

**IN THE TENTH JUDICIAL DISTRICT COURT OF KANSAS
JOHNSON COUNTY, KANSAS**

JAMES A. DENNING,)	
)	
Plaintiff,)	
)	
v.)	Case No. 19CV00496
)	Ch. 60
CYPRESS MEDIA, LLC, et al.,)	
)	
Defendants.)	

**Defendant Cypress Media, LLC’s Motion to Strike Plaintiff’s Petition
Pursuant to the Public Speech Protection Act**

Defendants Cypress Media, LLC, doing business as *The Kansas City Star*, moves this Court, pursuant to the Public Speech Protection Act, K.S.A. § 60-5320, to strike Plaintiff’s Petition, award Defendant its attorneys’ fees, and sanction Plaintiff and his attorney and law firm, together with such other and further relief as the Court deems just.

In support of its motion, Defendant relies on the following:

1. Declaration of Colleen McCain Nelson, sworn to February 14, 2019; and
2. Declaration of Bernard J. Rhodes, sworn to on February 14, 2019.

In addition, a brief in support is being filed herewith.

Respectfully submitted,

LATHROP GAGE LLP

By: /s/Bernard J. Rhodes
 Bernard J. Rhodes KS #15716
 2345 Grand Blvd., Ste. 2200
 Kansas City, MO 64108
 Telephone: 816-292-2000
 Facsimile: 816-292-2001
 Email: brhodes@lathropgage.com

ATTORNEYS FOR DEFENDANT
CYPRESS MEDIA, LLC

CERTIFICATE OF SERVICE

I certify that on the 15th day of February, 2019, the above and foregoing was served via e-mail to the following counsel of record.

Michael J. Kuckelman
Kuckelman Torline Kirkland
10740 Nall Ave., Ste. 250
Overland Park, KS 66211
mkuckelman@ktk-law.com

/s/Bernard J. Rhodes
AN ATTORNEY FOR DEFENDANT
CYPRESS MEDIA, LLC

EXHIBIT 1

**IN THE DISTRICT COURT, JOHNSON COUNTY, KANSAS
CIVIL DEPARTMENT**

JAMES A. DENNING,)	
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Plaintiff,)	
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v.)	Case No. 19CV00496
)	Ch. 60
CYPRESS MEDIA, LLC, et al.,)	
)	
Defendants.)	

Declaration of Colleen McCain Nelson

I, Colleen McCain Nelson, declare:

My professional background

1. I am the Editorial Page Editor of *The Kansas City Star*, a position I have held since December 2016.

2. Prior to that, I was a White House Correspondent and National Political Reporter for *The Wall Street Journal* for nearly five years, as well as a reporter, editorial writer and columnist for the *Dallas Morning News* for nearly twelve years.

3. In 2010, I shared the Pulitzer Prize in Editorial Writing with two other members of the *Dallas Morning News*' editorial staff.

4. I am a graduate of the William Allen White School of Journalism at the University of Kansas, and following graduation I was a statehouse reporter for *The Wichita Eagle*, where I covered the Kansas Legislature.

My current job responsibilities

5. As *The Star*'s Editorial Page Editor, I am responsible for the content of the editorial pages of the newspaper.

6. This includes not only the paper's own editorials, but also includes editorial columns by regular contributors, editorial cartoons, letters to the editor, and "op-ed" submissions.

Steve Rose's column

7. On Saturday, January 26, 2019, *The Star* published an editorial column by Steve Rose titled "Why hasn't Kansas expanded Medicare? This GOP leader has a long list of excuses."

8. A copy of the entire editorial page from the January 26, 2019, edition is attached as Exhibit A, and as you can see, Mr. Rose's column appears at the bottom of the page.

9. An excerpt of the editorial page, showing only Mr. Rose's column, is attached as Exhibit B.

Mr. Rose's relationship with *The Star*

10. At the time of the publication of Mr. Rose's January 26, 2019, column, Mr. Rose was a long-time contributor to *The Star's* editorial page.

11. Mr. Rose's then-current relationship with the paper was memorialized in a written Independent Contractor Freelancer Agreement, a copy of which is attached as Exhibit C.

12. The Agreement was signed on February 13, 2017, by Mr. Rose, and by myself (on behalf of *The Star*) on February 14, 2017.

13. The Agreement had a two-year term, from February 10, 2017, through February 9, 2019.

14. As such, the Agreement has now expired.

15. The Agreement provided that Mr. Rose would not be paid a fee for his submissions to the paper, which the Agreement defined as the “Work” or the “Works.”

16. In the Agreement, Mr. Rose represented and warranted that “the Work is accurate and details have been (or will be) checked or verified close enough prior to the proposed publication date to insure that the Work is current and accurate.”

17. Mr. Rose also represented and warranted that “the Work ... does not violate any ... personal rights of others[,] does not present a conflict of interest ... contain[s] nothing which is libelous.”

18. At the same time he signed the Agreement, Mr. Rose also signed an “Acknowledgment of Receipt,” in which he acknowledged “that I have received and have read *The Kansas City Star’s* Code of Ethics.”

19. The Code of Ethics is available on *The Star’s* website, [kansascity.com](https://www.kansascity.com/news/article295013/The-Kansas-City-Star-Code-of-Ethics.html), at <https://www.kansascity.com/news/article295013/The-Kansas-City-Star-Code-of-Ethics.html>, and is attached as Exhibit D.

20. The Code of Ethics provides that “[d]eceiving readers by fabricating events or interviews is prohibited.”

21. The Code of Ethics also provides that “editorial employees must make every effort to fully identify the news source in a story or behind one.”

Mr. Rose’s submission of his column

22. Mr. Rose originally submitted his column via an e-mail he sent to me on Wednesday, January 23, 2019.

23. A copy of that e-mail is attached as Exhibit E.

24. Mr. Rose’s column concerned a “powerful conservative Republican leader in the Kansas Senate” and the Republican leader’s opposition to Medicaid expansion in Kansas.

25. In his original column, Mr. Rose did not identify the Republican leader by name, but instead referred to him as “[m]y Kansas Senate friend.”

26. In reviewing Mr. Rose’s column, I believed Mr. Rose’s use of an anonymous source, *i.e.*, his “Kansas Senate friend,” was not appropriate.

27. Instead, I believed—consistent with *The Star’s* Code of Ethics—that Mr. Rose should fully identify the source of the statements in his column.

28. Accordingly, on Friday, January 25, 2019, I sent Mr. Rose an e-mail in which I told him we needed to “quote this senator on the record.”

29. Specifically, I wrote Mr. Rose and told him the following:

Hi Steve –

Editing your column now. We need to quote this senator on the record.

He’s not revealing any sensitive information or doing anything beyond making pretty familiar arguments against Medicaid. There’s no way I can justify letting him be anonymous.

30. Mr. Rose responded by stating: “*Ok, it’s State Sen. Jim Denning of Overland Park.*”

31. I then e-mailed Mr. Rose and asked: “*So, I can attribute all of this to Denning? Add his name throughout?*”

32. Mr. Rose then responded: “*He said it all, so, yes.*”

33. A copy of my e-mail exchange with Mr. Rose is attached as Exhibit F.¹

¹ When I went to e-mail Mr. Rose about the need for him to identify his source for the statements in his column, I did a search of my e-mails for his name, and replied to the

34. At 3:05 p.m., I e-mailed Mr. Rose a copy of the edited column, which included his attributions to Sen. Denning, along with grammatical and stylistic editorial changes I made to the column.

35. A copy of my e-mail to Mr. Rose is attached as Exhibit G.

36. Mr. Rose did not make any objection to his column's attribution to Sen. Denning in the edited version I sent him at 3:05 p.m.

I approved publication of Mr. Rose's column

37. Based on Mr. Rose's representation that Sen. Denning made each of the statements included in his column, I edited the column to attribute the statements in the column to Sen. Denning.

38. At the time I approved Mr. Rose's column for publication, I had no reason to doubt—and did not doubt—that Sen. Denning was Mr. Rose's source for each of the statements included in Mr. Rose's column.

39. Specifically, Mr. Rose had informed me—without reservation—that Sen. Denning was the source of these statements.

40. Moreover, when I specifically asked Mr. Rose to confirm that Sen. Denning was the source of each of the statements in his column, Mr. Rose wrote me back and said:

“He said it all, so, yes.”

first e-mail which came up in my search—which was Mr. Rose's e-mail sending me his previous week's column; that is why the subject line of the e-mail exchange attached as Exhibit F is “1/19 COLUMN.” Accordingly, the bottom portion of Exhibit F (with sets forth Mr. Rose's column for the previous week) is not relevant to my request that Mr. Rose identify the source of the statements in his January 25th column. I have included that portion of the e-mail however to be complete.

41. Moreover, as I stated in my first e-mail to Mr. Rose, I did not view any of the statements in his column to be so controversial that Mr. Rose’s source would refuse to be “on the record.”

42. Specifically, I said to Mr. Rose in my e-mail: “*He’s not revealing any sensitive information or doing anything beyond making pretty familiar arguments against Medicaid. There’s no way I can justify letting him be anonymous.*”

My prior experience with Mr. Rose

43. During the previous two years in which I had edited Mr. Rose’s columns, I was unaware of Mr. Rose ever making up a source or fabricating information—or being accused of making up a source or fabricating information.

44. I was also aware that Mr. Rose had entered into an Independent Contractor Freelancer Agreement with *The Star*, in which he had agreed that his submissions would be both “current and accurate.”

45. I was aware of this fact because I personally signed the Agreement on behalf of *The Star*.

There was no deadline pressure

46. I have read the statement in Sen. Denning’s lawsuit that there was a “looming deadline” for submission of Mr. Rose’s column for publication.

47. This statement is false.

48. My deadline for submission of Saturday’s editorial pages is 7:00 p.m.

49. Even then, in the event I am unable to meet the 7:00 p.m. deadline, I can “push” the publishing deadline to 9:00 p.m.

50. Finally, in the event I had determined that Mr. Rose's column could not be published for any reason, *The Star* would have published a syndicated column in that space.

51. In fact, this is what *The Star* did whenever Mr. Rose was on vacation, or otherwise did not submit a column.

52. It is also what *The Star* has done since Mr. Rose stopped submitting columns for publication in the newspaper.

My first awareness of an issue with timeliness

53. On the afternoon of Saturday, January 26, Mr. Rose sent me an e-mail and informed me that he had received a call from Sen. Denning's staff about his column—which had been published in that morning's newspaper.

54. At that time, Mr. Rose informed me—for the first time—that he had not spoken to Sen. Denning in approximately nine months.

55. I immediately responded to Mr. Rose and told him I had no idea he had not spoken to Sen. Denning during that time, and that when Mr. Rose told me his source was Sen. Denning I believed that Sen. Denning had made these statements recently.

56. Mr. Rose responded by stating he was “*sorry for the massive misunderstanding.*”

57. I responded by stating that given Mr. Rose's statement that he had not spoken to Sen. Denning in approximately nine months, “*The column was misleading at best and gave readers (and me) the impression that Denning said this recently. The lede even says that he ‘finally confessed’ this, certainly suggesting that this happened in the not-too-distant past.*”

58. Mr. Rose responded by stating: “*I see the gravity of all of this. Let’s cancel my column.*”

59. A copy of my e-mail exchange with Mr. Rose is attached as Exhibit H.

My statement to Sen. Denning’s Chief of Staff

60. On Monday, January 28, 2019, I sent an e-mail to Sen. Denning’s Chief of Staff, Ethan Patterson, in which I informed Mr. Patterson that Mr. Rose’s column did not meet *The Star’s* standards.

61. I reached out to Mr. Patterson because Mr. Rose told me this was the best way to reach Sen. Denning.

62. A copy of my e-mail to Mr. Patterson is attached as Exhibit I.

63. At the time I sent my e-mail to Mr. Patterson, I did not know that Sen. Denning intended to sue the newspaper—or that he had already sued the newspaper.

64. I did not learn this fact until Sen. Denning’s spokesperson sent out an e-mail blast at 3:30 p.m. on Monday, January 28, 2019—more than an hour and a half after I sent my e-mail to Mr. Patterson at 1:53 p.m.

65. A copy of the e-mail blast announcing the lawsuit is attached as Exhibit J.

The Star reports on Sen. Denning’s lawsuit

66. On Tuesday, January 29, 2019, *The Star* posted a report on Sen. Denning’s lawsuit on the paper’s website, kansascity.com.

67. In that report, Mr. Rose reaffirmed that Sen. Denning made the statements attributed to Sen. Denning in his column.

68. Mr. Rose also stated that he had been writing columns for nearly 50 years, and had “never been accused of making up facts or making up quotes or making up anything.”

69. The report also stated that *The Star* had removed Mr. Rose’s column from the paper’s website, kansascity.com.

70. A copy of the online report is attached as Exhibit K.

71. That report also appeared the following day, Wednesday, January 30, 2019, on page 3A of the print edition of *The Star*.

72. A copy of page 3A from the January 30, 2019, edition is attached as Exhibit L, while an excerpt of page 3A, showing only the report on Sen. Denning’s lawsuit, is attached as Exhibit M.

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

Executed on this 14th day of February 2019.



Colleen McCain Nelson

EXHIBIT A

How did a veteran end up dead after a fight with police at Kansas City's VA Medical Center?

The U.S. Department of Veterans Affairs and Kansas City's VA Medical Center must fully disclose the facts surrounding the arrest and subsequent death of a veteran on their campus last May.

To date, unfortunately, the VA has stonewalled legitimate efforts to help the public understand what happened last spring. A veteran, 66-year old Dale Farhner, was detained by VA police after he apparently drove the wrong way down a driveway.

Farhner allegedly struggled with the officer and was injured or became ill. Later, the veteran was transferred to the University of Kansas Hospital, where he died.

The cause of death has not been made public.

If that description seems vague, it's because the VA has rebuffed attempts to disclose what actually happened during the incident. It has denied Freedom of Information Act requests from The Star. More recently, it rejected requests for more information from Sen. Roy Blunt and then-Sen. Claire McCaskill.

A spokesman for the VA Medical Center referred us to the Jackson County Medical Examiner's office, which has also been tight-lipped about the case.

The silence is deafening, and some are running out of patience. "For this investigation to drag out almost eight months is an outrage," said Randall Barnett, president of the Heart of America chapter of the Vietnam Veterans of America.

"This appears to be another example of the VA dragging their feet while trying to cover their own tracks instead of doing what is right," he said.



The Veterans Administration hospital near Linwood and Van Brunt boulevards in Kansas City. File photo

After eight months, "his family deserves answers," said Joe Davis, a spokesman for the Veterans of Foreign Wars.

That is undoubtedly true. In fact, all veterans deserve answers. And the public deserves answers — we must have full faith in how VA hospitals are secured and protected.

The 2000 handbook for VA police officers says this: "Persons of unsound mind or who are emotionally disturbed will be handled with a minimum force."

Was Mr. Farhner facing a mental health crisis at the time of the incident? Was the VA police officer fully trained to respond appropriately? Did he or she use "minimum force," as the handbook says? Were others asked to help?

Did the VA pursue the best medical care after the incident? How did the patient die? Were those involved in the incident disciplined in any way?

Questions like these are especially pertinent because the VA's police force is poorly supervised. That isn't our conclu-

ALL VETERANS DESERVE ANSWERS. AND THE PUBLIC DESERVES ANSWERS — WE MUST HAVE FULL FAITH IN HOW VA HOSPITALS ARE SECURED AND PROTECTED.



sion: It's the finding of the VA's own inspector general, who issued a report on the force in December.

The VA needs better oversight of its police officers, the audit found, to "make certain the police program meets standards, officers are accountable for their performance, and VA police maintain the public's trust."

The inspector general began the audit after "hotline complaints and other information" about poor performance by the VA police. It's highly likely Mr. Farhner's interaction was not an isolated incident.

Trust is threatened, as it always is, when public institutions try to hide the truth. After months of stalling, the VA must make its investigation and relevant documents public.

LETTERS TO THE EDITOR

It looks organized

Is the famous campaign rally chant "Lock her up!" changing to "Lock them up?"

Will someone explain to me how all these indictments of President Donald Trump's senior campaign officials aren't necessitating the enforcement of RICO, the Racketeer Influenced and Corrupt Organization Act?

Patrick McGarry
Overland Park

The wrong way

The Kansas City Council really bungled the decision to rename The Paseo as Martin Luther King Jr.

Boulevard. (Jan. 25, 1A, "KC Council renames The Paseo for MLK")

I have no disagreement with the idea of honoring King. However, in doing so this way, the council has chosen to rewrite history.

The boulevard was named by past city officials after careful consideration, and it wore the moniker proudly for a 100-plus years. Now the current members of the council have voted to ignore Kansas City's heritage and dump the well-known name as if it never existed.

These actions imply that past decisions by city officials and residents count

for nothing if they get in the way of current council members' agendas.

They also show little regard for Kansas Citizens who live on The Paseo and will now have to deal with address changes.

The council could have given King his much-deserved honor by renaming a numbered street after him — or, better yet, putting his name on a new entity, such as the new terminal at Kansas City International Airport.

That would leave a historic Kansas City icon alone.

Dana LoPorto
Independence

OFF THE EASEL *Chan Lowe, Tribune Content Agency*



Why hasn't Kansas expanded Medicaid? This GOP leader has a long list of excuses



BY STEVE ROSE
srose@ksrose.me

One powerful conservative Republican leader in the Kansas Senate, who has fought the expansion of Medicaid, finally confessed to me his reasons for rejecting it. His explanation, which I will get to in a moment, is pathetic.

Kansas has so far walked away from \$3 billion in federal funds that would have flowed to

the state had it expanded Medicaid — known in Kansas as KanCare — when it was first offered as a part of the Affordable Care Act forged by former President Barack Obama. What's worse than this fiscal travesty is the human tragedy of 150,000 low-income Kansans who suffer from having no health insurance coverage, as well as the plight of rural hospitals that are starved for Medicaid payments from its patients who are too poor to pay for services.

Two years ago, when the Kansas Legislature was more moderate than it is today, and at a time when many legislators knew former Gov. Sam Brownback would veto the

legislation, enough votes were mustered to pass expanded Medicaid — only for Brownback to kill it. Today's Legislature is more conservative, and it is widely known that newly-elected Gov. Laura Kelly has pegged Medicaid expansion among her highest priorities. It will be a tough fight.

