no reason to believe and closing the files in these matters.

July 12, 2005



David M. Mason,  
Commissioner



Bradley A. Smith,  
Commissioner

25044120094



## Exhibit 14



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
)  
CBS Broadcasting, Inc. )  
Kerry-Edwards 2004, Inc., and ) MURs 5540 & 5545  
Robert Farmer, in his official )  
Capacity as Treasurer )  
)

**STATEMENT OF REASONS OF VICE CHAIRMAN MICHAEL E. TONER AND  
COMMISSIONERS DAVID M. MASON AND BRADLEY A. SMITH**

On June 7, 2005, by a vote of 6-0 the Commission accepted the Office of General Counsel's ("OGC") recommendation to find no reason to believe that CBS Broadcasting, Inc., Kerry-Edwards 2004, Inc. ("Campaign"), and Robert Farmer, in his official capacity as Treasurer, and the remaining respondents violated the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act") in connection with the September 8, 2004 broadcast of *60 Minutes Wednesday* ("Broadcast"). We voted to find no reason to believe in these matters because, even if the allegations in the complaint are true, the activities in question are protected by the Act's media exemption and require the complaints to be dismissed.

**Analysis and Conclusions**

These matters arose out of complaints filed by the Center for Individual Freedom ("Complainant") alleging that the broadcast of a *60 Minutes Wednesday* news story about President Bush's Texas Air National Guard Service was a prohibited electioneering communication under 2 U.S.C. § 434(f), that the electioneering communication was coordinated with the Kerry-Edwards campaign and was therefore a prohibited corporate contribution under 2 U.S.C. § 441b(a) and (c), that the electioneering communication should have been reported by CBS as a contribution and the Kerry-Edwards campaign as an expenditure under 2 U.S.C. § 434(f), and that the broadcast constituted an independent expenditure and a prohibited corporate contribution. Both complaints alleged that the broadcast was not entitled to the press exemption found at § 431(9)(B)(i) because CBS failed to thoroughly verify its news sources and improperly coordinated with the Kerry-Edwards campaign, and the broadcast did not fit the definition of a news story,

25044114978

commentary, or editorial under 11 CFR §100.73 because it expressly advocated the defeat of President Bush.

FECA prohibits corporations from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b. Notwithstanding this prohibition, FECA's media exemption excludes from the definition of expenditure "any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine or other periodical publication." 2 U.S.C. § 431(9)(B)(i). See also 11 C.F.R. §§ 100.73 and 100.132. Additionally, any communication "appearing in a news story, commentary, or editorial distributed through the facilities of any broadcast station" is excluded from the definition of an electioneering communication. 2 U.S.C. § 434(f)(3)(B).

Federal courts, when considering whether an entity is within the Act's media exemption, have held that several factors must be present: the entity engaged in the activity must be a press entity; the press entity must not be owned or controlled by a political party or candidate; and the press entity must be acting as a press entity in conducting the activity at issue (i.e., the entity must be acting within its legitimate press function). See *Reader's Digest Ass'n v. Fed. Election Comm'n*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981), *Fed. Election Comm'n v. Phillips Publ'g, Inc.*, 517 F. Supp. 1308, 1312-12 (D.D.C. 1981).

In the present case, the complaint alleged that CBS and the Kerry-Edwards campaign had been in contact a few days before the broadcast aired, and that representatives of CBS News arranged a meeting between the key source of the story and a representative of the Kerry-Edwards campaign. Complaint at 4. The complaint also alleged that because "the broadcast segment lacked all of the hallmarks of a legitimate 'news story' and responsible journalism," the press exemption should not apply. Complaint at 10.

It is not for this agency to determine what is a "legitimate news story" or who is a "responsible journalist." In reviewing the allegations in these complaints, the Commission's inquiry is limited to determining whether a "press entity charged with a violation is owned or controlled by a party or candidate and whether the distribution complained of was of the type exempted by the statute...No inquiry may be addressed to sources of information, research, motivation, connection with the campaign, etc. Indeed all such investigation is permanently barred by the statute unless it is shown that the press exemption is not applicable." *Reader's Digest*, 509 F. Supp. at 1214-15. See also MUR 3624 Walter H. Shapiro (concluding that pro-Bush/Quayle broadcast by Rush Limbaugh fell within the media exemption even though the broadcast was arguably biased).

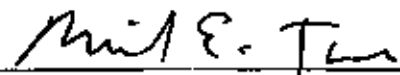
The initial inquiries as to whether CBS is owned or controlled by a party or a candidate and whether the airing of the *60 Minutes Wednesday* broadcast was within the press exemption require no further investigation. CBS is not owned by a political party, committee or candidate and is in the business of disseminating news stories, commentary, and editorials to the public. First General Counsel's Report at 5. Additionally, 60

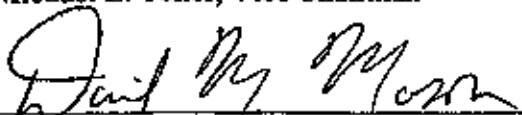
Minutes is one of CBS's regularly scheduled programs and the Broadcast appeared on a regularly scheduled 60 Minutes program. *Id.* Also significant is the fact that the Broadcast appeared to be similar in form and was distributed in the same manner as other 60 Minutes news stories. *Id.* at 6. *Contra Fed. Election Comm'n v. Massachusetts Citizens for Life*, 479 U.S. 238, 250 (1986) (noting that the publication at issue was not "comparable to any single issue of the newsletter [since] it was not published through the facilities of the regular newsletter... was not distributed to the newsletter's regular audience... [and did not have a] volume and issue number identifying it as one in a continuing series of issues").

