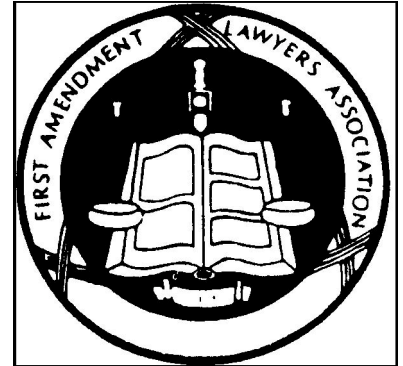


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February 7, 2024

STATEMENT ON FILING OF AMICUS BRIEF IN SUPPORT OF APPLICATION OF THE *NEW YORK TIMES* V. *SULLIVAN* “MALICE” STANDARD TO DISCIPLINARY PROCEEDINGS BASED ON ATTORNEY SPEECH

The First Amendment Lawyers Association (FALA) yesterday filed an amicus brief supporting the granting of certiorari by the Supreme Court of the United States in *Pierre v. Attorney Grievance Commission of Maryland* and *Weinberg v. Attorney Grievance Commission of Maryland*, Case No. 23-474, in order to answer the unsettled question of whether that the free speech-protective “malice” standard of *New York Times v. Sullivan*, 375 U.S. 254, applies to attorney disciplinary proceedings based upon allegedly false attorney speech. The brief may be accessed here: https://www.supremecourt.gov/DocketPDF/23/23-747/299860/20240206123932492_23-747_Amicus%20Brief.pdf.

In its brief FALA strongly urges the Court to grant review in the *Pierre* and *Weinberg* cases and adopt the *Times* standard because attorney speech is central to the protection of the rights guaranteed by the Federal and State Constitutions, and “Attorneys are entitled to the full protections of the First Amendment. Those rights are not limited just because attorneys hold Bar cards. Rather, unique limitations are properly imposed only where attorney speech interferes with the administration of justice. But even under such circumstances, the First Amendment still requires protection of speech rights in accordance with the standards adopted in *New York Times v. Sullivan*”

FALA and its members have long advocated for attorney speech, dating back to the successful fight against discipline by Dominic Gentile, one of our founding members, in *Gentile v. State Bar of Nevada*, 501 U.S. 1030 (1991), and continuing through our recent support for FALA member Zach Greenberg’s fight against a Pennsylvania disciplinary rule that restricted attorney free speech rights in *Greenberg v. Lehocky*, 81 F.4th 376 (3d Cir. 2023), as well as for Marla Brown, represented by FALA Board member Krista Lee Baughman, in Ms. Brown’s successful challenge to discipline sought to be imposed by the California Bar (*In re Marla Anne Brown*, State Bar of California Hearing Department, Case No. SBC-23-O-30270-DGS (Oct. 3, 2023).

The brief filed today continues that long and proud tradition.

(The First Amendment Lawyers Association, founded in 1965, is a national association of attorneys dedicated to preserving the Freedom of Expression guaranteed by the First Amendment and State Constitutions. Its members represent individuals and businesses throughout the United States engaged in constitutionally protected expression, have litigated many of the landmark First Amendment cases decided during the past eight decades, and often appear amicus curiae in the Supreme Court of the United States and other appellate courts throughout the nation in cases in which First Amendment rights are at stake).