Along with only 13 other states, Kansas stubbornly clings to this idiocy. That contrasts with the many Republican-controlled states that have signed up, some only recently. The vast majority of other states have set aside their objections and embraced this part of Obamacare.

States that had fought it and then finally embraced it eventually admitted that

they were foolish not to have expanded Medicaid much earlier, since the bulk of expenses are paid for by the federal government. Before their ultimate enlightenment, Republican-controlled states in particular had walked away from billions in federal funds seemingly just to prove some kind of political point.

I believe the underlying reason why Medicaid expansion was stalled in so many Republican states and why it still has not made it to Kansas and the others is rooted in scoring petty political points against Obama.

Jim Denning, the Kansas Senate leader of the District 4, Johnson County, Kansas

ance. Instead, he recited a plethora of ill-conceived notions, which may have a kernel of truth, but which ultimately fail the overall logic test.

Some of his reasons are just plain ugly.

Denning, a Republican from Overland Park, started out by declaring that America does not need another entitlement program, and that we never should have passed Medicaid in the first place. It has become a financial albatross on the country, which subsidizes the program to the states.

He said it is widely known by physicians that Medicaid patients often do not show up for their appointments, thus robbing other patients of those hard-to-get time slots. The senator said he represents able-bodied Kansans who abuse the system by accepting free medical

care when they refuse to work. (The fact is, the overwhelming number of potential recipients who would be eligible for Medicaid are either disabled or working.)

Some day in the future, Denning warned, the feds could stop or drastically reduce Medicaid funding, and the states would be stuck with a program they cannot get rid of. He also claimed, even today, that Kansas cannot afford the \$14 million per year it would need to spend as its share of the overall costs of Medicaid expansion for the 150,000 recipients.

I told you they were lame excuses, and they are. Low-income Kansans need health coverage just as much or more than those who are better off.

The states are responsible for only a fraction of the cost of Medicaid expansion who abuse the system by accepting free medical



THE KANSAS CITY STAR.

"A Paper for the People"
William Rockhill Nelson,
founder, 1880

Tony Berg
President and Publisher

Mike Fanning
Editor and Vice President

Stephanie Boggins
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Vice President,
Audience Development

Randy Waters
Vice President, Production

Colleen McCain Nelson
Editorial Page Editor, Vice President

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EXHIBIT B

Why hasn't Kansas expanded Medicaid?

This GOP leader has a long list of excuses



BY STEVE ROSE

srose@strose.me

One powerful conservative Republican leader in the Kansas Senate, who has fought the expansion of Medicaid, finally confessed to me his reasons for rejecting it. His explanation, which I will get to in a moment, is pathetic.

Kansas has so far walked away from \$3 billion in federal funds that would have flowed to

the state had it expanded Medicaid — known in Kansas as KanCare — when it was first offered as a part of the Affordable Care Act forged by former President Barack Obama. What's worse than this fiscal travesty is the human tragedy of 150,000 low-income Kansans who suffer from having no health insurance coverage, as well as the plight of rural hospitals that are starved for Medicaid payments from its patients who are too poor to pay for services.

Two years ago, when the Kansas Legislature was more moderate than it is today, and at a time when many legislators knew former Gov. Sam Brownback would veto the

legislation, enough votes were mustered to pass expanded Medicaid — only for Brownback to kill it. Today's Legislature is more conservative, and it is widely known that newly-elected Gov. Laura Kelly has pegged Medicaid expansion among her highest priorities. It will be a tough fight.

Along with only 13 other states, Kansas stubbornly clings to this idiocy. That contrasts with the many Republican-controlled states that have signed up, some only recently. The vast majority of other states have set aside their objections and embraced this part of Obamacare.

States that had fought it and then finally embraced it eventually admitted that

they were foolish not to have expanded Medicaid much earlier, since the bulk of expenses are paid for by the federal government. Before their ultimate enlightenment, Republican-controlled states in particular had walked away from billions in federal funds seemingly just to prove some kind of political point.

I believe the underlying reason why Medicaid expansion was stalled in so many Republican states and why it still has not made it to Kansas and the others is rooted in scoring petty political points against Obama.

Jim Denning, the Kansas Senate majority leader, never brought up Obama as a reason for his resist-

ance. Instead, he recited a plethora of ill-conceived notions, which may have a kernel of truth, but which ultimately fail the overall logic test.

Some of his reasons are just plain ugly.

Denning, a Republican from Overland Park, started out by declaring that America does not need another entitlement program, and that we never should have passed Medicaid in the first place. It has become a financial albatross on the country, which subsidizes the program to the states.

He said it is widely known by physicians that Medicaid patients often do not show up for their appointments, thus robbing other patients of those hard-to-get time slots. The senator said he resents able-bodied Kansans, regardless of their income, who abuse the system by accepting free medical

care when they refuse to work. (The fact is, the overwhelming number of potential recipients who would be eligible for Medicaid are either disabled or working.)

Some day in the future, Denning warned, the feds could stop or drastically reduce Medicaid funding, and the states would be stuck with a program they cannot get rid of. He also claimed, even today, that Kansas cannot afford the \$14 million per year it would need to spend as its share of the overall costs of Medicaid expansion for the 150,000 recipients.

I told you they were lame excuses, and they are. Low-income Kansans need health coverage just as much or more than those who are better off.

The states are responsible for only a fraction of the cost of Medicaid expansion in other that cannot logically be refused.

Clerk of the District Court, Johnson County, Kansas
09/25/19 09:34 AM '15

EXHIBIT C

Independent Contractor Freelancer Agreement

This Independent Contractor Freelancer Agreement is entered into by and between STEVE ROSE, ("Contractor"), and THE KANSAS CITY STAR ("Company").
The parties agree as follows:

1. **Definitions.** The following definitions shall apply to this Agreement:

a. "Work" shall mean any article, photograph, column, review, graphic, illustration, or other editorial material submitted by Contractor to the Company for publication pursuant to this Agreement.

b. "Publication" shall mean communication, by writing, broadcast, electronic, digital or telephonic transmission or in any other way distributed.

2. **Independent Contractor Relationship.**

a. Contractor will perform all services and provide all Work pursuant to this Agreement as an independent contractor and not as an employee of the Company. Contractor is responsible for filing all tax returns and paying all taxes, contributions and losses, if any, pertaining to Contractor's business. The Company will not deduct, withhold, or pay any taxes of any kind on any payments made to Contractor. The Company will treat Contractor as an independent contractor and not as an employee for all federal, state and local tax purposes. Contractor acknowledges and agrees that he/she will not receive any employee benefits of any type from the Company, and by his/her signature below voluntarily declines and waives any and all rights, if any, to such benefits, including but not limited to: health, sickness, accident, dental, life, disability and accidental death and dismemberment coverage, severance, vacation and other paid time off, expenses, profit sharing, cafeteria plans, pension, 401(k), all other types of retirement plans or programs, and incentive or bonus compensation plans or programs.

b. As an independent contractor, only Contractor retains the right to control the manner and means by which Contractor produces work or performs services pursuant to this Agreement, including, when, where, and how Contractor does so, provided Contractor meets the agreed upon submission deadlines. Contractor sets Contractor's own schedule. Contractor is not required to appear at the Company's offices, and Company will not provide Contractor with office space, equipment, supplies or reimbursement for any expenses. Contractor is not obligated to accept any opportunity or offer provided by the Company. With respect to services performed pursuant to this Agreement, Contractor will describe himself/herself as an "independent contractor," "freelancer," "stringer," or "special correspondent" of the Company, and not as an employee, staff writer or other legal agent of the Company.

c. Contractor has the right to perform the same or similar services for competing and non-competing companies, subject to the conditions of 3c. Contractor

Clerk of the District Court, Johnson County Kansas
02/15/19 09:37 AM SS

EXHIBIT

C

may retain such employees or subcontractors as may be necessary to assist Contractor in the performance of Contractor's obligations pursuant to this Agreement; provided, however, that all Works submitted to the Company pursuant to this Agreement shall be original works of Contractor and Contractor shall ensure that no employee, or subcontractor has any rights to or claim of ownership with respect to any Works submitted to the Company pursuant to this Agreement. Contractor shall be solely responsible for hiring, firing, managing and controlling all employees or subcontractors, which Contractor hires or retains. Contractor agrees that Contractor and Contractor's employees and subcontractors, if any, will produce works and perform all services required by this Agreement in compliance with all laws, including but not limited to, maintaining automobile and other insurance as may be required by law.

3. Representations and Warranties--Original Works.

a. The Company shall have the complete discretion to select for publication or reject any Work submitted by Contractor pursuant to this Agreement, for any reason or no reason. All works submitted by Contractor pursuant to this Agreement shall be original works by Contractor that have not been published or submitted for publication elsewhere. The Company has the right to edit, revise, adapt and make all final judgments on headlines, editing and visual treatment of the Works. Work published will include Contractor's byline and copyright notice provided to the Company.

b. Effective at the time of submission, Company shall have an irrevocable, royalty-free, world-wide, transferable license, in perpetuity, to edit and create derivative works of the Work, and to copy, distribute, display, publicly perform, broadcast, transmit, and/or adapt the Work or any derivative works based on the Work, including a license to redistribute, reproduce, republish, and to authorize republication, reproduction, and syndication of all or part of the Work in print, video, and/or audio, in any phonorecord, in any microform media, in any database, in any other media or platform or by any other method (computer, electronic, magnetic, online, optical, video, CD-ROM or otherwise), now or hereafter invented. Contractor further grants to the Company all of the rights set forth in the immediately preceding sentence with respect to any and all editorial material previously submitted by Contractor to the Company and published by the Company (the "previous editorial material"). Contractor agrees not to make the Work available for publication elsewhere for a period of 14 days after submitting it to Company. Nothing in this Agreement shall require the Company to publish Works provided by Contractor to Company. The rights granted herein regarding previous editorial material shall not limit in any way any greater rights previously granted with respect to such material.

c. Contractor agrees that by submitting any Work to the Company pursuant to this Agreement, Contractor represents, warrants and agrees: that Contractor has the exclusive right to license the Work to the Company as contemplated herein; that the Work does not violate any copyright or proprietary or contract or personal right of others; and that the Work contains nothing which invades the privacy of another, and does not present a conflict of interest. Contractor further warrants and represents that the Work is

accurate and the details have been (or will be) checked or verified close enough prior to the proposed publication date to insure that the Work is current and accurate; that Contractor has not and will not receive any compensation or remuneration of any kind from any person, business or subject referenced in the Work and that the Work has not in the past been submitted by Contractor for publication to any organization other than the Company. Contractor further warrants and represents that the Works contain nothing which is libelous, unlawful or obscene, and that all recipes, formulas, or instructions contained in the Works are not injurious to the user if used or followed as recommended.

d. Contractor agrees to provide the Company with legible, proofed copy adhering to the AP Stylebook, and conforming to the generally accepted journalistic standards for grammatical and stylistic content. Contractor may, in Contractor's sole discretion, provide film in a developed or undeveloped condition for further processing by the Company. Contractor further agrees to cooperate with the Company in a timely manner to answer questions and obtain information necessary to check and verify information relevant to the Work (including but not limited to: sources, citations, records, names and addresses).

4. **Indemnification.** Contractor shall indemnify and hold the Company, and anyone acting on its behalf (including its employees, directors, parent company and licensees) harmless from any liability or expenses, including the payment of all attorneys' fees for counsel selected by Company, resulting from Contractor's breach or violation of the representations, warranties or agreements set forth in Paragraph 3 above, or from claims resulting from the Company's publication of any Work, including but not limited to, claims of plagiarism, defamation, invasion of privacy, or copyright, patent or trademark infringement. Contractor further agrees to indemnify and hold the Company harmless from any and all claims brought by third parties as a result of all conduct (including but not limited to tortious conduct), statements or omissions of Contractor, Contractor's employees or subcontractors in the course of producing Works or performing services pursuant to this Agreement. Contractor shall notify the Company immediately of any claims threatened or asserted for which Contractor has agreed to indemnify Company pursuant to this Agreement and shall cooperate in the defense of any such claim.

5. **Contractor Fees.** The Contractor will not be paid a fee by the Company for the Work.

6. **Use of Contractor's Name.** The Company shall have the right to use Contractor's and the author or creator of the Work's name, photograph, identity, biographical information, and likeness in any form in advertisements or promotions for the Company or other publications or services that include at least one Work produced by Contractor. The Company also has the right to use, restrict, modify, and edit the Works.

Acknowledgement of receipt

I, the undersigned, acknowledge that I have received and have read *The Kansas City Star's* Code of Ethics.

Name(print) STEPHEN F. ROSE

Signature 

Date: 2/13/17 Work phone 

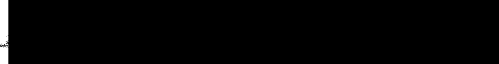
Email: 

EXHIBIT D

The Kansas City Star Code of Ethics



Updated March 2014:



CONFLICTS OF INTEREST



If we expect readers to view us as credible, then Star editorial employees must aggressively seek and fully report the truth while remaining independent and free from any legitimate suggestion that their independence has been compromised. No policy can anticipate every conceivable conflict. But these guidelines should apply to all editorial employees, full and part-time, freelance or contract, and regardless of position, title, beat or personal circumstance.



Editorial employees should:

Avoid even the appearance of a conflict and immediately report to their supervisor anything that would allow a news source to call our impartiality into question. Editors should make news judgments solely on their merits and use diligence in determining when real conflicts exist. Refrain from writing about, reporting on, photographing or making news judgments about any individual related to them by blood or marriage or with whom they have a close personal relationship. If the spouse, relative or close friend works for a business or institution, editorial employees may be barred from writing about that enterprise. Employees should make certain they disclose conflicts or potential conflicts to their supervisor. The importance of the position occupied by the family member or friend is another critical factor. It would be a conflict, for example, for a reporter to cover a city that employed a close relative as a department head or council member. But it might not be a conflict or a legitimate appearance of one for a reporter to cover a city that employed a close relative as a truck driver. Exceptions may be made only when editors agree, and only when the conflict is clearly disclosed in the story. Be careful about choosing topics if they are reporters who also write columns. The timing of a column -- or its placement near a news story by the same author -- also should be weighed to avoid questions about the writer's objectivity. Those reporter/columnists also should exercise restraint if their credibility in news coverage could be compromised by expressing opinion. For example, a beat reporter may want to avoid editorializing on a controversial subject that is likely to be an area of continuing coverage. Analysis, however, is acceptable.

Advertising/news: Maintain a clear line between advertising and news. Business considerations should not influence news judgment. All editorial employees should alert their supervisors when advertisers and /or employees from the business side of the newspaper attempt to exert influence over their work. Editors shall exercise sole judgment over all editorial content, including special sections. When news stories are not time-sensitive, attempt to avoid running stories on the same subject on the same day of an advertising special section. While this may be sometimes unavoidable, we must be sensitive to the appearance of advertisers buying news. Copy generated for advertising supplements, for example, should be produced independently of the newsroom staff.

EXHIBIT

D

Organizations: Staff members must refrain from reporting on or making news judgments about organizations with which they, or family members, have a significant involvement. However, nothing

Clerk of the District Court, Johnson County Kansas

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in these guidelines is meant to discourage them from volunteering their time for nonprofit charitable endeavors whose aim is to improve the community or help its neediest residents. Serving as an officer in a public relations, personnel or fund-raising position frequently creates a conflict. When in doubt about a relationship, staff members should ask themselves: Could they or the newspaper publicly disclose the situation without fear of embarrassment or legitimate criticism? Above all, when in doubt, disclose a conflict or the appearance of one to your editor.

Gambling: Avoid even the appearance of a conflict of interest in coverage of gambling. Newsroom employees for The Star are prohibited from wagering at races, bingo games or casinos during working hours, whether they regularly cover those industries or not. This policy does not apply to state or regional lotteries or to raffles or sweepstakes sponsored by charities. While gambling by newsroom employees, even during off-duty hours, poses a potential appearance of conflict of interest, newsroom employees are not barred from such activities as long as they do not accept favors, gratuities, gifts, or any other form of preferential treatment from such facilities not available to the general public. Newsroom employees directly involved with coverage of the gaming industry must report to their supervisor weekly on each visit's gaming gains or losses. Any significant wins or losses could result in reassignment.

MEMBERSHIPS

Editorial employees should not belong to organizations about which they must write or make editorial judgments. Membership in professional journalistic organizations and voluntary work for religious, cultural or social groups are acceptable. Staffers should avoid duties or activities involving fund-raising, personnel issues and public relations. Should an employee be faced with the prospect of reporting or editing a story about an organization to which he or she belongs, or for which he or she volunteers time or money, he or she should inform a supervisor and may be asked to relinquish the assignment. Free or reduced-rate memberships in private clubs or like organizations may not be accepted. If such a membership is necessary for coverage of a beat, the cost will be borne by the company.

POLITICAL INVOLVEMENT

Political involvement or holding public office shall be considered a conflict of interest for editorial employees. Staff members are encouraged, even urged, to exercise their franchise as citizens to discuss matters of public interest and to register and vote. However, because their profession requires stringent efforts against partiality and perceptions of bias, staff members should avoid political activity beyond that. Those who do not should be aware that their involvement might affect their duties at The Star. For example, marching in an abortion rally could preclude a reporter not only from covering that issue but perhaps other health-care issues as well. Marching, picketing and active campaigning, including organizing or supervising petition drives, should be avoided. When there is doubt whether an outside activity is appropriate, staff members should bring the issue to the attention of their department heads.

FINANCIAL HOLDINGS

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While we do not want to penalize staff members by suggesting that they not buy stock or make other

investments, it is not enough to be honest. It is equally important that no one has grounds for even raising the suspicion that an employee misused a position with The Star. Therefore, editorial employees:

Should not enter into a business relationship with a source. Should not work on stories about enterprises in which they have a financial interest. Any newsroom staff member, including editors, photographers and page designers, with an investment in a business shall not make news decisions involving that business before first informing their supervisor. Are not to invest in companies active in their specific beat area. Except for Knight Ridder Inc., employees also are not to hold single-stock investments in companies they cover with major operations in metropolitan Kansas City. In general, mutual funds are excluded from this prohibition because they hold packages of stocks rather than individual investments. However, reporters and editors who regularly handle mutual-fund stories should consult their supervisor regarding any mutual fund holdings and may be asked to relinquish the beat or transfer their holdings. Shall not trade on inside information. Moreover, unpublished information gathered by The Star may not be used by staff members to make investment decisions.