Allegations of coordination are of no import when applying the press exemption. What a press entity says in broadcasts, news stories and editorials is absolutely protected under the press exemption, regardless of whether any activities occurred that might otherwise constitute coordination under Commission regulations.

For all the foregoing reasons, we voted in favor of the General Counsel's recommendation to find no reason to believe and close the files.

July 11, 2005

  
Michael E. Toner, Vice Chairman

  
David M. Mason, Commissioner

  
Bradley A. Smith, Commissioner

# Exhibit 15



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
CBS Broadcasting, Inc )  
Kerry-Edwards 2004, Inc., and ) MURs 5540 & 5545  
Robert Farmer, in his official )  
Capacity as Treasurer )  
 )  
 )

**STATEMENT OF REASONS OF COMMISSIONER DAVID M. MASON AND  
COMMISSIONER BRADLEY A. SMITH**

While we approve of the Counsel's recommendation to dismiss this case, and join in another Statement of Reasons<sup>1</sup>, we wish to add one short point.

Because of the legal position taken by the Commission, which we believe is inescapable, it was not necessary to investigate the validity of the allegations in the complaint. By dismissing without a factual investigation, the Commission essentially holds that even if the allegations in the complaints are true, there is no violation of the law. Taking those allegations as true, however, would mean that there was an intentional effort by CBS to sway the election against George W. Bush, undertaken in coordination with the rival Kerry campaign. In other words, if the allegations are true, a large corporation intentionally or recklessly put false documents on the nation's airwaves, in coordination with a candidate's campaign, with the knowledge that its story would directly reach millions of voters and indirectly reach millions more, all for the purpose of influencing the election, and could do so merely because the corporation claims to be "press." Given that, we can find no statutory, constitutional, or especially, policy justification that would deny the so-called press exemption to any periodical publisher of political news or views, whether publishing in print, by broadcast, or over the internet.<sup>2</sup>

<sup>1</sup> See MUR 5540 & 5545 Statement of Reasons by Vice Chairman Toner and Commissioners Mason and Smith.

<sup>2</sup> With the exception of those owned by a candidate or party, for which a statutory denial might be appropriate. See 2 U.S.C. 431(9)(B)(i), excluding from the exemption publications that are "owned or controlled by any political party, political committee, or candidate."

25042114995

David M. Mason  
David M. Mason  
Commissioner

7-15-05  
Date

Bradley A. Smith/vw  
Bradley A. Smith  
Commissioner

7-15-05  
Date

25044114987

# Exhibit 16





FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )

John Kobylt )

Ken Chiampou )

KFI AM-640 )

Cynthia Matthews )

Committee to Elect Cynthia Matthews )

Kinde Durkee, in his official capacity as treasurer )

MUR 5569

**STATEMENT OF REASONS OF CHAIRMAN MICHAEL E. TONER AND  
COMMISSIONERS DAVID M. MASON AND HANS A. von SPAKOVSKY**

The National Republican Congressional Committee filed the complaint in this matter alleging that Respondents violated the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431 *et seq.* The Commission voted unanimously to adopt the Office of General Counsel ("OGC") recommendation to (1) find no reason to believe Respondents violated FECA and (2) close the file.<sup>1</sup>

While we agree with the recommendation, we write separately to clarify why the press exemption applies because the standard is easier to meet than the OGC analysis<sup>2</sup> might suggest and does not require any content analysis of the radio shows. *Cf. In re Dave Ross et al.*, MUR 5555, Statement of Reasons ("SOR") of Chairman Toner and Comm'rs Mason and von Spakovsky at 1 (March 17, 2006).

**I. BACKGROUND**

John Kobylt and Ken Chiampou host the John and Ken Show, a radio talk show on KFI AM-640 in Burbank, California,<sup>3</sup> that covers current events, politics, public policy, and other social and cultural topics.<sup>4</sup> The station is owned by Capstar Radio Operating Company, which is

<sup>1</sup> First General Counsel's Report ("GCR") at 11 (Jan. 10, 2006). Voting affirmatively were Chairman Toner, Vice Chairman Lenhard, and Commissioners Mason, von Spakovsky, Walther, and Weintraub.

<sup>2</sup> *Id.* at 5-10.

<sup>3</sup> *Id.* at 1, 3.

<sup>4</sup> *Id.* at 7 (quoting KFI Resp. at 3).

26044133457

owned by Clear Channel Communications Corporation, Inc.<sup>5</sup> No political party, political committee, or candidate owns or controls the station.<sup>6</sup> KFI's signal reaches the district that Congressman David Dreier represents in the United States House of Representatives. Dreier was a candidate in 2004, and his opponent was Respondent Cynthia Matthews.<sup>7</sup>

In the months before the 2004 election, Kobylt and Chianpou expressly advocated the defeat of Dreier and Congressman Joe Baca during the show. Kobylt and Chianpou characterized this effort as "political human sacrifices." They also expressly advocated the election of Respondent Matthews.<sup>8</sup> This extended to the station's and the show's websites.<sup>9</sup> The complaint alleges that during an interview, Kobylt and Chianpou invited Matthews to give her website to get volunteers, money, and other support. In response, she provided her website and other contact information. On one occasion, Kobylt and Chianpou did a remote broadcast -- called a "Fire Dreier Rally" and a "Political Human Sacrifice Rally" -- from outside Dreier's congressional-district office, where they interviewed Matthews.<sup>10</sup> The complaint alleges that on another occasion, they did a remote broadcast -- another "political human sacrifice" -- from Baca's "backyard."<sup>11</sup>

The complaint has multiple allegations of illegal contributions and expenditures and asserts, without citation, that the express advocacy alleged in the complaint does not fall within the press exemption.<sup>12</sup>

## II. DISCUSSION

All of the allegations in this matter involve (1) a "cost incurred in covering or carrying a news story, commentary, or editorial" (2) carried or covered by a radio station, and (3) the facilities are not "owned or controlled by any political party, political committee, or candidate ... ." 11 C.F.R. § 100.73.