DEFINITION: "Inside information" constitutes corporate affairs that have not been made public. An insider is a person usually a director or officer (but extended legally to include reporters), with access to that information. Under Securities and Exchange Commission rules, insiders are prohibited from trading on their knowledge.

INFLUENCE

Newsroom employees shall not exploit their position at The Star for personal gain in any commercial transaction or to conduct personal business for themselves or anyone else.

DECEPTION

Deception is a form of lying and is to be avoided in newsgathering. People being interviewed for news stories should know they are speaking to a reporter and their comments may be published. Using deception to gather news, whether by lying or misrepresentation, is inappropriate under virtually all circumstances. In rare and justifiable circumstances, however, deception may be used when it is the only way to report an important story of vital public interest. However, in all cases, deception may be used only with the advance approval of a managing editor. Identifying yourself but not immediately revealing you are a reporter is acceptable only in extremely unusual circumstances. In these cases, you must ultimately reveal you are an editorial employee for The Star. Advance approval of a managing editor is required, unless physically impossible. If asked, under all circumstances, you must identify yourself as an editorial employee of The Star. When deception is used in newsgathering, it must be revealed in the story (for example, in a "How-we-did-the story" sidebar). The subject of the deception should be informed before publication for an opportunity to respond.

HIDDEN CAMERAS: The use of hidden cameras and surreptitious tape recording devices is to be avoided, except in rare cases when they are the only ways to get an important story or photo. Advance approval of a managing editor is required.

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02/15/19 09:37am SS

TAPING PHONE CONVERSATIONS: In most cases, inform a source before taping a telephone

conversation. To make an exception -- for example, if informing the source might compromise a story of compelling public importance -- seek permission from your supervisor. When you call some states, laws there require that both parties consent to recording a telephone conversation. Although it is legal to record a telephone interview without one party's knowledge when calling inside Missouri and Kansas, if asked you must say you are taping the conversation.

FABRICATING NEWS: Deceiving readers by fabricating events or interviews is prohibited. Fabrications must be clearly obvious to the reader, as when a writer recounts his "visit to Hell." Care must be taken in re-creating events so that it is clear to the reader that the event was not witnessed firsthand.

REVIEWERS: Arts and entertainment critics must stay until the end of a performance or disclose to readers they left early because of deadline.

PHOTOGRAPHS: Photojournalists should not set up, re-create, direct or otherwise intrude on the reality of an event. Direction is allowed for situations such as portraits, fashion, studio work and photo illustration and should be obvious to the viewer. A photo illustration or digitally altered image should be labeled. Cropping and sizing to enhance clarity, impact or composition are permitted. COBs (photos with backgrounds cut out) are allowed as long as they do not deceive the viewer about the essential nature of the original photograph.

CONFIDENTIALITY/ANONYMITY

Credibility is The Star's greatest asset. For that reason alone, editorial employees must make every effort to fully identify the news source in a story or behind one. There also are strong legal reasons to do so. When you grant someone confidentiality, you are putting your word and The Star's reputation on the line. You also are entering into what later may be judged a legal contract, a contract the newspaper will be expected to uphold. Finally, you run the risk of making the story less credible in the eyes of the reader. For those reasons, The Star expects all editorial employees to follow these guidelines:

Generally, confidentiality only should be granted to protect someone who is relatively powerless or who might be harmed should his or her identity be revealed. In addition, the story should be of overriding public importance. In all cases, the reason for granting anonymity should be made clear in the story. Before promising confidentiality, try to obtain the same information from sources willing to be quoted. Also, make it clear to the source that you will pursue other avenues of verifying the information. Don't let sources use the cloak of anonymity to attack other individuals or organizations. As a rule, The Star does not print accusations by unidentified individuals. Whenever possible, you must seek the consent of your supervisor before promising confidentiality. In all cases, you will be expected to share the identity of your source with at least the Editor, and generally your supervising editors, before information from that source is printed in The Star. Any anonymous quote appearing in The Star or use of a pseudonym must be approved by a managing editor. Before agreeing to a condition of anonymity, iron out the terms of the contract with the source. For example, are you willing to keep your promise if the source is lying? What if the source later goes public with the information, or testifies in court? Is the source willing to come forward should you or the newspaper be subpoenaed? Are you willing to go to jail? Could protecting the source endanger the life of a third party? Make sure sources understand the ground rules for on-the-record, off-the-record, not for attribution and so forth.

DEFINITIONS:

On the Record -- All information and the name of the source are fair game. Most interviews are on the record. Off the record -- Information that generally cannot be published. However, if the reporter can confirm the information from another source who talks on the record, then it can be published. Sources often get this confused with Not for Attribution. Not for Attribution -- Information given to a reporter that can be published, but the identity of the source cannot be used. Background -- A difficult area. Generally background information is intended to educate and guide the reporter in crafting the story, but the gist of the information can be used if the source is not identified. The reporter is free to make it clear that he or she isn't the original source but must be careful to guard the exact source. Deep Background -- Rarely used. The information is strictly off the record and not to be used immediately. If later a story develops, then the outline of the information can be used, but never attributed. Generally it appears that the reporter is the original source.

PRE-PUBLICATION REVIEW

Avoid any agreement implying a subject may clear a story or photograph for publication. If someone wants a story read back before publication, politely refuse. Also do not agree to such a request as condition for an interview. However, if your story deals with complex, technical information of which you are not sure, feel free to call the person to make certain the information was correctly understood, even if that means reading passages back. It is permissible, particularly in sensitive stories, to read back to a source the quotes you plan to use from that source in your story. Similarly, it is permissible to show portions of a graphic to a source to help ensure accuracy. Avoid disclosing to people outside The Star when stories of a sensitive or financial nature will run.

BUYING NEWS

We do not offer money, favors or anything of value for news.

PLAGIARISM

Do not borrow the work of others. Plagiarism includes the wholesale lifting of someone else's writing, research or original concepts without attribution. This prohibition refers to graphics as well as stories. Editors and reporters should not disguise the presence of wire material in stories. Staff-written stories that use feeds from the wires should make that clear, either with a tagline or with direct attribution. The byline of a reporter who does no original reporting but mainly culls wire stories should include a phrase such as "compiled from wire reports." A wire tagline can be used, however, if the writer does significant reporting or provides a local perspective. Quotes or other material taken from a Web site should be attributed to the site, just as they would be if taken from a book or another newspaper.

CONTESTS Staff members may not enter articles, photographs or graphics published in The Star in contests that are not sponsored by professional journalistic organizations. An exception would be a contest of journalistic excellence sponsored by a foundation, university or organization deemed by the managing editor or Editorial Page editor to be free of commercial, partisan or self-serving interests. No awards of significant value may be accepted from any organizations other than those just described. In cases where a staff member's work was submitted by some person or group outside The

Star, the employee should check with a supervisor to make sure the award can be accepted. No staffer may use The Star's name to enter any contest without the approval of the managing editor or Editorial Page editor.

TRAVEL

As a general rule, no editorial employee may accept free transportation or the payment of travel expenses. Those will be borne by the company. If the event is newsworthy, the newspaper should pay its own way. Any exception requires the approval of a managing editor or Editorial Page editor: Staffers should not use their Star connections or credentials to solicit trips or special press rates or press fares from airlines or other transport from travel organizations, hotels, agencies or government. Corporate discounts available to staff members, as company employees, are acceptable. If a reduced-fare trip or special travel arrangement is the only way to complete an assignment, as with military transport, staff members are to use common sense and discretion. The editor must be informed of the circumstance as soon as possible and will determine whether a conflict of interest exists. If so, it should be reported in the paper. In the case of a political campaign, The Star should pay the equivalent airfare (most political campaigns charge first-class rates) for reporters to ride a charter plane. Sports reporters should make their own travel arrangements whenever possible. However, if the staff member and the sports editor determine it necessary to travel on a team charter, The Star will pay the team for the cost of transportation. Because of the news value derived from staying in the same hotel as a political candidate or sports team, it is permissible for reporters of the paper to accept the negotiated group rate for such a room.

GIFTS, HOSPITALITY

Employees should never accept cash, gifts or gratuities such as food, flowers, alcoholic beverages and so forth from an individual or organization with which a staff member has or might someday have professional dealings. When returning an unsolicited gift is not practical (if it is perishable, for example) or when returning an insignificant gift would be awkward, it should be given to the recipient's supervisor for donation to charity. When the value of a gift exceeds \$50, the reporter or supervisor should send a letter to the giver explaining the newspaper's policy and the disposition of the gift.

MEALS AND REFRESHMENTS: For a soft drink, coffee, etc., of nominal value, staffers should use their best judgment. No staffer can be bought for a soft drink. However, it's a good practice to pass up meals at events you're covering (such as school board meetings) or, if refusing the meal is impractical or exceedingly impolite, make arrangements to pay for the meal later. On source lunches, insist on picking up the tab at the next meeting. In short, don't let yourself be wined and dined. Pay your own way.

BOOKS, CDs, SOFTWARE AND TAPES: A reviewer may keep items sent to The Star if a review is written but they remain the property of the newspaper. No items may be sold by a staff member. Materials not reviewed should be donated to charity but in rare situations items may be kept in the library or by the department for reference with approval of a supervisor. To avoid the appearance of impropriety, no employee should accept materials at home. Freelance writers should follow these guidelines.

PRESS EVENTS: As a rule, press hospitality events are better politely declined. (A hospitality event would be, for instance, a suite with open bar at a political convention sponsored by a liquor company.) However, if the event is likely to yield beneficial contacts or important background information, and not attending would put The Star at a disadvantage in gathering and reporting legitimate news, the staff member should estimate the value of the hospitality and offer to reimburse the host. If the host declines, staff members should send a like amount (at company expense) to a charity suggested by the host. If a staffer accepts food at an event site in a press room or along a press row, he or she should maintain a running voucher (including the reason for the meal) and turn it in to the department head. The department head will assure the team or institution is reimbursed by the company.

FREE TICKETS: In no case will The Star or its employees accept free admittance to an event for the purpose of entertainment, unless The Star provides the tickets. Admittance of working news people to designated press facilities is permissible. When editorial staffers need admittance to an event that does not issue press credentials, a ticket should be purchased. In sports coverage, standing press credentials will be issued only to regular beat writers, the regular sports columnists, and the sports editor and assistant sports editors. Other transferable press credentials will be available for issuance per event by the department head. This will enable staff members, who deem it beneficial to the performance of their jobs, to attend various local sporting events on occasion with the approval of their supervisor. Persistent use of this privilege is discouraged.

FREELANCE WORK

Editorial employees at The Star have long supplemented their income through freelancing. This policy doesn't seek to curtail that activity. It's important, however, for staffers to understand that there are specific rules to freelancing arrangements. First and foremost: get prior written approval from your department head.

Also keep in mind these things:

Work only for non-competing publications or on-line services. Both circulation and advertising base will be used to determine whether the medium is competitive. In general, no employee may freelance for an online service deemed by the company to be in competition with our own services. Because of the accessibility from all over the country, the circle of competition is much larger. Ultimately, the Editor or managing editors will decide. Avoid conflicts of interest: No public relations or publicity work is permitted without permission of a managing editor. (See also Moonlighting section.) In addition, editorial employees may not write for sports teams covered by the paper. Staffers should not shop an idea to other publications or online services without offering it first to The Star. In other words, don't scoop yourself or your employer. Employees may not work on freelance assignments during regular working hours. The Star expects high professional standards from its employees when they perform freelance work. To avoid embarrassment, only reputable publications will be approved for freelance assignments. And while completing those assignments, staffers are still expected to adhere to the code of ethics. No gifts, free travel and so forth without a supervisor's permission. Editors should share the ethics policy with regular freelance writers and photographers and expect them to abide by it.

MOONLIGHTING

Because of the risk of real or perceived conflict of interest, staffers may not work in fund raising, publicity or public relations, whether paid or unpaid, even if the work is done for a charity or non-profit organization. Neither should they accept appointment to boards and commissions having to do with public policy. Staff members should not serve as official scorers or contest judges or have other official involvement in an event the newspaper is covering, excluding journalism contests. Acting as a celebrity judge for minor contests (such as a charity cook-off, for example) might be acceptable. If in doubt, check with your supervisor. In general, a staffer's title or assignment at The Star should not be exploited in a second job. Staff members holding or contemplating a moonlighting assignment must alert their department head in writing, and get prior written approval before accepting assignments.

HONORARIA, PUBLIC APPEARANCES

Staff members are encouraged to make public appearances for the purpose of improving public understanding of The Star's role, and to make the newspaper a more visible part of the community. No staff member, however, should feel obligated to accept speaking engagements. In keeping with the paper's guidelines on avoiding even the appearance of a conflict of interest, staff members who accept speaking engagements or appear on panels or television or radio shows are asked to adhere to these guidelines:

Editorial employees need a supervisor's approval before accepting any request for speeches or other public appearances before any organization offered because of a staffer's affiliation with The Star. Any such appearance that could be perceived by a reasonable person as a conflict of interest must be avoided. The nature of the organization must also be considered. Honoraria may be accepted only with the specific approval of a managing editor. Without that approval no editorial employee may accept an honorarium or any other thing of value, other than a meal of nominal value (less than \$25) in return for a speech or other appearance offered because of his/her affiliation with The Star. The company will reimburse for travel and any other legitimate related expenses as long as the supervisor approves. There are conceivable exceptions to this guideline, including appearances before legitimate journalistic organizations, reporting or writing workshops, or education events such as commencement speeches. However, acceptance of honoraria under these circumstances will prohibit the staffer from future coverage of the organization or group. In no case, however, should staff members accept or request honoraria from primary or secondary schools (public or private), church groups, senior citizen groups or other organizations of a distinctly religious or social service character.

ONLINE/NEW INITIATIVES

Online: All news content that appears on The Star's editorial Web site must follow these ethical guidelines.

Publishing: These guidelines also apply to newsroom employees involved with projects for The Star's book publishing division. For example, while reporter/authors may discuss their books in speeches, at book signings and other public events, they should not be drafted to actively market the book. Such marketing activities would include, but not be limited to, canvassing bookstores to ask them to carry the book or delivering promotional materials or books to retailers. In addition, newspaper promotion efforts for such books should make use of house ads, not news stories. However, nothing in this code should prevent reporter/authors from letting readers know how to obtain their book. For

example, newsroom employees may supply book order forms at speeches and other public appearances.

PUBLIC EVENTS

Editorial staffers may participate in outside events run or co-sponsored by newsroom divisions such as Business or FYI as long as those events meet ethics code criteria. Because these events often involve commercial partners, newsroom participation must be structured similarly to the newspaper it self which recognizes a clear line between advertising (and other forms of revenue generation) and the independent editorial roles of news gatherer and information provider. Consider such an event a "living newspaper." with all of its ethical implications. Kinds of events:

Generally staff members can participate in these kinds of company-sponsored public events:

Not-for-profit or charitable events that involve no commercial sponsors provided the staffer does not routinely cover the charity involved. Not-for-profit or charitable events that include commercial sponsors, but the purpose of the commercial sponsorship is to offset the event's expenses or to help a charity. Again, staffers who routinely cover the sponsor or any charity involved should not participate. For-profit events that involve commercial sponsors, but the primary content of these events is organized controlled and presented by members of the editorial department as an extension of the newsroom mission to be objective providers of information. (Example: The MoneyWise Personal Finance Fair.) Sponsors can provide their own content at an event, but it must be proportionally smaller than that provided by members of the editorial department and clearly identified as advertising-sponsored information.

The newsroom should have no role in soliciting commercial sponsors. Staff members organizing such events should make clear to readers and attendees - in programs signage and promotional materials -- that there is a separation between the editorial content of the event and any information provided by a commercial sponsor. Staff members are allowed to work as ticket-takers or in other event-related jobs as long as the newsroom controls the event. Staff members should not do such jobs at non-newsroom sponsored events. Staff members should not participate in for-profit events that involve commercial sponsors in which the sponsors control the primary content of the presentation. However if there is an exhibition floor, the newsroom can participate in a Kansas City Star booth or other appropriately segmented area.

Coverage of events:

Staffers should use sound reasonable news judgment in assessing how much coverage The Star should give a company-produced event. News stories about events sponsored by The Star also must reflect the newspaper's involvement if The Star is considered a lead or main sponsor (eg., the Conversations lecture series or the Race for the Cure). If the newspaper is among dozens of sponsors, such as the Shakespeare Festival, stories need not reflect The Star's role. Newsroom organizers of public events must submit a coverage plan to their managing editor for approval. Such a proposal should detail anticipated advance and spot coverage. Event organizers should use house advertisements or advertising special sections rather than news space to provide extensive details about an event.

EXHIBIT E

From: Steve Rose
To: "Nelson, Colleen"; "Donovan, Derek"
Cc: "Stephen Rose"
Subject: 1/25 COLUMN
Date: Wednesday, January 23, 2019 2:36:59 PM

One powerful conservative Republican leader in the Kansas Senate, who has fought the expansion of Medicaid, finally confessed to me his reasons for rejecting it. His reasons, which I will get to in a moment, are pathetic.

Kansas has walked away, so far, from \$3 billion in Federal funds that would have flowed to the state had it expanded Medicaid --known in Kansas as KanCare -- when it was first offered as a part of the Affordable Care Act, otherwise known as Obamacare, forged by former Pres. Barack Obama. What's worse than this fiscal travesty is the human tragedy of 150,000 low-income Kansans who suffer from having no health insurance coverage, as well as the rural hospitals that are starved for Medicaid payments from its patients who are too poor to pay for services, particularly emergency rooms where they go as a last resort without insurance.

Two years ago, when the Kansas Legislature was more moderate than it is today, and at a time when many legislators knew former Kansas Gov. Sam Brownback would veto the legislation, there were enough votes mustered to pass extended Medicaid, only to be killed by Brownback. Today's Legislature is more conservative, and it is widely known that newly elected Kansas Gov. Laura Kelly has pegged Medicaid expansion among her highest priorities. It will be a tough fight.

Along with only 13 other states, Kansas stubbornly clings to this idiocy. That contrasts with the many Republican-controlled states which have signed up, some only recently. The vast majority of states in America have set aside their objections and embraced this part of Obamacare. Gradually, states that had fought it and then finally embraced it now admit they were foolish not to have expanded Medicaid much earlier, since the vast bulk of expenses are paid for by the Federal government. Before their ultimate enlightenment, Republican-controlled states, in particular, had walked away from billions in Federal funds seemingly just to prove some kind political point.

I believe the deep, underlying reason why Medicaid expansion was stalled in so many Republican states and has not made it to Kansas and the others is to score petty political points against Obama. .

My Kansas State Senate friend never brought up Obama as the reason for his resistance. Instead, he recited a plethora of ill-conceived notions, each of which may have a kernel of truth, but fails the overall logic test. Some of his reasons are just plain ugly, spoken in candor, knowing that his name would never be attached to what he said.

The senator started out by declaring that America does not need another entitlement program, and that we never should have passed Medicaid in the first place. It has become a financial albatross on the country, which subsidizes the program to the states.

He said it is widely known by physicians that Medicaid patients often do not show up for their appointments, thus robbing other patients those hard-to-get time slots. The senator said he resents able-bodied Kansans, regardless of their income, who abuse the system by accepting free medical care, when they refuse to work. (The fact is, the overwhelming number of potential recipients who would be eligible for Medicaid are either disabled or working.)

Some day in the future, the senator warned, the Feds would stop or drastically reduce Medicaid funding, and the states would be stuck with a program they cannot get rid of. He also claimed, even today, Kansas cannot afford the \$14 million per year it would need to spend as its share of the overall costs of Medicaid expansion to the 150,000 recipients.

I told you they were lame excuses, and they are. Low-income Kansans need health coverage the same, or more, than those better off. The states are responsible for only a fraction of the

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cost, an offer that cannot logically be refused.

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EXHIBIT F

From: Steve Rose
To: Nelson, Colleen
Subject: RE: 1/19 COLUMN
Date: Friday, January 25, 2019 2:25:53 PM

He said it all, so, yes.

From: Nelson, Colleen [<mailto:cnelson@kcstar.com>]
Sent: Friday, January 25, 2019 2:24 PM
To: Steve Rose <srose@metromediapublishers.com>
Subject: Re: 1/19 COLUMN

So, I can attribute all of this to Denning? Add his name throughout?

[Redacted]

Colleen McCain Nelson
McClatchy Opinion Editor
Vice president/ editorial page editor of The Kansas City Star
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On Fri, Jan 25, 2019 at 2:23 PM Steve Rose <srose@metromediapublishers.com> wrote:

Ok, it's State Sen. Jim Denning of Overland Park.

From: Nelson, Colleen [<mailto:cnelson@kcstar.com>]
Sent: Friday, January 25, 2019 2:17 PM
To: Steve Rose <srose@metromediapublishers.com>
Cc: Stephen Rose <srose@srose.me>
Subject: Re: 1/19 COLUMN

Hi Steve --

Editing your column now. We need to quote this senator on the record.

He's not revealing any sensitive information or doing anything beyond making pretty familiar arguments against Medicaid. There's no way I can justify letting him be anonymous.

Clerk of the District Court, Johnson County
02/15/19 09:57am SS



Colleen McCain Nelson

McClatchy Opinion Editor

Vice president/ editorial page editor of The Kansas City Star

[@ColleenMNelson](#)

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[816-234-4886](tel:816-234-4886)

[214-957-0632](tel:214-957-0632)

On Mon, Jan 14, 2019 at 4:49 AM Steve Rose <srose@metromediapublishers.com> wrote:

Before I make a brazen two-years early call naming the next U.S. senator from Kansas, to succeed Pat Roberts, who has announced his retirement when his term expires in 2020, I need to bolster my credibility with my past political predictions. Of course, I only tend to remember those I got right.

I predicted back in 2010 before Kevin Yoder was barely known, that he would emerge as the Republican contender for U.S. congress in the Kansas 3rd district and would become the next congressman. He did announce his candidacy and beat eight Republican contenders in the primary and was elected in November to congress.

In 2014, when it was widely believed that unpopular Kansas Gov. Sam Brownback would lose his re-election bid for governor to Democrat Paul Davis, and that independent Greg Orman would beat Pat Roberts for U.S. senate, I correctly predicted Brownback would narrowly win and that Roberts would win surprisingly easily. That is precisely what happened.

I wrote very early that Kris Kobach would be the Republican nominee for Kansas governor in 2018 and predicted in April of 2018, he would beat Kansas Gov. Jeff Colyer in the August primary. In that same column, I wrote that Laura Kelly – not exactly a household name -- would become the Democratic nominee for Kansas governor, and that she would prevail over Kobach, to become the next Kansas governor.

Although I did not predict that Sharice Davids would be the Democratic nominee for congress in the Kansas 3rd district, once she had won the nomination, I described in detail why I thought Republican Yoder should be defeated with the help of anti-Donald Trump fellow Republicans, switching to Davids, which did happen.

Now, in January 2019, well before the list of Republican and Democratic candidates for U.S. senate in 2020 is even known, and nearly two years before the general election, I am willing to go way out on a limb and predict with virtual certainty that Republican State Sen. Susan Wagle from Wichita, who has all but announced her candidacy, will succeed Roberts to become the next Kansas U.S. senator. That doesn't please me/ I have often

*Clerk of the District Court, Johnson County Kansas
02/15/19 09:37am SS*

disagreed with her hardline conservative positions. But victory is hers to lose. Wagle meets every criterion to win. First, of course, Wagle is a Republican. While Kansas regularly elects Democrats to become governor, the state since 1861 has elected only three Democrats to the U.S. senate. Since the last Democratic senator was beaten in 1939, there have been no further Democrats elected to that position. That is the longest such streak for either party in the nation. That makes this part of my prediction easy. Wagle is already a proven leader. As president of the Kansas senate since 2013 and a member of the state Legislature since 1990, the 65-year-old political veteran has amassed a sizable following and would start with a large base of support. Wagle is a female. If you don't think gender plays a huge role in today's politics, you have been sound asleep. She probably will be the only female Republican candidate. If there are any others, they could not possibly be nearly as prominent. In what is definitely going to be a large lineup of Republican hopefuls, harkening from Wichita in the second most populous county in Kansas – Sedgwick County -- is a clear advantage in a crowded Republican primary with candidates from scattered rural communities. Wagle could clearly pass the ideology test as a bona-fide, hardcore conservative in an era when conservatives dominate the U.S. senate. If Wagle's voting record in the Kansas senate is any guide, she would vote similarly to Pat Roberts in the U.S. senate. Roberts votes with President Donald Trump 96.4 percent of the time. In Kansas, the Trump agenda on national issues is golden even while Kansans elected a Democratic governor to lead on state issues. This is a key reason why, unfortunately, Susan Wagle – combining all her enumerated assets -- would make her a perfect fit for the job.

EXHIBIT G

From: Nelson, Colleen
To: Stephen Rose; Steve Rose
Subject: edited column
Date: Friday, January 25, 2019 3:05:32 PM

One powerful conservative Republican leader in the Kansas Senate, who has fought the expansion of Medicaid, finally confessed to me his reasons for rejecting it. His reasons, which I will get to in a moment, are pathetic.

Kansas has so far walked away from \$3 billion in federal funds that would have flowed to the state had it expanded Medicaid — known in Kansas as KanCare — when it was first offered as a part of the Affordable Care Act forged by former President Barack Obama. What's worse than this fiscal travesty is the human tragedy of 150,000 low-income Kansans who suffer from having no health insurance coverage, as well as the plight of rural hospitals that are starved for Medicaid payments from its patients who are too poor to pay for services.

Two years ago, when the Kansas Legislature was more moderate than it is today, and at a time when many legislators knew former Gov. Sam Brownback would veto the legislation, enough votes were mustered to pass extended Medicaid — only for Brownback to kill it. Today's Legislature is more conservative, and it is widely known that newly-elected Gov. Laura Kelly has pegged Medicaid expansion among her highest priorities. It will be a tough fight.

Along with only 13 other states, Kansas stubbornly clings to this idiocy. That contrasts with the many Republican-controlled states that have signed up, some only recently. The vast majority of other states have set aside their objections and embraced this part of Obamacare.

States that had fought it and then finally embraced it eventually admitted that they were foolish not to have expanded Medicaid much earlier, since the vast bulk of expenses are paid for by the federal government. Before their ultimate enlightenment, Republican-controlled states in particular had walked away from billions in federal funds seemingly just to prove some kind of political point.

I believe the underlying reason why Medicaid expansion was stalled in so many Republican states and why it still has not made it to Kansas and the others is rooted in scoring petty political points against Obama.

Jim Denning, the Kansas Senate majority leader, never brought up Obama as a reason for his resistance. Instead, he recited a plethora of ill-conceived notions, which may have a kernel of truth, but which ultimately fail the overall logic test.

Some of his reasons are just plain ugly.



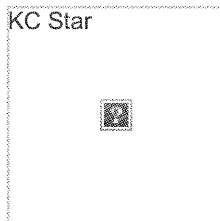
Denning, a Republican from Overland Park, started out by declaring that America does not need another entitlement program, and that we never should have passed Medicaid in the first place. It has become a financial albatross on the country, which subsidizes the program to the states.

He said it is widely known by physicians that Medicaid patients often do not show up for their appointments, thus robbing other patients of those hard-to-get time slots. The senator said he resents able-bodied Kansans, regardless of their income, who abuse the system by accepting free medical care when they refuse to work. (The fact is, the overwhelming number of potential recipients who would be eligible for Medicaid are either disabled or working.)

Some day in the future, Denning warned, the feds could stop or drastically reduce Medicaid funding, and the states would be stuck with a program they cannot get rid of. He also claimed, even today, that Kansas cannot afford the \$14 million per year it would need to spend as its share of the overall costs of Medicaid expansion to the 150,000 recipients.

I told you they were lame excuses, and they are. Low-income Kansans need health coverage just as much or more than those who are better off.

The states are responsible for only a fraction of the cost of Medicaid expansion — an offer that cannot logically be refused.



Colleen McCain Nelson

McClatchy Opinion Editor

Vice president/ editorial page editor of The Kansas City Star

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□ 214-957-0632

EXHIBIT H

From: Steve Rose
To: "Nelson, Colleen"
Subject: RE: Denning
Date: Saturday, January 26, 2019 3:49:48 PM

I see the gravity of all of this. Let's cancel my column.
-30-

From: Nelson, Colleen [mailto:cnelson@kcstar.com]
Sent: Saturday, January 26, 2019 3:45 PM
To: Steve Rose <srose@srose.me>
Cc: Donovan, Derek <ddonovan@kcstar.com>
Subject: Re: Denning

I have no idea whether you and Denning are on speaking terms all these months after that column. You and I haven't discussed the current state of your relationship with Denning.

But that's beside the point. Regardless of when you last spoke, the basic rules of journalism apply here. If he thought he was having a casual conversation with you that was not going to end up with him quoted in your column, we can't unilaterally decide to put this on the record. Not to mention the fact that this conversation happened long ago. Perhaps he's had a change of heart. Perhaps he views things a little differently. We don't actually know what he thinks today.

The column was misleading at best and gave readers (and me) the impression that Denning said this recently. The lede even says that he "finally confessed" this, certainly suggesting that this happened in the not-too-distant past.



Colleen McCain Nelson
McClatchy Opinion Editor
Vice president/ editorial page editor of The Kansas City Star
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 214-957-0632

On Sat, Jan 26, 2019 at 3:34 PM Steve Rose <srose@srose.me> wrote:

Clerk of the District Court, Johnson County Kansas
02/15/19 09:37am SS



Hi Colleen,

I am truly sorry for a massive misunderstanding.

If I had thought you expected Denning to take my call and give me permission to run a column about him, I absolutely would have killed the column, because there was not even a remote chance he would have responded to me, directly or indirectly, except perhaps to tell me what I could do with myself. When you made known we needed to use his name, I responded to you immediately – I think within a minute or two – that if that was required to go ahead and use his name. I do recall that in-depth conversation with Denning.. I was particularly flabbergasted when he told me that he thought Medicaid patients do not turn up for appointments, which was a big reason he was against expansion. That is probably the only controversial thing I wrote. As you said, the other talking points were pretty classic.

From: Nelson, Colleen [mailto:cnelson@kcstar.com]

Sent: Saturday, January 26, 2019 3:19 PM

To: Steve Rose <srose@srose.me>

Cc: Donovan, Derek <ddonovan@kcstar.com>

Subject: Re: Denning

Hi Steve --

I'm troubled by a lot of what you're telling me right now. I had no idea that you were quoting a from a conversation that happened almost a year ago. That seems iffy at best, but if you wanted to resurface that conversation, you certainly needed to let Denning know that you planned to do so.

You originally wrote in the column that he had spoken candidly because he did not expect to have his name attached these comments. When I told you we needed this to be on the record, my expectation was that you were clearing this with Denning.

If that's not what happened, we have a problem.

Colleen McCain Nelson

McClatchy Opinion Editor

Vice president/ editorial page editor of The Kansas City Star

[@ColleenMNelson](#)

1601 McGee Street, Kansas City, MO 64108

<http://kansascity.com/>

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*Clerk of the District Court, Johnson County Kansas
02/15/19 09:37am SS*

| ☐ 214-957-0632

On Sat, Jan 26, 2019 at 3:10 PM Steve Rose <srose@srose.me> wrote:

Colleen, Derek,

I have been on the phone today (Sat) with one of Denning's staff. As you might guess, since my 4/13/18 column, Denning has not spoken to me and has let the world know he despises me.

<https://www.kansascity.com/opinion/opn-columns-blogs/steve-rose/article208876434.html>

The staffer wanted to know the exact date that we talked and demanded my notes. I told him we met at Houlihan's in Fairway for about an hour, discussing his objections to Medicaid expansion. I said that conversation occurred not long before I ran the 4/13/18 column. Denning claims it was years ago, which it was not. I would not know the exact date, because Denning and I met regularly before the falling-out. Very regularly. He also wanted to know where I got the \$14 million figure. That's a fair question, since it appears as if that is Denning's estimate. Actually, I thought it would be best to give the most recent update on estimated costs to Kansas for Medicaid expansion. Thus, I used the figure from the governor's budget from about a week ago.

KanCare Expansion: The Kelly budget includes \$14 million to expand critical health care coverage to 150,000 low-income Kansans. This will not only improve the health and vitality of the state, it will help keep Kansas hospitals open and strengthen our economy as a whole. One study by George Washington University found that expanding KanCare would create 3,500 – 4,000 new jobs over five years. Kelly will convene stakeholders to collect input and introduce legislation to accompany this budget priority by the end of January.

They are objecting, because that is not Denning's estimate.

I have asked what Denning's estimate is, so we can get that clarified. So far, they have refused.

If I can be of help in any other way, please let me know. I certainly will let you know if I hear more.

Thanks,
Steve

I

EXHIBIT I

From: Nelson, Colleen <cnelson@kcstar.com>
Sent: Monday, January 28, 2019 1:53 PM
To: patterson.ethan@gmail.com
Subject: Steve Rose column

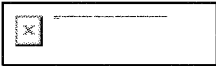
Hi Ethan --

I'm the editorial page editor at The Kansas City Star. I was hoping we might be able to chat about Steve Rose's most recent column. It did not meet our standards for publication, and I want to assure you, this won't happen again.

I would be glad to connect whenever you're available.

Best,

Colleen




Colleen McCain Nelson

McClatchy Opinion Editor
Vice president/ editorial page editor of The Kansas City Star
@ColleenMNelson

1601 McGee Street, Kansas City, MO 64108

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
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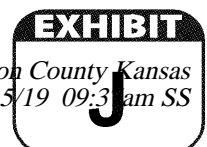
EXHIBIT J

From: Lisa Rinehart Hoffman
To: [Mike Kuckelman](mailto:Mike.Kuckelman)
Bcc: cnelson@kcstar.com
Subject: Breaking: KS Sen. Majority Leader Files Lawsuit Against KC Star, Columnist Steve Rose; Accuses of Attempted Cover-Up
Date: Monday, January 28, 2019 3:30:21 PM
Attachments: [Comment from Sen Denning on KC Star - Steve Rose Lawsuit.pdf](#)
[Denning v. Rose Petition.PDF](#)
[Denning - Exhibit A.pdf](#)
[Denning - Exhibit B.pdf](#)
[Denning - Exhibit C.pdf](#)

Please see attached for statement from Kansas Senate Majority Leader, Senator Jim Denning, related to a lawsuit filed this afternoon against the Kansas City Star and Kansas political columnist Steve Rose. Additional details in attached lawsuit. We are still waiting on stamped copy of lawsuit from Johnson County, which should be in hand within the hour.

Lisa Hoffman
816-686-3000

Clerk of the District Court, Johnson County Kansas
02/15/19 09:3 am SS



State of Kansas



Jim Denning
Senate Majority Leader

**COMMENT FROM SEN. DENNING REGARDING LAWSUIT FILED THIS AFTERNOON
AGAINST KANSAS CITY STAR AND COLUMNIST STEVE ROSE**

On Saturday, January 26, 2019, Kansas City Star columnist Steve Rose offered to resign from The Kansas City Star effective immediately if I agreed to drop my staff's investigation into a column written by Rose and published by The Kansas City Star that falsely attributed statements to me. Steve Rose did not interview me for the article. Faced with a deadline and a Kansas City Star editor demanding a name for the attack piece, Rose falsely attributed his conjured-up comments to me.

The Star published a column by Steve Rose Saturday, stating I had "confessed" to having particular opinions about people who use Medicaid. They never interviewed me, nor did they pull these statements from a public speech or comments I made online. Steve Rose made these "facts" up, The Star printed them, and now they have gone viral.

I haven't spoken to Steve Rose since 2016. It's inconceivable to me how The Star could pass this column off as anything but a lie. It's shocking. It's disappointing. And it's damaging.