Under 2 U.S.C. § 431(9)(B), all of the allegations (1) involve a "news story, commentary, or editorial" (2) distributed through a radio station's facilities, and (3) the facilities are not "owned or controlled by any political party, political committee, or candidate ...." Once those facts were established, this should have ended the investigation of this matter.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 5 (citing Compl. Exh. 2).

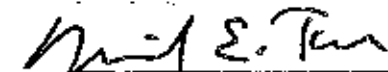
<sup>12</sup> Compl. at 4 (Oct. 14, 2004).

Some facts that may be tempting to consider do not affect whether the press exemption applies. See *Ross*, SOR of Chairman Toner and Comm'rs Mason and von Spakovsky at 3. For reasons stated in *Ross*, *id.* at 3-6, in applying the press exemption, the political content of the show<sup>13</sup> is immaterial. The OGC analysis also noted that Kobylt and Chiampon have "staged and broadcast public rallies on several occasions" before the remote broadcast outside Dreier's office.<sup>14</sup> Under different facts, the Commission might need to distinguish a remote broadcast from a political rally. While the history of remote broadcasts here makes this issue an easy call, the fact that a broadcaster had never done such a remote broadcast would not necessarily remove such a broadcast from the press exemption. Otherwise it may be difficult for a press entity that has never done such a remote broadcast to start doing them without running outside the protection of the press exemption.

### III. CONCLUSION

For the foregoing reasons, the Commission was correct in finding no reason to believe and closing the file in this matter.

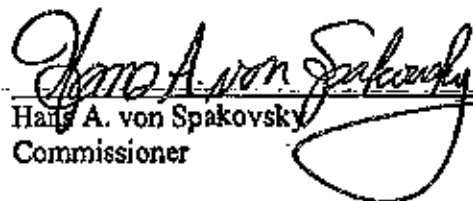
March 17, 2006



Michael E. Toner  
Chairman



David M. Mason  
Commissioner



Hans A. von Spakovsky  
Commissioner

<sup>13</sup> GCR at 7.

<sup>14</sup> *Id.* at 9.

# Exhibit 17

**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

JAN 10 2006  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2006 JAN 10 4:50 PM

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR: 5569

DATE COMPLAINT FILED: October 14, 2004

DATE OF NOTIFICATION: October 21, 2004

LAST RESPONSE RECEIVED: Nov. 23, 2004

DATE ACTIVATED: August 16, 2005

EXPIRATION OF SOL: July 1, 2009

**COMPLAINANT:**

Donald F. McGahn, II

**RESPONDENTS:**

John Kobylt

Ken Chiampou

The John and Ken Show

KFI AM-640

Cynthia Matthews

Committee to Elect Cynthia Matthews and Kinde  
Durkee, in her official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

2 U.S.C. § 441i(e)(1)(A)

2 U.S.C. § 441b(a)

2 U.S.C. § 431(9)(B)(i)

11 C.F.R. § 109.21

11 C.F.R. § 100.73

11 C.F.R. § 100.132

**INTERNAL REPORTS CHECKED:** None

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

This matter arises from a complaint alleging that a radio talk show called "The John and Ken Show," its hosts, John Kobylt and Ken Chiampou, and radio station KFI AM-640, violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by unlawfully providing and coordinating corporate contributions to the benefit of Cynthia Matthews' campaign. The

1 complaint also alleges that Cynthia Matthews, a 2004 candidate for a seat in California's 26<sup>th</sup>  
2 Congressional District and Matthews' principal authorized committee, the Committee to Elect  
3 Cynthia Matthews and Kinde Durkee, in her official capacity as treasurer ("the Committee"),  
4 violated the Act by unlawfully receiving and coordinating corporate contributions.

5 The complaint specifically alleges that (1) Cynthia Matthews directed and she and the  
6 Committee received illegal corporate contributions in violation of 2 U.S.C. § 441i(e)(1)(A) and  
7 11 C.F.R. § 300.62; (2) The John and Ken Show and KFI AM-640 made illegal corporate  
8 expenditures in violation of 11 C.F.R. § 114.2(b)(2)(i), (ii), and (iii); (3) The John and Ken Show  
9 and KFI AM-640 made illegal in-kind corporate contributions in violation of 2 U.S.C. § 441b(a)  
10 and 11 C.F.R. § 114.2(a); and (4) The John and Ken Show, KFI AM-640, and Cynthia Matthews  
11 participated in illegal corporate coordination in violation of 11 C.F.R. § 109.21. The complaint  
12 maintains that Respondents' alleged violations were knowing and willful.

13 In a joint response ("KFI Response"), KFI AM-640, John Kobylt and Ken Chiampou  
14 assert that KFI AM-640's broadcasts of the Show fall within the legitimate press function of a  
15 *bona fide* media entity, and are entitled to the Act's media exemptions.<sup>1</sup> A joint response from  
16 Cynthia Matthews and the Committee ("Matthews Response") denies coordination with the  
17 station with regard to the station's programming. Kinde Durkee, the Committee's treasurer,  
18 separately submitted a sworn declaration ("Durkee Decl.") denying knowledge of any in-kind  
19 contributions from KFI AM-640 or any "intentional coordination" efforts between the  
20 Committee and KFI AM-640 or The John and Ken Show. *See* Durkee Decl. at 2.

<sup>1</sup> Counsel for KFI AM-640 represents that his client is Clear Channel Communications, Inc., the owner of Capstar, which in turn owns the radio station. In view of our recommended disposition, *see* discussion *infra*, we do not recommend generating Clear Channel Communications, Inc. as a respondent in this matter.

20044123433

1 Because we conclude that the media exemption applies, this Office recommends that the  
2 Commission find no reason to believe that any of the Respondents violated the Act in connection  
3 with broadcasts of The John and Ken Show, and close the file.

4 **II. FACTS**

5 The "John and Ken Show" ("the Show") is a radio talk show hosted by John Kobylt and  
6 Ken Chiampou ("John and Ken") on KFI AM-640 ("the station") in Burbank, California. KFI  
7 AM-640 is owned by Capstar Radio Operating Company, which in turn is a wholly-owned  
8 subsidiary of Clear Channel Communications, Inc. The station's daily programming features  
9 regular news reports and 17 talk shows. By 2004, the station had been broadcasting the Show  
10 for over ten years. KFI Response at 1-3.

11 Beginning in July 2004, the Show began to promote a segment entitled "Political Human  
12 Sacrifice." For the segment, John and Ken asked their listeners to select individual political  
13 candidates to be singled out for electoral defeat based on dissatisfaction with his or her position  
14 on illegal immigration. See KFI Response at 3. In September, John and Ken announced on the  
15 Show that listeners had selected sitting Congressmen David Dreier and Joe Baca to be the  
16 Show's "Political Human Sacrifices." John and Ken then began on-air discussions of the records  
17 of Congressmen Dreier and Baca with regard to illegal immigration, and began editorializing in  
18 opposition to their re-elections and in favor of their opponents' elections. Examples of such  
19 statements quoted in the complaint with respect to Congressman Dreier and his Democratic  
20 opponent in California's 26<sup>th</sup> District, Cynthia Matthews, include: "Cynthia Matthews, we don't  
21 mention her name enough and we should. Cynthia Matthews is running against Dreier and she is  
22 the one you ought to vote for;" "Dreier has to be taken out;" and "Cynthia Matthews is running  
23 against David Dreier. She's got our full support." See Complaint at 4.

1 The station and the Show carried references to the "Political Human Sacrifice" segments  
2 on their web sites, and complainant alleges that those sites also included hyperlinks to Cynthia  
3 Matthews' campaign web site.<sup>2</sup> Complainant also states that, during a live, on-air interview of  
4 Matthews, John and Ken told her to "[g]ive out a website if you want to get some volunteers,  
5 money, some support, go ahead." To this, Matthews allegedly responded by providing her web  
6 address, phone number, the address of and directions to her campaign headquarters.

7 On September 16, 2004, the Show broadcast live from a location outside of Congressman  
8 Dreier's district office. The broadcast was characterized on the Show's web site as a "Fire  
9 Dreier Rally" and a "Political Human Sacrifice Rally." Cynthia Matthews was invited to appear  
10 at the broadcast location, where John and Ken again interviewed her regarding her position on  
11 illegal immigration. Enclosed with the complaint is an audio broadcast of this program,  
12 featuring a voiceover introduction saying "We now take you live to Glendora, live, in the heart  
13 of David Dreier's soon-to-be-former district," and including statements about how the hosts  
14 "would love to climb right up there and just take [Dreier's] name off that office . . . because they  
15 won't need it after November 2<sup>nd</sup>." Also enclosed with the complaint are photographs apparently  
16 printed from the station's web site, showing the hosts at the live broadcast interviewing  
17 Matthews and members of the audience, and showing individuals holding signs showing  
18 statements such as "Fire Dreier" and "Dreier Works for Terrorists Not America."

19 According to John Kobylt, in the months leading up to the 2004 election, Congressman  
20 Dreier turned down invitations to be interviewed on the Show. Affidavit of John Kobylt, dated  
21 Nov. 22, 2004 ("Kobylt Aff.") at 2. John and Ken allegedly also spoke out against the re-

<sup>2</sup> Pages from the web site attached to the complaint include statements such as: "Congressman David Dreier (Rep.) and Joe Baca (Dem.) are the choices to be politically sacrificed. KFI listeners are encouraged to tell everyone to vote these two hacks out of office."

20044133437



1 election of Congressman Baca and promoted the election of his Republican opponent during  
2 broadcasts of the Show. They also held a live broadcast of the Show in Baca's "backyard." See  
3 Complaint, Ex. 2 (stating that on October 7<sup>th</sup> "John & Ken will be taking Political Human  
4 Sacrifice to the backyard of Congressman Joe Baca!"). The complaint, however, makes no  
5 allegations regarding Respondents' dealings with the Baca campaign.

6 **III. LEGAL ANALYSIS**

7 The Act prohibits corporations from making contributions or expenditures from their  
8 general treasury funds in connection with any election of any candidate for Federal office.  
9 2 U.S.C. § 441b(a). The Act defines "contribution" and "expenditure" to include "anything of  
10 value" made for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)  
11 and (9). The term "anything of value" includes in-kind contributions. 11 C.F.R. § 100.52(d)(1).  
12 Contributions and expenditures must be disclosed under the Act. 2 U.S.C. §§ 432 and 434.

13 The Act's media exemption, however, excludes from the definition of expenditure "any  
14 news story, commentary, or editorial distributed through the facilities of any broadcasting station  
15 ... unless such facilities are owned or controlled by any political party, political committee, or  
16 candidate." 2 U.S.C. § 431(9)(B).