Again, I haven't spoken with Steve Rose in 2 1/2 years. When my Chief of Staff contacted Steve Rose about the outrageous statements he made in Saturday's column, Rose tried to cover it up from the public. He offered via email to resign his position at The Star immediately if I would "let it drop." That's an easy solution for Mr. Rose's predicament; what about the damage caused by that column and its imaginary "facts" that are now circulating on the internet?

Even if The Star retracts the column, as it should immediately, the damage is done. That's why I filed a lawsuit this afternoon in Johnson County District court. This sloppy treatment of the truth by journalists has to end. The public needs to rely on reporting based on truth.

To be clear, this lawsuit doesn't stem from a columnist being critical of my political views or The Star's Editorial Board disagreeing with my votes in the Kansas Senate; this is about a newspaper making up lies and selling those lies to the public as fact.

(Note to reporters: Sen. Denning is unavailable for interviews today on this matter; however his attorney, Michael Kuckelman, can be reached via phone at 913-948-8610 or via email at mkuckelman@ktk-law.com. You can also contact Lisa Hoffman at 816-686-3000 or LisaHoffmanKC@gmail.com.)

*Clerk of the District Court, Johnson County Kansas
02/15/19 09:37am SS*

EXHIBIT K

Kansas lawmaker sues The Star, contributing columnist Steve Rose for defamation

BY JONATHAN SHORMAN

JANUARY 29, 2019 03:34 PM, UPDATED JANUARY 29, 2019 03:46 PM



Kansas Senate Majority Leader Jim Denning, right, R-Overland Park, at budget briefing in January. (AP Photo/John Hanna) JOHN HANNA AP

TOPEKA - Kansas Senate Republican Leader Jim Denning is suing The Kansas City Star and contributing columnist Steve Rose, alleging Rose falsely attributed statements to him about his views on Medicaid expansion.

Denning, of Overland Park, also released emails showing that Rose offered to resign as columnist if Denning's office dropped its inquiry into comments that Rose attributed to Denning.

"The Kansas City Star has been made aware of a lawsuit filed in response to a column written by Steve Rose and published on Jan. 26," said Colleen McCain Nelson, editorial page editor and vice president of The Star. "The column has been removed from kansascity.com while The Star investigates. Mr. Rose was a guest columnist and was not an employee of The Kansas City Star."

Denning filed the lawsuit on Monday in Johnson County District Court. In his complaint, he alleges one count of defamation, saying that Rose and The Star knew the comments attributed to him were false and that he has been exposed to public hatred, contempt and ridicule. Attached to the suit as an exhibit is a profanity-laced email sent to Denning.

He is seeking in excess of \$75,000 in damages.

Rose maintains that Denning said everything that appeared in the column.

Clerk of the District Court, Johnson County Kansas
02/15/19 09:37 AM SS



In a column published last weekend, Rose wrote that “One powerful conservative Republican leader in the Kansas Senate, who has fought the expansion of Medicaid, finally confessed to me his reasons for rejecting it.” Later, Rose wrote, “he also claimed, even today, that Kansas cannot afford the \$14 million per year it would need to spend.”

The thrust of the column is that Denning offered “lame excuses” for not expanding Medicaid in Kansas. Medicaid expansion is expected to be a major issue of the 2019 legislative session. Gov. Laura Kelly is a staunch proponent.

In the column, Rose writes that Denning said Medicaid should never have been passed in the first place and that Medicaid patients often do not show up for their appointments. Rose wrote that Denning said he resents able-bodied Kansans who abuse the system by accepting free medical care when they refuse to work.

In a statement Monday, Denning said that he hasn’t spoken to Rose in two-and-a-half years and that Rose did not interview him for the column.

“Even if The Star retracts the column, as it should immediately, the damage is done. That’s why I filed a lawsuit this afternoon in Johnson County District Court. This sloppy treatment of the truth by journalists has to end. The public needs to rely on reporting based on truth,” he said.

Rose said that he did not make up the statements attributed to Denning.

“I’d been writing columns in this community for almost 50 years and I have never been accused of making up facts or making up quotes or making up anything,” Rose said.

Rose said he had not spoken to Denning since the April 13, 2018, publication of a column in which he retracted his previous endorsement of Denning.

Rose said the statements made by Denning came before that column was published.

“We’ve always met and chatted and talked and it’s been that kind of a relationship,” Rose said.

On Monday, Denning released emails that show Ethan Patterson, Denning’s chief of staff, asking Rose to tell him when he talked to Denning about the costs of expanding Medicaid or to supply the source of Denning’s quote.

Rose wrote to Patterson: “I think Jim and you both are right. I would like to make this suggestion. Let it drop, and I will resign my column in The Star, effective today.”

Rose said on Tuesday that he had already resigned on Saturday but thought making the offer to Denning’s office would be the easiest way to handle the situation.

EXHIBIT L

Lawmaker sues Star, contributing columnist Rose for defamation

BY JONATHAN SHORMAN
jshorman@wichitacagle.com

TOPEKA
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exposed to public hatred, contempt and ridicule. Attached to the suit as an exhibit is a profanity-laced email sent to Denning. He is seeking in excess of \$75,000 in damages. Rose maintains that Denning said everything that appeared in the column. In a column published last weekend, Rose wrote that "One powerful conservative Republican leader in the Kansas Senate, who has fought the expansion of Medicaid, finally confessed to me his reasons for rejecting it." Later, Rose wrote, "he also claimed, even today, that Kansas cannot afford the \$14 million per year it would thrust to spend." The thrust of the column is that Denning offered "lame excuses" for expanding Medicaid in Kansas. Medicaid expansion is expected to be a major issue of the 2019 legislative session. Gov. Laura Kelly is a staunch proponent. In the column, Rose writes that Denning said Medicaid should never have been passed in the first place and that Medicaid patients often do not show up for their appointments. Rose wrote that Denning said he resents able-bodied Kansans who abuse the system by accepting free medical care when they refuse to work. In a statement Monday, Denning said that he hasn't spoken to Rose in two-and-a-half years and

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EXHIBIT M

Lawmaker sues Star, contributing columnist Rose for defamation

BY JONATHAN SHORMAN
jshorman@wichitaeagle.com

TOPEKA

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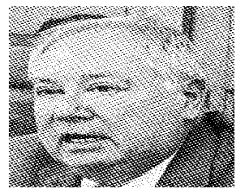
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On Monday, Denning released emails that show Ethan Patterson, Denning's chief of staff, asking Rose to tell him when he talked to Denning about the costs of expanding Medicaid or to supply the source of Denning's quote.

Rose wrote to Patterson: "I think Jim and you both are right. I would like to make this suggestion. Let it drop, and I will resign my column in The Star, effective today."

Rose said on Tuesday that he had already resigned on Saturday but through the court's offer to Denning's office would be the easiest way to handle the situation.



Jim Denning

Filed at the District Court, Johnson County, Kansas
02/15/19 09:27am SS

EXHIBIT 2

**IN THE DISTRICT COURT, JOHNSON COUNTY, KANSAS
CIVIL DEPARTMENT**

JAMES A. DENNING,)	
)	
Plaintiff,)	
)	
v.)	Case No. 19CV00496
)	Ch. 60
CYPRESS MEDIA, LLC, et al.,)	
)	
Defendants.)	

Declaration of Bernard J. Rhodes

I, Bernard J. Rhodes, declare:

1. I am an attorney licensed to practice law in the State of Kansas and a member of the law firm of Lathrop Gage, L.L.P., counsel to Defendant Cypress Media, LLC, dba *The Kansas City Star*, in this matter.
2. On February 4, 2019, I wrote Michael Kuckelman and demanded that he dismiss *The Kansas City Star* from the lawsuit he filed on behalf of Kansas Senate Majority Leader James Denning against *The Kansas City Star* and Steve Rose.
3. A copy of my letter to Mr. Kuckelman is attached as Exhibit A.
4. Mr. Kuckelman never responded to my letter.
5. On February 6, 2019, counsel for Steve Rose, John Aisenbrey, wrote Mr. Kuckelman and demanded that he dismiss Mr. Rose from the lawsuit.
6. A copy of Mr. Aisenbrey's letter is attached as Exhibit B.
7. I understand that Mr. Kuckelman never responded to Mr. Aisenbrey's letter.
8. The Public Speech Protection Act was passed in the Kansas Legislature as Senate Bill No. 319.

9. A copy of the legislative record showing that Sen. Denning voted “Yea” on Senate Bill No. 319 is attached as Exhibit C.

10. In 2017, the Kansas Legislature approved Medicaid expansion in Kansas, but then-Governor Sam Brownback vetoed the bill.

11. In the Kansas Legislature, the bill was House Bill No. 2044.

12. A copy of the legislative record showing that Sen. Denning voted “Nay” on House Bill No. 2044 is attached as Exhibit D.

13. On January 17, 2019, Kansas Governor Laura Kelly introduced her annual state budget.

14. A copy of the announcement of Gov. Kelly’s budget, which includes \$14 million of Medicaid expansion, is attached as Exhibit E.

15. On January 17, 2019, Sen. Denning—along with Sen. Susan Wagle, Sen. Longbine, Sen. McGinn, Sen. Petersen, and Sen. Bowers—issued what they called “Senate Leadership Response to Governor Kelly’s Budget Proposal.”

16. A copy of the response is attached as Exhibit F.

17. Sen. Denning has a Twitter account under the handle @JimDenning4KS.

18. Sen. Denning has sent several tweets concerning his lawsuit against *The Kansas City Star* and Mr. Rose.

19. One of the tweets Sen. Denning sent concerning his lawsuit is attached as Exhibit G.

20. On December 8, 2018, the *Atchison Globe* published an article concerning Mr. Kuckelman’s announcement that he was running for Chair of the Kansas Republican Party.

21. A copy of that article, which is credited to “LISA HOFFMAN, Special to Atchison Globe,” is attached as Exhibit H.

22. Mr. Kuckelman appeared on KCMO Talk Radio on January 30, 2019.

23. During his appearance, Mr. Kuckelman discussed both the lawsuit he filed on behalf of Sen. Denning, and his candidacy for Chair of the Kansas Republican Party.

24. An audio recording of Mr. Kuckelman’s appearance is available online at <https://soundcloud.com/user-53894534/mike-kuckelman>.

25. The election for Chair of the Kansas Republican Party is this weekend, during the 2019 Kansas Republican Party Convention.

26. A Schedule of Events of the 2019 Kansas Republican Party Convention is available online at the Kansas Republican Party’s website, www.kansas.gop/2019convention, and is attached as Exhibit I.

27. On February 21, 2018, the *Atchison Globe* published an article titled “Medicaid bill advances,” which attributes to Sen. Denning the statement that no legislative debate is likely to occur on Medicaid expansion during the current session.


28. A copy of the article is attached as Exhibit J.

29. On February 6, 2019, *The Garden City Telegraph* published an editorial article titled “Legislature must do right by Kansans,” which referred to Sen. Denning and Kansas House Majority Leader Dan Hawkins as “vocal critics of Medicaid expansion.”

30. A copy of the editorial is attached as Exhibit K.

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

Executed on this 14th day of February 2019.



Bernard J. Rhodes

EXHIBIT A



BERNARD J. RHODES
ATTORNEY AT LAW
PARTNER
DIRECT: 816.460.5508

MAIN: 816.292.2000
FAX: 816.292.2001
BRHODES@LATHROPGAGE.COM
LATHROPGAGE.COM

2345 GRAND BOULEVARD, SUITE 2200
KANSAS CITY, MO 64108

February 4, 2019

Via e-mail: mkuckelman@ktk-law.com

Michael J. Kuckelman
Kuckelman Torline Kirkland
10740 Nall Avenue, Suite 250
Overland Park, KS 66211

RE: James A. Denning v. Cypress Media, LLC, and Steve Rose

Dear Mr. Kuckelman:

On behalf of *The Kansas City Star* I demand that you immediately drop *The Star* from the lawsuit you have brought on behalf of Kansas Senator James Denning.

Senator Denning: “Yea.”

On April 29, 2016, Sen. Denning—along with **all** 39 of his colleagues in the Kansas Senate—voted to pass Senate Bill No. 319, which created the Public Speech Protection Act.

“[T]he Act—also known as an ‘anti-SLAPP’ statute—was passed to protect against ‘meritless lawsuits that chill free speech,’ known as SLAPPs, or ‘strategic lawsuits against public participation.’” *Caranchini v. Peck*, No. 18-2249-CM-TJJ, 2018 WL 6173097, at *2 (D. Kan. Nov. 26, 2018).

The Act does this by “provid[ing] a procedural remedy early in the litigation for those parties claiming to be harassed by a SLAPP lawsuit.” *T & T Financial of Kansas City, LLC v. Taylor*, 408 P.3d 491, *4 (Kan. Ct. App. 2017).

The Act reverses the normal course of a lawsuit, in which lengthy and expensive discovery comes before summary judgment, and instead imposes a 30-day deadline for a plaintiff to establish by “substantial competent evidence” that he or she has a “likelihood of prevailing” on its claim—while all discovery is stayed. When a plaintiff fails to produce such evidence, his or her Petition is struck, and the plaintiff must pay the defendant’s attorneys’ fees incurred in filing the special motion to strike.



The Public Speech Protection Act

Specifically, the Act allows a party who has been sued for exercising its right of free speech to file a special motion to strike. K.S.A. § 60-5320(d). As the movant, the defendant bears the initial burden of showing that the lawsuit is based on the exercise of its right of free speech—which the Act defines as, *inter alia*, the making of any public statement relating to a “public official”. K.S.A. § 60-5320(c)(2)(4)&(7)(D).

The burden then shifts to the plaintiff “to establish a likelihood of prevailing on the claim by presenting **substantial competent evidence** to support a prima facie case.” K.S.A. § 60-5320(d) (emphasis added). In determining whether the plaintiff has met his or her burden, the court considers “supporting and opposing affidavits stating the **facts** upon which the liability or defense is based.” *Id.* (emphasis added).

A hearing on the motion must be held within 30 days of the motion being filed. *Id.* During this time, all discovery is stayed, unless the court, for good cause shown, allows specified discovery. K.S.A. § 60-5320(e)(2). If the trial court denies the motion to strike, the defendant can file an interlocutory appeal, during which time further proceedings in the trial court are stayed. K.S.A. § 60-5320(f)(2).

Importantly—and the reason for my sending you this letter—the Act provides that “[t]he Court **shall** award the defending party, upon a determination that the moving party has prevailed on its motion to strike, [its] reasonable attorney fees [and] such additional relief, including sanctions upon the responding party and its attorneys and law firms, as the court determines necessary to deter repetition of the conduct by others similarly situated.” K.S.A. § 60-5320(g) (Emphasis added).

The Act plainly applies to your lawsuit

Your lawsuit is expressly based on *The Star’s* publication of Steve Rose’s column, which relates directly to a “public official,” *i.e.*, Sen. Denning. You even go so far as to begin your lawsuit by stating: “Plaintiff, **Kansas Senator James A. Denning** for his cause of action” (Pet., p. 1) (emphasis added). As such, there is no question the Act applies to your lawsuit.

You must prove actual malice

As a public official, Sen. Denning must prove *The Star* acted with actual malice.

In a libel action, *New York Times Co. v. Sullivan*, the United States Supreme Court ... held that First Amendment guarantees mandated that libel plaintiffs who were “public officials” could not recover absent a showing of actual malice through proof of convincing clarity.

Ruebke v. Globe Commc'ns Corp., 241 Kan. 595, 599, 738 P.2d 1246, 1250 (1987);

see *Davis v. Hildyard*, 34 Kan. App. 2d 22, 29, 113 P.3d 827, 832 (2005) (“If the plaintiff fails to offer clear and convincing evidence of an extrinsic character to prove actual malice on the part of the defendant in the publication of a slander on a qualifiedly privileged occasion, there is no issue of material fact to be determined, and it is the duty of the trial court to grant the defendant's motion for summary judgment.”).

The actual malice test

To show actual malice, a plaintiff must show that the defendant acted “with actual evil-mindedness or specific intent to injure.” *Moreland v. Perkins, Smart & Boyd*, 44 Kan. App. 2d 628, 638, 240 P.3d 601, 609 (2010). Thus, where a defendant publishes information it knows is false, it can act with actual malice. See *Scarpelli v. Jones*, 229 Kan. 210, 216, 626 P.2d 785, 790 (1981). Similarly, where a defendant publishes information it has serious doubts as to whether it is true, it can act with actual malice. *Id.*

It is important to point out, however, that mere negligence is not enough. “To show reckless disregard, the plaintiff must prove that the defendant ‘in fact entertained serious doubts as to the truth of [the] publication’ or acted with ‘a high degree of awareness of probable falsity.’ Proof of mere negligence is not enough.” *Pfannenstiel v. Osborne Pub’g Co.*, 939 F. Supp. 1497, 1504 (D. Kan. 1996).

This subjective element, *i.e.*, that the defendant knew what he or she was doing was wrong, is what provides the foundation for the requirement the plaintiff must show “actual evil-mindedness or specific intent to injure.” See, *e.g.*, *Turner v. Halliburton Co.*, 240 Kan. 1, 8, 722 P.2d 1106, 1113 (1986); *Gobin v. Globe Pub. Co.*, 216 Kan. 223, 227, 531 P.2d 76, 79–80 (1975) (“the injured party must allege and prove that the statements were made with malice-actual evil-mindedness or specific intent to injure”).

Thus, the Kansas Pattern Jury Instructions provide as follows:

A communication involving (... *information concerning a public official* ...) is qualifiedly privileged. When a communication is qualifiedly privileged, a plaintiff can only recover by proof of actual malice on the part of the defendant.

Proof of actual malice requires a plaintiff to prove that the (*communication*)(*publication*) was made with knowledge that the defamatory statement was false or with reckless disregard of whether it was false or not **and** that it was made with actual evil-mindedness or specific intent to injure.

In order for the plaintiff to recover (*he*)(*she*) must prove actual malice by the defendant and that it defamed the plaintiff.

PIK 127.53 (emphasis added).

You have no evidence of actual malice ...

Your Petition is bereft of any facts—no less the clear and convincing facts required under Kansas law¹—to support your allegation that *The Star* acted with actual malice. Nor do you possess such facts.