17 Any party claiming the media exemption is subject to a two-part test. First, the  
18 Commission asks whether the entity engaging in the activity is a media entity within the meaning  
19 of the Act and the Commission's regulations. See Advisory Opinion 2005-16 (Fired Up) at 5.  
20 and other advisory opinions cited therein. Second, the Commission, in determining the  
21 exemption's scope, asks (a) whether the media entity is owned or controlled by a political party,  
22 committee, or candidate; and, if not, (b) whether the entity was functioning within the scope of a  
23 legitimate media entity at the time of the alleged violation. If the media entity is independent of

260-441-3438

1 any political party, committee, or candidate, and if it was acting as a legitimate media entity at  
2 the time of the alleged violation, it is exempt from the Act's restrictions on corporate  
3 contributions and expenditures, and the Commission's inquiry should end. *See id.*; *see also*  
4 *Reader's Digest Association v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981); and *FEC v.*  
5 *Phillips Publishing*, 517 F. Supp. 1308, 1312-13 (D.D.C. 1981).

6 In this matter, complainant alleges that the radio air time and live broadcast rally that  
7 expressly advocated the defeat of Congressman Dreier and the election of Cynthia Matthews  
8 amounted to illegal in-kind corporate contributions to the Matthews campaign.<sup>3</sup> Addressing the  
9 allegations, we first consider whether the station broadcasts from within the Show's studio  
10 qualify for the media exemption. Concluding the station qualifies for the media exemption for  
11 in-station broadcasts of the Show, the second question is whether the live broadcast "rally" falls  
12 within the legitimate press function of a *bona fide* media entity and therefore also qualifies for  
13 the media exemption. We again conclude that it does.

14 **A. The In-Studio Broadcasts Qualify for the Media Exemption**

15 In this case, "The John and Ken Show" is broadcast on KFI AM-640. That station is not  
16 owned or controlled by any party, candidate or committee but by Capstar Radio Operating  
17 Company ("Capstar"). Capstar, in turn, is a wholly-owned subsidiary of Clear Channel  
18 Communications, Inc., which operates approximately 1,182 radio and 37 television stations in  
19 the United States. *See* KFI Response at 2. Moreover, an affidavit from John Kobylt attests to  
20 the fact that he and Ken Chiampou "make all editorial decisions regarding the content" of the  
21 show, "subject only to editorial input from KFI-AM radio station and the extemporaneous,

<sup>3</sup> Although the complainant refers to web site content in the complaint's factual background, his legal analysis only identifies radio broadcasts and the rally as activities that allegedly violated the Act.

1 unscripted comments of the people" they interview on air and those who call in to the show.

2 Kobylt Aff. at 2.

3 The Show "covers, among other social and cultural topics, current events, politics and  
4 public policy." KFI Response at 3. On the Show, John and Ken editorialize and comment on  
5 current events, political issues, and candidates for public office. They have focused "continuing  
6 news and editorial coverage" on "illegal immigration, the resulting demand for public services  
7 by non-citizens, and the costs imposed upon California taxpayers." See KFI Response at 3 and  
8 n. 16 therein. In this context, therefore, the Show's editorials and commentaries on the political  
9 platforms and records of Congressman Dreier, Congressman Baca and their opponents fall  
10 squarely within the legitimate press function of the radio station and are covered by the Act's  
11 media exemptions. See Advisory Opinion 2005-16 (Fired Up) at 6 (noting that "an entity  
12 otherwise eligible for the press exception would not lose its eligibility merely because of a lack  
13 of objectivity . . . even if the news story, commentary, or editorial expressly advocates the  
14 election or defeat of a clearly identified candidate for Federal office"). See also Statement of  
15 Reasons by Commissioner Weintraub in MURs 5540, 5545, 5562 and 5570 (CBS, Kerry/Edward  
16 2004, Inc. and Sinclair Broadcasting) at 2 ("Whether particular broadcasts were fair, balanced, or  
17 accurate is irrelevant given the applicability of the press exemption."); Statement of Reasons by  
18 Commissioners Wold, McDonald, Mason, Sandstrom, and Thomas in MURs 4929, 5006, 5090  
19 and 5117 (ABC, CBS, NBC, New York Times, Los Angeles Times and Washington Post)  
20 ("Unbalanced news reporting and commentary are included in the activities protected by the  
21 media exemption").

22 On-air interviews of candidates also fall within the bounds of the press exemption, and  
23 therefore, interviews of Cynthia Matthews, both in the station and at the live broadcast, are

26944133440

legitimate press functions of a media entity. See Advisory Opinion 2004-07 at 6-7 (MTV) (on-air candidate interviews covered by media exemption); see also Advisory Opinion 1987-08 at 5-6 (U.S. News) (candidate interviews covered by news-story exemption).

**B. "Legitimate Press Function" and the Live Broadcast/Rally**

As noted above, editorials and commentaries supporting the election or defeat of specific Federal candidates falls within the legitimate press function of a press entity. This matter, however, presents the additional issue of whether the live broadcast and "rally" on location outside Congressman Dreier's office also is covered by the media exemption.

According to the Supreme Court, considerations of consistency and form must be taken into account when determining the limits of the media exemption. *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 251 (1986) ("MCFL"). In that case, the Court found that a "special edition" newsletter was not "comparable to any single issue of the newsletter" because the audience reached, the absence of a masthead, and other "considerations of form" distinguished it as a campaign flyer rather than one in a series of a "regular" publication. It was therefore not within the media exemption. *Id.* See also Advisory Opinion 2005-16 (Fired Up) at 5 (a consideration in applying media exemption analysis is "whether the entity's materials are comparable in form to those ordinarily issued by the entity," citing MCFL).

In Advisory Opinion 2004-30, as part of the Commission's guidance that the media exception would not be available to Citizens United, it focused on "considerations of form," such as those referenced in MCFL. Citizens United had proposed to make and pay to telecast a documentary film containing references to John Kerry and John Edwards within 60 days of the 2004 general election. Because Citizens United did not "regularly produce documentaries or pay to broadcast them," its proposed paid broadcasts were not within the analogous electioneering

26044133441

communications media exemption at 11 C.F.R. § 100.29(c)(2). Cf. MURs 5540 (CBS) and 5545 (Kerry/Edwards 2004, Inc.) (Commission found no reason to believe that CBS violated the Act where it was undisputed that 60 Minutes broadcast in question was similar in form to other 60 Minutes shows broadcast on the network).

The "John and Ken Show" has apparently staged and broadcast public rallies on several occasions prior to the "Political Human Sacrifice" rally outside Congressman Dreier's office. Previous rallies include a live "recall rally" broadcast at the office of former Governor Gray Davis to discuss the Governor's performance in office and a statewide recall effort; a live "election day rally" show to call attention to criminal accusations about a local judge; a broadcast "rally" in Orange County, followed by a caravan to Sacramento, to editorialize against a proposed SUV tax; and an "anti-tax rally" broadcast in front of the New Jersey state capitol. Additional remote broadcasts of the Show include a live show broadcast from the Democratic National Convention in Los Angeles; a live show broadcast from the Republican National Convention in San Diego; and "numerous" live shows in public places addressing issues such as car taxes, vehicle license fees, and driver's licenses for illegal immigrants. *Id.* at 1-2. Thus, it appears that because the rally was, in fact, broadcast, and because it was similar in form to other broadcast events featured on the Show, it was within the Show's legitimate press function. As such, the costs incurred in covering or carrying it – including the staging costs – are within the media exemption.

**C. Alleged Electioneering and Coordinated Communications**

The Act also provides a media exemption for what would otherwise be considered an unlawful "electioneering communication." See 2 U.S.C. § 434(f)(3)(B); 11 C.F.R.

1 § 100.29(c)(2). Because Respondents' communications about the election appeared "in a news  
2 story, commentary, or editorial distributed through the facilities of any broadcast station," they  
3 are excluded from the definition of "electioneering communication" under the Act.

4 The media exemption, where applicable, also encompasses what otherwise would be  
5 deemed "coordinated communication" between a candidate or committee and a *bona fide*  
6 corporate media entity, which might lead to violations of section 441b. See 11 C.F.R.  
7 §109.21(b); 11 C.F.R. §§ 100.73 and 100.132. Since the media exemption applies to the activity  
8 in this case, the alleged coordinated communications do not violate the Act.

9 **D. "Soft Money" Allegations**

10 Federal candidates and their agents, or entities directly or indirectly established, financed,  
11 maintained or controlled by, or acting on behalf of one or more candidates, are restricted from  
12 soliciting, receiving, directing, transferring, or spending "soft money," i.e., funds that are not  
13 subject to the limitations, prohibitions, and reporting requirements of the Act. See 2 U.S.C.  
14 §441i(e)(1)(A). Neither Matthews nor the Committee appear to be in violation of this statute.  
15 Though complainant charges that Matthews received free air time and editorial support from  
16 KFI-AM, John and Ken, and the Show for her campaign, because their activities are exempt  
17 from the definitions of "contribution" and "expenditure" under the media exemption, 11 C.F.R.  
18 §§ 100.73 and 100.132, neither she nor the Committee received illegal corporate contributions in  
19 violation of 2 U.S.C. § 441i(e)(1)(A).

20 Based on the above, this Office recommends that the Commission find no reason to  
21 believe that John Kobylt, Ken Chiampon, the John and Ken Show, KFI-AM 640, Cynthia  
22 Matthews, or the Committee to Elect Cynthia Matthews and Kinde Durkee, in her official  
23 capacity as treasurer, violated the Act or the Commission's regulations, and close the file.

2004112344

IV. RECOMMENDATIONS


1. Find no reason to believe that John Kobylt, Ken Chiampou, the John and Ken Show and KFI-AM 640 violated the Federal Election Act of 1971, as amended, or the Commission's regulations in connection with the allegations in MUR 5569.
2. Find no reason to believe that Cynthia Matthews or the Committee to Elect Cynthia Matthews and Kinde Durkee, in her official capacity as treasurer, violated the Federal Election Act of 1971, as amended, or the Commission's regulations in connection with the allegations in MUR 5569.
3. Close the file.
4. Approve the appropriate letters.

Date

4/19/06

  
Lawrence L. Calvert, Jr.  
Deputy Associate General Counsel  
for Enforcement

  
Susan L. Lebeaux  
Assistant General Counsel

  
Stacey L. Bennett  
Attorney

26044133444

## Exhibit 18






FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**MEMORANDUM**

**TO:** The Commissioners  
Staff Director  
Deputy Staff Director  
General Counsel

**FROM:** Office of the Commission Secretary 

**DATE:** December 21, 2000

**SUBJECT:** Statement of Reasons for MURs 4929, 5006,  
5090, and 5117

Attached is a copy of the Statement of Reasons for MURs 4929, 5006, 5090, and 5117 signed by Chairman Darryl R. Wold, Vice Chairman Danny L. McDonald, Commissioner David M. Mason, Commissioner Karl J. Sandstrom, and Commissioner Scott E. Thomas.