Instead, it is patently obvious you lobbed this hand grenade of a lawsuit against *The Star* not because your claims against the newspaper had any merit whatsoever, but because you and your client wanted to issue a press release announcing the lawsuit—which allowed Sen. Denning to beat the drum about the unfair press, and which allowed you to bolster your candidacy for the Chair of the Kansas Republic Party.

These antics are precisely the type of measures the anti-SLAPP Act are designed to punish. Under the Act, you will have 30 days to provide “substantial competent evidence” that *The Star* acted with actual malice. You will not be able to do that—because *The Star* had no such malice.

... and you know it

Rather, as you admit in the “Introduction” to your own Petition, “Rose initially submitted the column without a citation to a source for the statements” which Rose included in his column. You then state that “[t]he editor required Rose to cite a source.” And finally, you acknowledge that “Rose gave his editor Senator Denning’s name.”

These allegations cannot, under any reading, establish actual malice. Rather, they demonstrate that the editor told Mr. Rose the paper would not rely on an anonymous source, and that Mr. Rose responded by providing Sen. Denning’s name. Nothing about this exchange indicates that *The Star* acted with actual malice.

Your argument regarding a deadline is spurious

In your Petition, you allege that Mr. Rose “conjured up” a source for the statements in the column because he “was under pressure” as a result of being “up against a deadline.” This allegation is simply not true.

Rather, as the following e-mail exchange between Mr. Rose and the editor, Colleen Nelson, shows, Mr. Rose was asked to identify his source early on Friday afternoon—well before the newspaper’s deadline.

¹ As the plaintiff, Sen. Denning bears the burden of proving actual malice. See *Schulze v. Coykendall*, 218 Kan. 653, 660, 545 P.2d 392, 398 (1976) (“In this jurisdiction there is no liability on a conditionally privileged communication absent the existence of actual malice and in such a case the burden of proof is on the plaintiff to establish malice.”).

Nelson to Rose, 2:17 pm:

Hi Steve –

Editing your column now. We need to quote this senator on the record.

He's not revealing any sensitive information or doing anything beyond making pretty familiar arguments against Medicaid. There's no way I can justify letting him be anonymous.

Rose to Nelson, 2:23 pm:

Ok, it's State Sen. Jim Denning of Overland Park.

Nelson to Rose, 2:24 pm:

So, I can attribute all of this to Denning? Add his name throughout?

Rose to Nelson, 2:25 pm:

He said it all, so, yes.

As can be seen, there is no rush, there is no reference to any deadline, etc. Instead, Mr. Rose is asked to identify the source of the statements made to him, and does so—without reservation.

But even if it was true that Mr. Rose was up against a deadline, this does not establish actual malice as against *The Star*. “[R]eckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing.” *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). “[I]nvestigatory failures are insufficient to satisfy the malice requirement.” *Hardin v. Santa Fe Reporter, Inc.*, 745 F.2d 1323, 1324 (10th Cir. 1984); “Actual malice is a subjective inquiry; it is not based on whether a ‘reasonably prudent’ person would have conducted further investigation prior to publishing.” *Revell v. Hoffman*, 309 F.3d 1228, 1233 (10th Cir. 2002).

Accordingly, once Mr. Rose provided Sen. Denning's name—without reservation—the newspaper was entitled to rely on that fact.

The facts affirmatively disprove actual malice

Moreover, Ms. Nelson had previously pointed out that the statements in Mr. Rose's column were not so extreme as to be non-believable. Instead, she wrote: “He's not revealing any sensitive information or **doing anything beyond making pretty familiar arguments against Medicaid**. There's no way I can justify letting him be anonymous.” (Emphasis added). As such, there was nothing about the statements themselves that would

have alerted her to be suspicious of the fact the statements were attributed to Sen. Denning—a known opponent of Medicaid expansion.

In your lawsuit, you allege that Mr. Rose and Sen. Denning have not talked since August 2016. I don't know if that is true,² but I do know that Ms. Nelson was unaware of that claim. This fact is dispositive. See *New York Times v. Sullivan*, 376 U.S. 254, 287 (1964) (“the state of mind required for actual malice [must be] brought home to the persons in the Times' organization having responsibility for the publication”).

Mr. Rose was not an employee

Also not true is the allegation in your lawsuit that Mr. Rose “is employed as a columnist for The Kansas City Star.” (Pet. ¶ 3). Mr. Rose was an independent contractor, pursuant to a written agreement, which expressly obligated Mr. Rose to insure the accuracy of the information in his column; this included insuring the information was current.

Contractor further warrants and represents that the Work is accurate and the details have been (or will be) checked or verified close enough prior to the proposed publication date to insure that the Work is current and accurate.

Ms. Nelson had no reason to believe that Mr. Rose had not fulfilled his legal obligation when she authorized the publication of his column.

***The Star* has acted responsibly**

After the publication of the column, Mr. Rose advised Ms. Nelson of your client's complaint about the column. At that time, he also told Ms. Nelson that Sen. Denning made these statements to him last year.

After learning of this information, Ms. Nelson wrote Sen. Denning's Chief of Staff and advised him that the column did not meet the paper's standards for publication. Additionally, *The Star* removed Mr. Rose's column from KansasCity.com.³

Additionally, once you filed your lawsuit, *The Star* reported on it—giving it just as much space in the newspaper as the original column.

² I note with interest that you base the August 2016 date on Sen. Denning's calendar. Specifically, you state: “[A]ccording to Senator Denning's calendar, he has not spoken to Rose in 2 ½ years.” (Pet. ¶ 21). To call this claim “dubious” is to be generous.

³ To be clear, the information Ms. Nelson learned after the fact does nothing to establish actual malice, which must be determined at the time of the publication. See *Sullivan*, 376 U.S. at 286 (actual malice is measured “at the time of the publication”).

As such, the undisputed facts show *The Star* acted responsibly at all times.

The truth

At the same time Mr. Rose told Ms. Nelson your client made these statements last year, he reaffirmed that Sen. Denning had, in fact, made each of the statements in his column. As such, while the column should have stated that Sen. Denning made these statements last year, Mr. Rose stands by the fact your client made these statements.

“Truth is an absolute defense to an action of defamation” *Wilkinson v. Shoney’s, Inc.*, 269 Kan. 194, 226, 4 P.3d 1149, 1169 (2000). Moreover, the test is not whether the offending statements are literally truth, but whether they are “substantially true.” See *Hein v. Lacy*, 228 Kan. 249, 259, 616 P.2d 277, 284 (1980).

The *Hein* case is particularly apposite, for there—just like here—a Republican state senator sued over what he alleged were misleading statements about his position on issues before the Kansas Legislature. The Kansas Supreme Court, in affirming the grant of summary judgment against Sen. Hein, cited the Restatement (Second) of Torts and wrote: “It is not necessary to establish the literal truth of the precise statement made. Slight inaccuracies of expression are immaterial provided that the defamatory charge is true in substance.” *Id.*

The Court then went on to find the challenged statements—that Sen. Henning favored “pot and gays”—were substantially true where the record showed he had voted for various measures which could have been construed to favor decriminalization of marijuana and same-sex intercourse.⁴

In its ruling, the Court noted that while it found the statements to be substantially true, “it should be added that the whole truth was not stated. It seldom is in political campaigns.” *Id.* at 263, 616 P.2d at 286. But as the Court explained, this is the price of free speech. “To preserve our freedoms the expression of individual opinion and criticism of public officials must be given a broad scope.” *Id.*; *id.* at 258, 616 P.2d at 283 (Kansas “public policy ... protects ... comments and criticisms about incumbents and their conduct in office”).

The Court then reminded Sen. Hein of the obvious: “A person who holds political office should not be a rabbit or wear his feelings on his sleeve.” *Id.* This is sound advice for Sen. Denning as well.

⁴ The same is true here. Mr. Rose’s column plainly did not distort Sen. Denning’s position as to Medicaid expansion. Sen. Denning has—and I am confident still does—oppose Medicaid expansion.

Sen. Denning and Stormy Daniels

Finally, lest you think that the anti-SLAPP Act is simply something that academics talk about, let me remind you that just recently Stormy Daniels had her defamation lawsuit against Pres. Trump stricken under the Texas anti-SLAPP Act, finding that the offending statements were protected by the First Amendment. See *Clifford v. Trump*, 339 F. Supp. 3d 915 (C.D. Cal. 2018).

Following that ruling, the court then ordered Daniels to pay \$293,052.33 in attorney's fees and costs under the Texas Act—which is very similar to the Kansas Act. See *Clifford v. Trump*, No. CV 18-06893 SJO (FFMX), 2018 WL 6519029, at *1 (C.D. Cal. Dec. 11, 2018).

Surely Sen. Denning does not want to end up like Stormy Daniels, does he?

Conclusion

To be clear, therefore, if you do not immediately drop *The Star* from your lawsuit, the newspaper will file a motion to strike, and in that motion, *The Star* will seek its attorney's fees, as well as sanctions against you, your law firm, and your client for suing it.

Best regards,

Lathrop Gage LLP

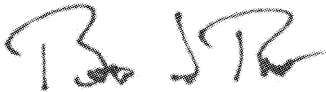
A handwritten signature in black ink, appearing to read 'MJK', is written below the typed name of the sender.

EXHIBIT B



John Aisenbrey
816.691.3111 DIRECT
816.412.0997 DIRECT FAX
john.aisenbrey@stinson.com

February 6, 2019

By e-mail: mkuckelman@ktk-law.com

Michael J. Kuckelman
Kuckelman Torline Kirkland
10740 Nall Avenue, Suite 250
Overland Park, KS 66211

RE: *James A. Denning v. Cypress Media, LLC, and Steve Rose*,
No. 19CV00496 (Johnson County District Court)

Dear Mr. Kuckelman:

Pursuant to Kansas' Public Speech Protection Act, K.S.A. § 60-5320 (the "Act"), on behalf of Steve Rose, this is a demand that you immediately dismiss Mr. Rose from the lawsuit you have filed on behalf of Senator James Denning.

As you are aware, the Act provides that a defendant who has been sued for exercising his right of free speech may file special motion to strike. K.S.A. § 60-5320(d). In such a motion, the defendant must show that the lawsuit is based on the exercise of his right of free speech – which the Act defines as, among other things, as making of any public statement relating to a "public official." K.S.A. § 60-5320(c)(2)(4)&(7)(D). The lawsuit you have filed against Mr. Rose on behalf of Senator Denning is such a case. It centers entirely upon allegations that Mr. Rose defamed Sen. Denning, a public official, in a newspaper column he wrote on a subject of great public interest – the debate in Kansas over expanding Medicaid.

Once a defendant demonstrates that the lawsuit falls within the scope of the anti-SLAPP statute – a foregone conclusion here – the case is stayed and will not proceed unless you can establish by "substantial competent evidence" that Sen. Denning has a "likelihood of prevailing" on his claim. If you cannot, the remedy is severe: the petition is struck, and your client must pay the defendant's attorneys' fees incurred in filing the motion to strike. K.S.A. § 60-5320(g).

As you are also aware, the burden on a public official to prevail on a defamation claim is very high – Sen. Denning would have to demonstrate a likelihood that he can show that Mr. Rose acted with actual malice with "proof of convincing clarity." See *Ruebke v. Globe Communications Corp.*, 738 P.2d 1246, 1250 (1987).

To show actual malice, a plaintiff must show that the defendant acted "with actual evil-mindedness or specific intent to injure." *Moreland v. Perkins, Smart & Boyd*, 44 Kan. App. 2d 628, 638, 240 P.3d 601, 609 (2010). Where a defendant has published adverse information

Clerk of the District Court, Johnson County, Kansas

02/15/19 09:37am SS



Michael J. Kuckelman
February 6, 2019
Page 2

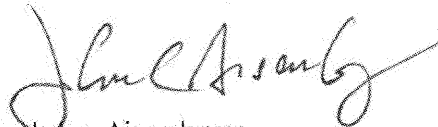
he knows to be false, it can constitute actual malice. See *Scarpelli v. Jones*, 229 Kan. 210, 216, 626 P.2d 785, 790 (1981). But in this case, Sen. Denning cannot seriously contend that the positions attributed to him were not in fact his positions. Whether he expressed them to Mr. Rose recently, or a year or more ago, makes no difference. Mr. Rose's column did not falsely portray Sen. Denning's position on Medicaid expansion.

As you also know, truth is an absolute defense to an action for defamation. *Wilkinson v. Shoney's, Inc.*, 269 Kan. 194, 226, 4 P.3d 1149, 1169 (2000). And the test is not whether the offending statements are literally truth, but whether they are "substantially true." See *Hein v. Lacy*, 228 Kan. 249, 259, 616 P.2d 277, 284 (1980) (affirming summary judgment against a state senator alleging misleading statements about his position on legislative issues). As the Kansas Supreme Court explained: "To preserve our freedoms the expression of individual opinion and criticism of public officials must be given a broad scope....However, *it is only under unusual circumstances that a public official may successfully seek redress in an action for defamation for injury to his reputation.*" *Id.* at 286 (emphasis added). This case does not present such unusual circumstances.

In summary, if you do not dismiss Mr. Rose from lawsuit promptly, he will file a special motion to strike, seek attorney's fees, and all other appropriate relief as provided in K.S.A. § 60-5320(g).

Sincerely,

Stinson Leonard Street LLP



John Aisenbrey

JCA:SLS

Clerk of the District Court, Johnson County Kansas
02/15/19 09:37am SS

EXHIBIT C

Kansas Legislature - 2016 Legislative Session

SB319

AN ACT concerning civil procedure for limited actions; relating to venue under the small claims procedure act; amending K.S.A. 61-2708 and repealing the existing section.

Senate - Conference Committee Report was adopted - 04/29/2016

On roll call the vote was:

Yea - (40):

Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf,

Nay - (0):

Present but Not Voting - (0):

Absent and Not Voting - (0):

Not Voting - (0):



EXHIBIT D

Journal of the Senate

FIFTIETH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, March 28, 2017, 10:00 a.m.

The Senate was called to order by Vice President Jeff Longbine.
The roll was called with 39 senators present.
Senator Petersen was excused.
Invocation by Reverend Cecil T. Washington:

Dear Lord, You've been very good to us. We thank You that, in Your divine providence, You've seen fit to give us another day to serve in these halls.

Another day, another work week and almost another month.

There are many who started this journey years ago and have given much of themselves in service to Your people.

Some have moved on to other things, while some have been called into their after-life.

But we want to thank You for those that are still here and still in service today. Thank You for the longevity and allegiance of those like Senator Hensley, and for the 20 plus years of Senator Haley and for the first female President and her endurance, Susan Wagle. Thank You Lord for all our senators.

But, not only the senators, thanks for all those that are supporting and protecting their work.

We thank You that even though differences of opinion may arise, whether among members of the same party or with those on the other side, we can look to You to bring about harmony in spite of differences.

Lastly, Lord, please bless, and thank You for the citizens of this great State.

I offer this prayer in the precious Name of Jesus, Amen and Amen.

The Pledge of Allegiance was led by Vice President.

POINT OF PERSONAL PRIVILEGE

Senator Tyson rose on a Point of Personal Privilege to share the following:

My dedicated colleagues, my record in the House and Senate for the past seven years reflects how seriously I take my commitment to you and my constituents. Yesterday, I left the Capitol to attend a funeral service for someone very special to me. I have never missed a roll call vote in the Senate until yesterday and want to take this opportunity to thank my good colleagues for their support and understanding during this difficult loss.



REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Commerce: **HB 2182.**

Transportation: **Sub HB 2194.**

Utilities: **HB 2273.**

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Wilborn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1733—

A RESOLUTION commemorating Bethany College's 135 years of educational service to the City of Lindsborg and to the entire state of Kansas.

WHEREAS, Swedish immigrants, inspired by their commitment to educate those without access to education, established Bethany College in 1881 and started a long tradition of quality education in Kansas; and

WHEREAS, Bethany College is affiliated with the Evangelical Lutheran Church in America; and

WHEREAS, Bethany College is located in Lindsborg, Kansas, the Fine Arts and Crafts Capital of Kansas, and offers students the opportunity to live and study in one of Kansas' most distinctive communities. Lindsborg abounds with artist studios, art galleries, craft shops, import gift shops and other attractions, such as the Birger Sandzén Memorial Gallery, located on the Bethany campus, the Lester Raymer Red Barn Studio, and the McPherson County Old Mill Museum and historical complex; and

WHEREAS, Bethany College's cultural impact in the area includes the longest-running presentation of Handel's "Messiah" in the United States, which has run for 136 consecutive years, and being the home of Bethany Oratorio Society, which consists of more than 320 members from communities across Central Kansas. Its wide selection of theatrical offerings, gallery art exhibitions, and lectures, which include the annual Pearson Distinguished Professor of Swedish Studies lecture series, all add to the cultural fabric of the Smoky Valley; and

WHEREAS, Bethany College is home to Presser Hall Auditorium, which was built in 1928 and is recognized as one of the finest music facilities in the United States. Today, Presser Hall serves as the mainstage for the Bethany Oratorio Society and many other college and community cultural productions. It also houses the Thomson-Mingenback Concert Organ, one of the largest pipe organs in the central United States, which has more than 4,000 pipes that range in size from 8 inches to 32 feet; and

WHEREAS, There are more than 4,500 Bethany College alumni who live in Kansas, including more than 1,300 who reside in McPherson and Saline counties. Bethany College alumni are successful in many areas. They include 610 alumni who serve as teachers, coaches or administrators in Kansas schools, 74 who serve as doctors, dentists, veterinarians and pharmacists in Kansas, and hundreds of business leaders throughout Kansas; and

WHEREAS, Bethany alumni, serving Kansas as successful professionals, who love God and love people include: Terry Holdren, CEO/General Counsel of the Kansas Farm Bureau and recently appointed governor's task force member; Sarah Schiltz, the

youngest female partner in the history of MarksNelson in Kansas City; Matt Allen, city manager of Garden City; Collin Carlson, a Salina South High School teacher who was awarded the Horizon Teacher of the Year award in 2015; Art Newcomer, a retired Kansas education administrator and athletic director; Dr. Keir Swisher, director of emergency medicine at Salina Regional Health Center; and Dr. Justin Klaassen, a trauma surgeon in Salina; and

WHEREAS, Bethany alumni business leaders include Ron Paulsen, owner of Paulsen Financial Group, Wichita; Ross and Grant Tidemann, real estate brokers with J.P. Weigand & Sons, Inc., Wichita; agri-leaders Vance and Louise Ehmke, Healy; Ed and Nelson Newcomer, owners of the D.H. Pace Company's Overhead Door Group, Olathe; and Mark Houghton, owner of Central Plastics, Inc., McPherson; and

WHEREAS, Bethany alumni also serve as elected officials in Kansas and include Susan Concannon, Beloit, a member of the Kansas House of Representatives representing the 107th District; and

WHEREAS, Bethany College contributes to the economic well-being of Central Kansas by adding more than \$15 million annually to the regional economy through more than 700 students from 38 states and 22 countries, more than 100 full-time faculty and staff, and nearly 70 part-time faculty and staff; and

WHEREAS, The mission of Bethany College is to educate, develop and challenge individuals to seek truth and excellence as they lead lives of faith, learning and service. All those associated with Bethany College – students, faculty, staff and alumni – are united behind Bethany's core values of integrity, hospitality, community, servant leadership and sustainability. These are the values at the heart of the Bethany College experience: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we commemorate Bethany College's 135 years of educational service to the City of Lindsborg and to the entire state of Kansas; and

Be it further resolved: That we are honored to offer Bethany College sincere congratulations and wish the college many more successful years; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Wilborn.