This was received in the Commission Secretary's Office on  
Wednesday, December 20, 2000 at 5:04 p.m.

cc: Vincent J. Convery, Jr.  
Press Office  
Public Information  
Public Disclosure

Attachment



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

*In re* ABC, CBS, NBC, New York Times,  
Los Angeles Times and Washington Post, *et al.*

MURs 4929, 5006, 5090, 5117

STATEMENT OF REASONS

On November 14, 2000, the Commission voted 5-0<sup>1</sup> to activate MURs 4929, 5006, 5090 and 5117, find no reason to believe (RTB) that the respondents in the aforementioned MURs violated the Federal Election Campaign Act (FECA) and close the files. The Commission took this action because the entities named in the complaints are clearly protected by the FECA's media exemption.

Complaints

**MUR 4929**

In MUR 4929, Complainant alleges that ABC, CBS, NBC, the New York Times, Los Angeles Times and Washington Post are *de facto* political committees and are making illegal corporate campaign contributions by virtue of their news and commentary, which Complainant alleges is actually free advertising for the two major party presidential candidates.

**MUR 5006**

In MUR 5006, Complainant alleges that the television show "Hardball," hosted by Chris Matthews on CNBC, is a political committee or a committee affiliated with the Republican National Committee, George W. Bush's campaign committee and the exploratory Senate committee of Rudolph Giuliani. In addition, Hardball is accused of violating the FEC's "equal time" rulings and of the corporate contribution ban. Finally, the complaint charges that Hardball is a corporate electronic voter guide.

**MUR 5090**

In MUR 5090, the complainant alleges that Mr. Harley Carnes, a "regular CBS newscaster," attacked Vice President Gore, Hillary Clinton and President Clinton during "regular" or "typical" newscasts on WCBS Radio 880. Complainant expresses concern that an "outside organization" may be

<sup>1</sup> Commissioner Smith was absent.

responsible for Mr. Carnes' editorial statements on the Clintons and Gore or that CBS may be directing Mr. Carnes to "deliver these political attacks."

#### MUR 5117

In MUR 5117, the complainant alleges that the New York Times contributed corporate "public relations services" at the suggestion of the Republican National Committee by knowingly or recklessly publishing false statements in several news, editorial or opinion stories questioning Vice President Gore's honesty or veracity. The complainant alleges that the Times failed to exercise its "normal editorial function" in publishing these stories.

#### Analysis and Conclusions

The Commission has civil enforcement jurisdiction only over violations of the FECA, the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act. Consequently, we have no authority over matters raised in Complainants' misplaced references to the FEC's "equal time" rulings (an apparent reference to Federal Communications Commission regulations) in MUR 4929 and to "pertinent FCC Regulations" in MUR 5090. The remaining allegations against all Respondents mentioned in these complaints are protected by the media exemption in 2 U.S.C. § 431(9)(B) and 11 CFR 100.7(b)(2) and 100.8(b)(2).

The FECA excludes from the definition of "expenditure" "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i); *see also* 11 CFR 100.7(b)(2) and 100.8(b)(2) (terms "contribution" and "expenditure," respectively, do not include "[a]ny cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication . . . unless the facility is owned or controlled by any political party, political committee, or candidate . . .").

When considering complaints against media entities, courts have insisted that the Commission restrict its initial inquiry to whether the media exemption applies. *Readers Digest Ass'n, Inc. v. FEC*, 509 F. Supp. 1210, 1214 (S.D. N.Y. 1981); *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308, 1312-13 (D. D.C. 1981). Only after concluding that the media exemption does not apply may the Commission commence an inquiry under its otherwise applicable "in connection with" (2 U.S.C. § 441b(a)) or "purpose of influencing" (2 U.S.C. § 431(8)(A), (9)(A)) standards.

This two-stage process was mandated because the media exemption represents a fundamental limitation on the jurisdiction of this agency, and even an investigation of publishers can trespass on the First Amendment. As the *Reader's Digest* court expressed it:

[F]reedom of the press is substantially eroded by investigation of the press, even if legal action is not taken following the investigation. Those concerns are particularly acute where a governmental entity is investigating the press in connection with the dissemination of political matter. These factors support the interpretation of the statutory

exemption as barring even investigation of press activities which fall within the exemption.

509 F. Supp. at 1214.

In determining whether the media exemption is applicable, the courts have held two questions to be relevant: whether the entity is owned or operated by a political party, candidate or political committee, and whether the entity is operating within its "legitimate press function." *Id.*; see also *Phillips Publishing*, 517 F. Supp. at 1313.

There is no doubt that none of the media Respondents is owned or controlled by any candidate, political party or political committee.

The complaints cite only the news stories and commentary of the Respondent entities, leading to a *per se* conclusion that the activities complained of fall within the statutory exemption of any "news story, editorial or commentary" and within the judicially-described "legitimate press function." The content of any news story, commentary or editorial is irrelevant to the determination of whether the media entity is exercising its valid press function. 509 F. Supp. At 1216.

This straightforward reading of the media exemption is consistent with our unanimous treatment of it in MUR 4863. There, the complainant alleged that a radio talk show host "*expressly or implicitly advocated* the reelection of Senator D'Amato and/or the defeat of Representative Schumer. He may have also replayed portions of D'Amato advertisements and commented on them." First General Counsel's Report at 8-9. Nonetheless, the Commission concluded that the "commentary apparently broadcast on the [radio talk show] would appear to be squarely within the 'legitimate press function' of [the radio station]." *Id.* at 9. Moreover, this conclusion was "not altered by the possibility that D'Amato advertisements may have been rebroadcast . . . within the context of [the talk show host's] commentary on them." *Id.* (citing AO 1996-48). This analysis is also consonant with MUR 3624, in which the Commission determined that a radio station exercised its press function where it was alleged to have effectively broadcast unpaid advertising for Bush/Quayle via airing of the Rush Limbaugh program, which had endorsed Bush/Quayle. See also MURs 4946 (CBS News) and 4689 (Salem Radio Network).