On emergency motion of Senator Wilborn **SR 1733** was adopted by voice vote.

Senators honored the guests representing Bethany College with a standing ovation.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 217, AN ACT concerning the Kansas department for aging and disability services; updating certain statutory references and making technical changes related thereto; amending K.S.A. 19-4016, 40-2,116, 40-12a01 and 74-3292 and K.S.A. 2016 Supp. 12-736, 21-5417, 21-6109, 22-4612, 36-501, 39-1430, 39-1431, 39-1433, 39-1602, 39-1903, 40-2,105, 40-2,105a, 40-3401, 40-3403, 59-2946, 59-29b46, 59-3077, 65-1626, 65-1669, 65-2895, 65-4412, 65-4432, 65-4915, 65-4921, 65-5601, 65-6805, 75-5923, 75-6102, 79-201b and 79-3606 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley,

Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Petersen.

The bill passed, as amended.

HB 2025, AN ACT concerning the board of nursing; relating to assistant attorneys general; reinstatement of licenses; fees; mental health technician's licensure act; amending K.S.A. 65-4203, 65-4208 and 74-1111 and K.S.A. 2016 Supp. 65-1118, 65-4202 and 65-4212 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Petersen.

The bill passed, as amended.

S Sub HB 2026, AN ACT concerning the Kansas program of medical assistance; process and contract requirements; claims appeals, was considered on final action.

On roll call, the vote was: Yeas 34; Nays 5; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, McGinn, Olson, Pettey, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Fitzgerald, Masterson, Pilcher-Cook, Pyle, Suellentrop.

Absent or Not Voting: Petersen.

The substitute bill passed.

S Sub HB 2027, AN ACT concerning the healing arts; relating to anatomic pathology billing; institutional licenses; licensee reporting; amending K.S.A. 2016 Supp. 65-2837, 65-2895 and 65-2898 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Petersen.

The substitute bill passed.

HB 2030, AN ACT concerning the administration of vaccines; reports relating thereto; amending K.S.A. 2016 Supp. 65-1635a and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, McGinn, Olson, Pettey, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Wagle, Wilborn.

Nays: Masterson, Pilcher-Cook, Pyle, Tyson.

Absent or Not Voting: Petersen.

The bill passed, as amended.

HB 2044, AN ACT concerning the department of health and environment; establishing the KanCare bridge to a healthy Kansas program; concerning clubhouse-based psychosocial rehabilitation programs, was considered on final action.

On roll call, the vote was: Yeas 25; Nays 14; Present and Passing 0; Absent or Not Voting 1.

Yeas: Berger, Billinger, Bollier, Bowers, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, Longbine, McGinn, Pettey, Rogers, V. Schmidt, Skubal, Sykes, Taylor, Wilborn.

Nays: Alley, Baumgardner, Denning, Estes, Fitzgerald, LaTurner, Lynn, Masterson, Olson, Pilcher-Cook, Pyle, Suellentrop, Tyson, Wagle.

Absent or Not Voting: Petersen.

The bill passed.

EXPLANATION OF VOTE

Mr. Vice President: Until the federal government decides what is to happen with the Affordable Care Act and makes it clear on the direction for Medicaid Expansion, it is not the right time to pass it in Kansas. The cost to our state under the present financial condition is not something we can handle. The massive tax bill facing us, along with the difficult budgets that must be developed for the next two years and the new school funding formula which will cost millions more, makes this a most inopportune time for the added fiscal burden of Medicaid expansion. I understand the need for additional income opportunities for our hospitals as well as help for needy Kansans in the gap, but I think next session, we will better understand what we are taking on. Hopefully, our financial situation will be improving further, allowing for positive direction on the expansion question.—BUD ESTES

Senators Alley and Suellentrop request the record to show they concur with the "Explanation of Vote" offered by Senator Estes on **HB 2044**.

Mr. Vice President: I vote "Aye" on **HB 2044** for all the ambled bodied Kansans that get up everyday and go to work for companies that work them less than 40 hours a week. Therefore, they don't qualify for insurance benefits. This bill will help them and their families. And, as it has been mentioned by expanding KanCare it will create jobs and lower health costs. Well, Mr. Vice President, I also believe that this legislation will prevent unnecessary deaths and Save Lives. And, furthermore I still believe, that whatever the cost we should put people first before profit! I vote yes on **HB 2044**.—OLETHA FAUST-GOUDEAU

Senators Francisco, Haley, Hawk, Hensley, Holland, Pettey and Rogers request the record to show they concur with the "Explanation of Vote" offered by Senator Faust-Goudeau on **HB 2044**.

Mr. Vice President: I vote Aye on **HB 2044** because it's the right thing to do. The Alvarez and Marsal efficiency study recommended that the Legislature make sure federal tax dollars paid by Kansans are coming back to fully fund services that can be provided to Kansans. Expanding Medicaid does just that. The refusal to expand Medicaid has already cost our state more than \$1.7 billion in our own tax dollars. Expanding Medicaid helps close the gap for thousands of working Kansans who earn too much to qualify for Medicaid, but not enough to afford a private health care plan. It means these Kansans gain access to preventive services, primary care, and other services. It reduces their personal debt load, which improves their credit scores, and it makes them healthier, giving them more opportunity to find and keep better jobs. Expansion also means rural hospitals, clinics, mental health centers, and other health care providers remain open by reducing the cost of uncompensated care. Further, it creates more than 3,800 new jobs. This bill is not only good for Kansans; it is good for the state of Kansas. That is why I vote Aye on **HB 2044**.—ANTHONY HENSLEY

Senators Faust-Goudeau, Haley, Hawk, Holland, Kelly, Pettey and Rogers request the record to show they concur with the "Explanation of Vote" offered by Senator Hensley on **HB 2044**.

S Sub HB 2055, AN ACT concerning the state board of pharmacy; relating to powers, duties and functions thereof; biological products; amending K.S.A. 65-669, 65-1633, 65-1635, 65-1648, 65-1660 and 65-7007 and K.S.A. 2016 Supp. 65-1626, 65-1627, 65-1636, 65-1637, 65-1642, 65-1643, 65-1645, 65-1655, 65-1663, 65-1669, 65-1676, 65-2837a and 65-4202 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 65-1637b and 65-1651a, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Pettey, Pilcher-Cook, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Absent or Not Voting: Petersen.

The substitute bill passed, as amended.

HB 2212, AN ACT concerning career technical education; relating to the postsecondary technical education authority; amending K.S.A. 2016 Supp. 72-4484 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Berger, Billinger, Bollier, Bowers, Denning, Doll, Estes, Faust-Goudeau, Fitzgerald, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Hensley, Holland, Kelly, Kerschen, LaTurner, Longbine, Lynn, Masterson, McGinn, Olson, Pettey, Pyle, Rogers, V. Schmidt, Skubal, Suellentrop, Sykes, Taylor, Tyson, Wagle, Wilborn.

Nays: Pilcher-Cook.

Absent or Not Voting: Petersen.

The bill passed, as amended.

EXHIBIT E

The Kelly Budget: A balanced, commonsense first step

Jan 17, 2019

Governor's plan restores funding to Kansas schools, pays down debt, restores fiscal stability — without raising taxes

Topeka, Kan. — After years of financial crisis, upside down budgets and devastating cuts to Kansas' most prized investments, Governor Laura Kelly has released a balanced budget to chart a decisive, sustainable path forward. By law, a newly elected governor has 21 days to submit a budget to the Kansas Legislature. Kelly's budget recommendations come just three days after taking office, nearly three weeks ahead of schedule.

"It's going to take time for Kansas to heal from the damage inflicted over the last eight years, so we don't have a moment to lose," said Kelly. "I worked diligently to craft a balanced budget that will usher in a new era of shared prosperity and growth. I look forward to lawmakers' input, and working together to enact it."

Kelly's budget restores fundamental principles of Kansas fiscal responsibility, all without a tax increase:

- **Achieves Structural Balance:** The Governor's Budget Recommendation maintains structural balance, ensuring that state expenditures do not exceed revenues. It also meaningfully reduces the state's irresponsible reliance on onetime funds.

- **Rebuilds State Savings:** The Kelly Budget includes a statutorily required ending balance totaling \$686 million. The 9.1 percent ending balance is the greatest offered in a Governor's Budget Recommendation in twenty years, a reflection of Kelly's commitment to fiscal discipline.
- **Reduces State Debt:** Kansas accumulated a record level of debt over the last eight years, just to pay basic bills. The Kelly budget takes a significant step in eliminating that debt in an effort to improve the state's credit rating. Her proposal fully repays a \$317.2 million loan issued in 2017 from the Pooled Money Investment Board. This will retire the debt five years earlier than planned.

Additionally, the Kelly budget accomplishes critical policy goals:

- **Restores School Funding:** The budget adopts recommendations offered by the Kansas State Board of Education to restore investment in Kansas classrooms by \$92 million. It will not only meet state obligations to Kansas children, it will end the decades-long cycle of litigation over Kansas school finance. The Governor separated education funding from the rest of the budget and is introducing this plan as a separate piece of legislation. Kelly urges lawmakers to enact this plan by February 28th in order to provide Attorney General Derek Schmidt appropriate time to comply with a court-ordered deadline.
- **Foster Care:** The number of children in the Kansas foster care system has skyrocketed 45 percent since 2011. Costs associated with this are estimated to increase 14.5 percent from fiscal year 2019 to fiscal year 2020. The Kelly budget includes funding for 55 additional FTE child welfare positions to better care for and protect our state's most vulnerable children. Additionally, the budget includes \$7.4 million for the Family First Prevention Services Act, landmark federal legislation enacted last year. This investment will draw down additional federal funds and inject a total of \$9.3 million into services that will prevent children from entering the foster care system.
- **KanCare Expansion:** The Kelly budget includes \$14 million to expand critical health care coverage to 150,000 low-income Kansans. This will not only improve the health and vitality of the state, it will help keep Kansas hospitals open and strengthen our economy as a whole. One study by George Washington University found that expanding KanCare would create 3,500 – 4,000 new jobs over five years. Kelly will convene

stakeholders to collect input and introduce legislation to accompany this budget priority by the end of January.

- **Infrastructure Investment:** After raiding over \$2 billion from the Kansas Highway Fund over the last several years to pay for failed tax policy, the Kelly budget begins phasing out the practice of diverting highway dollars from their intended purpose. Kelly's budget reduces transfers from the State Highway Fund by \$100 million, with the goal of eliminating the approximately \$300 million transfer altogether by FY 2023.
- **Public Safety:** The Kelly budget adds \$3 million in funding for Kansas corrections officers. Years of underfunding created a crisis in prison staffing shortages, resulting in 400 current vacancies throughout the state. Without essential staffing, dangerous inmate disturbances, reports of injured correctional officers, overcrowding, and other problems have occurred at nearly every state prison. Additional funding will help ease this burden and keep Kansas communities safe.
- **State Employee Work Force:** In order to ensure state employee salaries remain competitive and keep abreast of inflation, the Governor recommends increasing state employee base pay by 2.5 percent, or \$22.3 million. This will enable Kansas to recruit and retain high quality workers to fulfill the critical obligations of state government.
- **KPERS Re-amortization:** The Kelly budget proposes a re-amortization of KPERS to make state retirement contributions more realistic and sustainable over time. This will enable Kansas to meet all obligations to current and future Kansas retirees while enabling the state to invest in essential services.\

“This budget doesn’t fix all the problems created over the last several years, nor does it fulfill all of my administration’s goals. But it is a prudent first step that will set the stage for a brighter, more prosperous future — all without a tax increase,” said Kelly. “If we move forward with caution, we can build on our progress in the coming years.”

Kelly also cautioned lawmakers to vigilantly protect both sides of the ledger.

“Our tax code has been on a roller coaster ride over the last few years, both at the state and federal levels,” said Kelly. “The full impact of sweeping changes remain unclear, and we cannot afford to continue

making inaccurate assumptions about the future. Recovery from the Brownback experiment is underway, but we have no margin for error. After fighting so hard to stabilize our fiscal health, we must resist temptation to jump back into a hole.”

The Governor’s full budget recommendation [can be viewed here](#).

ARCHIVES

Select Month



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EXHIBIT F

SENATE LEADERSHIP RESPONSE TO
GOVERNOR KELLY'S BUDGET PROPOSAL

TOPEKA- Today, in response to Governor Kelly's budget proposal, Senate leaders made the following joint statement:

"The governor's plan would unravel all the work done to ensure financial stability of KPERS." -Laura Kelly (Wichita Eagle, January 12, 2017)

Senate leadership agree with Governor Kelly's above statement from 2017 when Governor Brownback proposed a similar plan. A proposal that the Senate strongly considered until findings proved it to be cost prohibitive.

Governor Kelly's budget is simply taking a different path that inevitably spends us right back into the red. She is willing to fund her irresponsible spending agenda at the expense of our Kansas retirees while placing an additional \$7 billion burden on our future generations.

"We need to now focus our efforts on passing a fiscally sound budget that pays off debts, invests in education, and protects our children and grandchildren's prosperity."

Susan Wagle, President of the Senate
Jim Denning, Senate Majority Leader
Jeff Longbine, Vice President of the Senate
Carolyn McGinn, Senate Ways and Means Chair
Mike Petersen, Senate Assistant Majority Leader
Elaine Bowers, Senate Majority Whip

###



EXHIBIT G



Jim Denning @JimDenning4KS · Feb 2

Getting national coverage on my law suit against Steve Rose and the KC Star.
#KSLEG @KCStar



Kansas Lawmaker Sues Newspaper, Claiming Columnist Made Up Q...

Kansas Senate Majority Leader Jim Denning, a Republican is suing the Kansas City Star over a column published last week attributing several sta...

dailywire.com



EXHIBIT H

News from around Effingham

By ALICE JOHNSON
 Special to Atchison Globe

Dovesnest eatery opens

Jon Dove invites you to come and checkout his new restaurant, Dovesnest, on the Main Street of Effingham.

He opened Dovesnest last week. He is really excited to open his first restaurant after spending 20 years doing masonry.

"I always wanted to open a restaurant, because I love cooking," he said. "I have often invited a large number of friends over so that I could cook. It just seemed that the time was never right, but now I feel it is the time."

When asked what he is serving, he joked "all good stuff." More seriously he said, "I am serving fresh stuff. I am trimming my own meat and hand breading my chicken fried steak, pork tenders and fried chicken."

"I am also making real mash potatoes, not instant, and my own potato salad."

They, also, make their own hamburgers. He will be serving smoked meats like pulled pork, smoked chicken thighs, and smoked sausage. He also does barbecue ribs.

Jon says that his smoker is large enough to park a car in. Anyway, he can smoke two hundred pounds of meat in it at a time.

What's on the menu? It's you typical menu including appetizers, classic sandwiches, dinners, but remember his pork tenders, fried chicken, and chicken steak is fresh and hand breaded, which is not typical.

Some of the intriguing items to checkout is the Mo Effingham Swamwich or maybe mason jar milkshakes coming in three flavors, chocolate, strawberry, and vanilla. And then there's milkshakes with fries.

The Friday night special is fried catfish and shrimp, and Saturday night special is barbecued ribs.

Jon does the cooking and is assist-

ed by the night cook, Jennifer Otte, who cooks at the Effingham elementary school.

Dovesnest is open Tuesday through Saturday, closed Sunday and Monday. The hours are 11 a.m. to 9 p.m.

Jon created the Dovesnest sign from 150 a year barn board and he had the metal letters made. He is quite proud of its history.

Jon lives outside of Ozawkie with his wife and his children go to Meriden to school.

Cantata event set

The Effingham Community Choir will present the cantata, "Comfort and Joy" at 10 a.m. on Sunday, Dec. 16, during worship service of the Effingham Union Church.

Members of the choir are from the Union Church, St. Ann's Catholic Church and the surrounding communities. The beautiful music and narration encourages us to remember those who are outside the circle of celebration that is Christmas and share the good news of the Savior with them.

Everyone is invited to come and be blessed by this presentation. It is a wonderful way to celebrate the birth of Baby Jesus.

Effie Ladies tour homes

Eight Effie Ladies attended Heartstrings Get Your Jingle on. Christmas homes tours, Holiday Bazaar and Luncheon. Eight Effie Ladies met at the Effingham Blue Building to shop and dine.

They enjoyed browsing at the different booths. Some of the ladies found something that they couldn't live without. They had a wonderful array of different booths selling different things. Then the ladies enjoyed the soup lunch.

Two of the ladies were going on the homes tour.

Kuckelman runs for GOP chair

By LISA HOFFMAN
 Special to Atchison Globe



Michael Kuckelman

Atchison native Michael Kuckelman announced his candidacy today for chairman of the Kansas Republican Party.

Kuckelman said he would seek the top post when the party convenes for its annual state convention in February in Topeka.