Thus, in these MURs, the allegations that the various news stories, commentaries or editorials may be biased in favor of various candidates -- even if assumed to be true -- are simply insufficient to provide reason to believe that any violation of the FECA has occurred. Unbalanced news reporting and commentary are included in the activities protected by the media exemption.

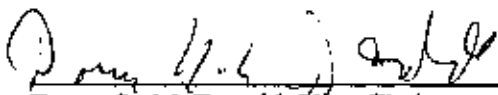
The allegation in MUR 5090 that an "outside organization" may be responsible for the editorial attacks is belied by the complaint's assertion that the statements at issue were made during regular newscasts by a member of the regular team of newscasters. Nothing in the complaint even suggests that these statements were advertisements, and the assertion that "outside parties" may have been responsible is simply too vague to constitute a cognizable claim of a FECA violation or to provide any reason to believe that the broadcasts at issue were not within the station's legitimate press function.

The allegation in MUR 5117 that the New York Times may have been influenced in its news, opinion or editorial coverage by suggestions from the Republican National Committee does not provide

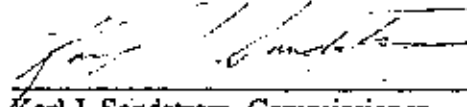
any reason to believe that the stories complained of were not within the Times' legitimate press function. Political parties and campaigns employ platoons of advisors, handlers and spokesmen charged with attempting to shape or influence media coverage of campaigns. Businesses, labor unions, interest groups and government agencies likewise attempt to influence press coverage of topics in which they are interested. It is clearly a part of the normal press function to attend to the competing claims of parties, campaigns and interest groups and to choose which to feature, investigate or address in news, editorial and opinion coverage of political campaigns. The question of whether a news organization may have credulously or recklessly accepted and reported the claims of one political party or candidate is the type of inquiry which the courts have held to be foreclosed by the FECA's media exemption.

For these reasons, there is no reason to believe the Respondents in MURs 4929, 5006, 5090 and 5117 violated the FECA.

  
Darryl R. Wold, Chairman

  
Danny L. McDonald, Vice Chairman

  
David M. Mason, Commissioner

  
Karl J. Sandstrom, Commissioner

  
Scott E. Thomas, Commissioner

December 20, 2000

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of  
4 eighteen years and not a party to this action. My business address is 800 Wilshire Blvd., Suite  
5 800, Los Angeles, CA 90017.

6 On April 2, 2018, I served true copies of the following document(s) described as:

7 **DEFENDANT AMERICAN MEDIA, INC.'S NOTICE OF MOTION AND SPECIAL**  
8 **MOTION TO STRIKE COMPLAINT PURSUANT TO C.C.P. § 425.16; MEMORANDUM**  
9 **OF POINTS AND AUTHORITIES; DECLARATION OF KEVIN L. VICK WITH**  
10 **EXHIBITS 1-8; DECLARATION OF DYLAN HOWARD WITH EXHIBITS 9-11;**  
11 **DECLARATION OF LEE E. GOODMAN WITH EXHIBITS 12-18**

12 on the interested party(ies) in this action as follows:

13 Peter K. Stris, Esq.  
14 STRIS & MAHER LLP  
15 725 S. Figueroa Street, Suite 1830  
16 Los Angeles, CA 90017

17 ☒ **BY FEDERAL EXPRESS OVERNIGHT DELIVERY:** I enclosed said document(s) in  
18 an envelope(s) or package(s) provided by FedEx and addressed to the person(s) at the  
19 address(es) listed above. I placed the envelope(s) or package(s) for collection and  
20 overnight delivery at an office or a regularly utilized drop box of FedEx or delivered such  
21 document(s) to a courier or driver authorized by FedEx to receive documents.


22 I declare under penalty of perjury under the laws of the State of California that the above is  
23 true and correct.

24 Executed on April 2, 2018, at Los Angeles, California.

25 

26 Marlene Rios

## THIS IS YOUR CRS RECEIPT

INSTRUCTIONS
Please print this receipt and attach it to the corresponding motion/document as the last page. Indicate the Reservation ID on the motion/document face page (see example). The document will not be accepted without this receipt page and the Reservation ID.


## RESERVATION INFORMATION

Reservation ID: **180402302463**  
Transaction Date: April 2, 2018  
Case Number: BC698956  
Case Title: KAREN MCDUGAL VS AMERICAN MEDIA INC ET AL  
Party: AMERICAN MEDIA INC. (Defendant/Respondent)  
Courthouse: Stanley Mosk Courthouse  
Department: 62  
Reservation Type: Special Motion to Strike under CCP Section 425.16 (Anti-SLAPP motion)  
Date: 4/30/2018  
Time: 08:30 am

## FEE INFORMATION (Fees are non-refundable)

First Paper Fee: (See below)

Description	Fee
First Paper (Unlimited Civil)	\$435.00
Total Fees:	Receipt Number: 1 180402K1953 \$435.00

## PAYMENT INFORMATION

Name on Credit Card: Jean Paul Jassy  
Credit Card Number: XXXX-XXXX-XXXX-6719

**A COPY OF THIS RECEIPT MUST BE ATTACHED TO THE CORRESPONDING MOTION/DOCUMENT AS THE LAST PAGE AND THE RESERVATION ID INDICATED ON THE MOTION/DOCUMENT FACE PAGE.**