Kuckelman was born and raised in Atchison, graduating from Maur Hill Prep in 1982. He is a past member of the Maur Hill-Mount Academy board of directors and currently serves on the Benedictine College board.

Kuckelman, who is an attorney in Overland Park, has represented the Kansas Republican Party and individual candidates in election-related issues. In 2014, he was successful in his representation of United States Senator Pat Roberts before the Kansas State Elections Board when Senator Roberts' residency

was challenged. During the 2018 election cycle, he successfully represented Kansas House Member Adam Thomas in a residency challenge before the board.

In his private practice, Michael Kuckelman has represented individuals in civil rights cases, focusing primarily on law enforcement abuse cases. The United States District Court for the Southern District of New York appointed him to serve as one of five law firms responsible for the litigation arising out of the World Trade Center attack in 2001.

More recently, the SEC Receiver in the United States District Court for the Northern District of Texas appointed Kuckelman to pursue recoveries for the victims of the Stanford Ponzi scheme. He also represents individuals and corporate clients involved in litigation.

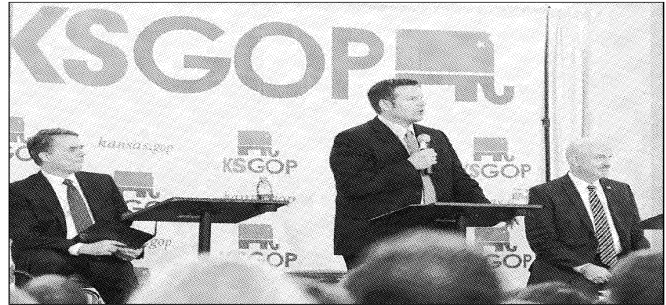
"As Chair of the Kansas Republican Party, my

goal will be to get a clear message to all Kansans demonstrating the Republican platform is in harmony with Kansas values," he explained.

"I want to recruit qualified Republicans to run for office across Kansas, and I'd like to ensure that all Kansas Republicans understand how important it is for them to get involved. Most importantly, we need for every Republican to vote in every election."

Kuckelman has been involved with the Republican Party for several years. In 2016, he served as a Rubio delegate at the Republican National Convention in Cleveland.

He was the treasurer of the Johnson County Republican Party for eight years. And in 2018, the Johnson County Republican Party honored him with the Bart Cohen Award as "the person who always goes above and beyond in campaigns for Republican candidates."



Secretary of State Kris Kobach, center, debates Gov. Jeff Colyer, left, and Insurance Commissioner Ken Selzer on April 13 at the Atchison Event Center. While eventual nominee Kobach lost the race for governor, the event demonstrated Atchison's importance in state Republican politics.

File photo Atchison Globe

95% of the Rehab to Home Residents who stayed with us this past year returned home. They stayed with us an average of 31 days.



MedicalLodges Atchison is your hometown choice to get home fast!

Come see our new Therapy Room!

1637 W Riley St. (913) 367-6066
www.medicallodgesatchison.com

Things kids try in middle school

sports music babysitting alcohol

The average boy takes his first drink at age 11, the average girl at 13. Alcohol can harm still-developing brains. So talk to your kids about the dangers and consequences of underage drinking. *It Matters.*



Live Well Live Atchison
www.livewellatchison.org

Hey, Parents & Grandparents! Hurry! The deadline is 5 p.m. Monday, December 17

SHOW OFF YOUR CHRISTMAS CUTIES 2018

Atchison **GLOBE**

Christmas is just around the corner. The *Atchison Globe* will once again publish our annual Christmas edition on Saturday, December 22nd featuring Christmas Cuties, Letters to Santa and Greetings.

John Day
3 months
Parents: Michael & Sarah Day of Grandparents: Denise West and Charles & Joan Scott

Jane Doe
2 years
Parents: Amanda and Nathaniel Doe of St. Joseph, Missouri. Grandparents: James and Mary Doe of Atchison, Kansas and John and Karen Green of St. Joseph, Missouri.

Jacob (4 years) and Andrew (5 years) Jones
Parents: Matthew and Erin Jones of Hiawatha, Kansas. Grandparents: Steve and Julie Jones of Hiawatha, Kansas and Ed Smith of St. Joseph, Missouri.

Small Box (\$2 children.) \$5

Med. Box (1-3 children.) \$10

Large Box (3+ children.) \$15

Only Checks, Debit or Credit Cards Accepted.
 To pay over the phone with a check or credit card, please call.

913-367-0583
 ALL ADS MUST BE PREPAID.

Christmas Cuties

PHOTOCOPIES OF THIS FORM ARE ACCEPTABLE. PHOTOS SUBMITTED SHOULD HAVE CHILDREN'S NAME & AGE. PLEASE INCLUDE A SELF-ADDRESSED STAMPED ENVELOPE FOR RETURN OF YOUR PHOTO. ALL PHOTOS NOT PICTURED BY MAKER 1 WILL BE DISCARDED.

Your Name: _____
 Your Address: _____
 City: _____ State: _____ Zip: _____

Children's Name & Ages: _____
 Parents: _____
 Grandparents: _____
 Home Phone: _____

Amount Enclosed: **02/15/19 09:37am \$5**

EXHIBIT

Clerk of the District Court, Johnson County Kansas

PLEASE CHOOSE ONE
 Small \$5 Medium \$10 Large \$15
 Box..... Box..... Box.....

Bring this into the Atchison Globe, or mail the completed form with payment to:
 308 Commercial • PO Box 247
 Atchison, KS 66002
 or email to mail@atglobe.com

EXHIBIT I

Schedule of Events

Capitol Plaza Hotel | 1717 SW Topeka Boulevard | Topeka, Kansas 66612

Friday, Feb. 15

4-5 p.m.

KSGOP Executive Committee Meeting
Amber

4-7:30 p.m.

Eisenhower Series - Networking, Silent Auction & Raffles
Pioneer

4:30-6:30 p.m. *Welcome Reception*

Hosted by KS' RNC National Committeemembers Mark Kahrs & Helen Van Etten
Atrium

6:30-9:30 p.m. *Receptions*

U.S. Rep. Roger Marshall, M.D.
Emerald II

U.S. Rep. Steve Watkins
Emerald I

Sec. of State Scott Schwab
Emerald IV

Treasurer Jake LaTurner
River

Kansas House & Senate Leadership
Shawnee

Kuckelman, Crossland-Macha, Wellman & Dool for KSGOP Leadership
Bison B

KS Black Republican Council
Homestead

Kobach/Hartman Thank You Reception
Emerald V

Eisenhower Foundation
Bison A

9:30 p.m.

KS Young Republicans After Hours sponsored by Senate President Susan Wagle
Shawnee A

Saturday, Feb. 16

8 a.m.

KS Black Republican Council Business Meeting
Crystal Conference Room

8:30-10 a.m.

Breakfast with Sean Spicer, former White House Press Secretary, sponsored by U.S. Sen. Jerry Moran's FreeState PAC
Sunflower Ballroom

9 a.m.

AG Derek Schmidt's Eye Opener Reception
Shawnee A

Saturday (cont.)

10-11:45 a.m. *Receptions*

U.S. Sen. Pat Roberts
Shawnee C

U.S. Rep. Ron Estes
River

Insurance Commissioner Vicki Schmidt
Homestead

Dwight D. Eisenhower Excellence in Public Service Series
Pioneer (*Alumnae Photo at 11 a.m.*)

Men's Leadership Series
Shawnee B

Eisenhower Foundation
Bison A

Kuckelman, Crossland-Macha, Wellman & Dool for KSGOP Leadership
Bison B

10:30 a.m.

Kansas Federation of College Republicans Meeting
Emerald V

Noon District Meetings

District 1

Emerald I

District 2

Emerald II

District 3

Emerald III

District 4

Emerald IV

12:45 p.m.

Kansans for Life Luncheon
*Ticket required through Kansans for Life**
Sunflower Ballroom | *Business Attire*

3 p.m.

Kansas Republican Party State Committee Meeting
Emerald Ballroom

Registration & Tickets

Register online at kansas.gop/2019convention. All events are included with your registration, except the Saturday Kansans for Life lunch.

*To purchase your Saturday Kansans for Life lunch ticket, please call 800-928-5433 or email klrpac@yahoo.com.

Connect with the KSGOP

Facebook: **Kansas Republican Party**

Twitter: **@KansasGOP** and **#ksgop19**

Online: **kansas.GOP**



EXHIBIT J

Backlash brews over school funding

Strapped for cash, legislative resentment of plaintiff districts builds

By JOHN HANNA
 The Associated Press

TOPEKA — Prisons in Kansas face a crisis in hiring staff because of poor pay. A former governor called a state hospital for the mentally ill “a pit.” Highway projects are delayed because state funding keeps getting diverted to other priorities.

But an ongoing lawsuit has forced state legislators to be preoccupied with finding money for public schools ahead of those other pressing issues. And lawmakers are starting to resent that.

“It’s like the schools are the grain truck. Instead of sharing the grain, they just keep raising the sides on the bed and keeping it all for themselves,” said state Sen. Ty Masterson, a conservative Wichita-area Republican. “They’ve been able to keep themselves at the front of the line for a long time.”

Legislators increased income taxes last year to help balance the budget and put some of the extra money they raised into schools. Most want to avoid the political poison of another big tax increase this year, but if they do that and put schools first, they worry that other, long-suffering agencies and programs could keep suffering.

Educators are well aware of the backlash but contend schools and state agencies are living with the consequences of past state income tax cuts championed by former Republican Gov. Sam Brownback. Those tax policies received renewed national attention as Con-



John Hanna | The Associated Press

Kansas House Speaker Ron Ryckman Jr., R-Olathe, answers questions about budget issues during an interview Feb. 18 in his Statehouse office in Topeka. Ryckman said lawmakers have valid concerns that increasing spending on public schools will squeeze other parts of the state budget.

gress approved federal income tax cuts late last year.

Even after Kansas lawmakers reversed most of the Brownback-inspired state tax cuts last year, budget problems remained and awaited new GOP Gov. Jeff Colyer after Brownback resigned last month to take an ambassador’s post.

“You can’t blame schools,” said Mark Desetti, a lobbyist for the state’s largest teachers union. “You can lament it all you want, but it’s a problem of your own making.”

Kansas spends more than \$4 billion a year — more than half of its general revenues — on its public schools. But the state Supreme Court ruled in October that even with a funding increase approved last year, it’s not sufficient under the state constitution.

The state has been in and out of lawsuits over education funding for decades, and the current one was filed in

2010 by four school districts. The Supreme Court has issued five rulings in the past four years requiring new spending on public schools.

In its last ruling in October, the court did not set a specific spending target but hinted that it could be \$650 million more a year.

Top Republican leaders signaled that they want to avoid such a big increase in spending on schools by commissioning an outside academic study of education costs in hopes of generating a lower figure that lawmakers could defend in court. The study is due in mid-March, and work on school funding legislation is stalled until it’s done.

“Maybe we say, ‘We’ve got to live within our means,’” said Senate budget committee Chairwoman Carolyn McGinn, a moderate Wichita-area Republican. “Maybe we need to reassess the direction we’re going.”

House Speaker Ron Ryckman Jr., a conservative Kansas City-area Republican, said lawmakers are right to expect to squeeze other parts of state government if they increase spending on schools.

“That is the math of it,” he said. “There’s only so much taxpayer money.”

Even moderate Republicans receptive to higher spending on schools are pushing to broaden the budget discussion, suggesting that extra spending on social services helps ensure that young children start school ready to learn.

Other lawmakers see public safety as a bigger priority after disturbances at multiple prisons last year. Corrections Secretary Joe Norwood told one panel this week that pay remains a problem even after a pay raise for uniformed officers last year — and if he could find enough workers, budget constraints require him to leave nearly 10 percent of all positions unfilled anyway.

“We can’t gut those other functions of government just to meet the demands of one sector,” said House Majority Leader Don Hineman, a moderate Republican from western Kansas.

But public schools have something other recipients of state dollars do not: A provision in the Kansas Constitution requiring legislators to “make suitable provision” for funding them.

“They are going to be first in line,” said Democratic state Rep. Tom Sawyer, of Wichita.

Reach John Hanna at jhanna@ap.org.

ANY ICY MORNING



Marcus Clem | Atchison Globe

Ice stalactites hang Tuesday afternoon from the enclosed balcony of the Atchison Family YMCA, 321 Commercial St., following a mild ice storm that morning. No further precipitation was forecast through Wednesday, though temperatures remained below 32 degrees Tuesday amid a soupy cloud cover.

Medicaid bill advances

Associated Press

TOPEKA — A Kansas Senate committee has endorsed a bill that would expand the state’s Medicaid program to provide health coverage for 150,000 additional poor adults.

The bill approved Monday by the Public Health and Welfare Committee would expand Medicaid as encouraged by the 2010 federal Affordable Care Act championed by former President Barack Obama. The Medicaid program covers more than 370,000 poor, disabled and elderly Kansas residents.

The committee’s vote sent the measure to

the full Senate, but Majority Leader Jim Denning indicated that a debate is not likely to occur soon.

Former Republican Gov. Sam Brownback vetoed a similar bill last year. New Republican Gov. Jeff Colyer also opposes an expansion.



Gov. Jeff Colyer

“I want to pursue a Kansas solution to this problem,” Colyer said during his Feb. 10 visit to Atchison, the first since taking office on Jan. 31. “Obamacare has not worked for Kansas.”

Supporters say expanding Medicaid would help the uninsured. Critics see it as potentially costly for the state.

Congratulations to our 2017 EMPLOYEES of the QUARTER



THERESA MILLER
 Registered Nurse
FIRST QUARTER
 Atchison Hospital employee for 30 years



SHEILA HEINEKEN
 Licensed Practical Nurse
SECOND QUARTER
 Atchison Hospital employee for 41 years



ASHLEY STOUT
 Licensed Practical Nurse
THIRD QUARTER
 Atchison Hospital employee for 7 years



JENNIFER LENTZ
 Ultrasound Technologist
FOURTH QUARTER
 Atchison Hospital employee for 12 years

One of these Employees of the Quarter will be recognized as Atchison Hospital’s

2017 EMPLOYEE of the YEAR

to be named at our Employee Recognition Banquet in February.

We wish each nominee the best of luck and thank them for their years of devoted service.

Clerk of the

District Court, Johnson County Kansas

02/15/19 09:37am SS

atchisonhospital.org



EXHIBIT K

OPINION

The Garden City Telegram

EDITORIAL

Legislature must do right by Kansans

Polls show most Kansans favor Medicaid expansion, which became a cornerstone of Democrat Laura Kelly's successful run for governor.

Now it's up to the Kansas Legislature to decide whether to expand the state's Medicaid program, KanCare, to cover an estimated 150,000 mostly low-income, working residents and infuse funds into struggling rural hospitals.

Supporters know the foolishness of turning away significant federal dollars — more than \$3 billion so far for Kansas. Most states have moved forward with expansion.

But ideology often trumps practicality in the political arena in Kansas, and opponents dislike the notion of change enabled by the federal Affordable Care Act, also known as Obamacare.

Both legislative chambers have key players who've been vocal critics of Medicaid expansion, including Senate Majority Leader Jim Demming, R-Overland Park, and House Majority Leader Dan Hawkins, R-Wichita.

Difficulties often begin in committees, as chairmen can block bills from moving forward even if they have majority support. Medicaid expansion opponents in Rep. Brenda Landwehr and Sen. Gene Suellentrop, both of Wichita, lead the chambers' respective health committees.

At issue is whether Medicaid expansion bills will be openly debated and voted on, which the people of Kansas want and deserve.

In 2017, a bipartisan effort between Democratic and moderate Republican lawmakers produced a bill, but it was vetoed by then-Gov. Sam Brownback, an ultraconservative.

There's no way to move forward with a Legislature that's now more conservative without compromise. For example, allowing the state to help Kansans purchase coverage that keeps them on their private insurance plans should appeal to conservatives.

Disagreement centers on the possible cost moving forward for a state saddled with crushing debt due to poor economic policymaking, and a recession likely to come. The best bill will address concerns on both sides of the aisle and offer a prudent plan that fits Kansans.

The governor included \$1.4 million in her proposed budget and vowed to expand Medicaid eligibility without a tax increase. Beyond obvious benefits in seeing more low-income Kansans covered, it's necessary to consider the return on investment in more preventive care that lowers overall health care costs, and economic gain for hospitals and their communities.

The Legislature should make a sincere effort to consider the compassionate and responsible aspects of Medicaid expansion.

GateHouse Kansas

TODAY'S QUOTES

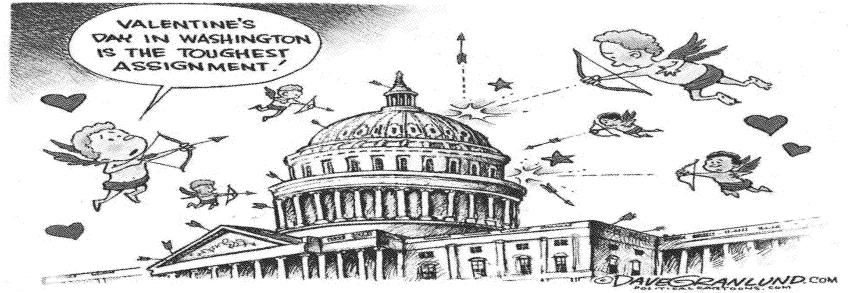
"... Since 1978, Garden City has been my home, and I have always been very proud to have lived and worked here, and, honestly, always thought I would remain here."

Garden City Commissioner Melvin Dale wrote in a letter announcing his resignation, effective Feb. 19.

"It's very tough for abuse victims to trust authority figures, especially victims who've been assaulted by clergy and betrayed by bishops. Still, we join the KBI in begging anyone who may have suffered, seen or suspected abuse or coverups to step forward."

David Clohessy, a member of Survivors Network of those Abused by Priests, from a story in today's edition about the Kansas Bureau of Investigation initiating an investigation into reports of sexual abuse by clergy at the four Catholic dioceses of Kansas.

OTHER VIEWS



The banality of evil, 2019



Kathleen Parker

C.S. Lewis was only partly right when he wrote: "The greatest evil ... is conceived and ordered (moved, seconded, carried and minuted) in clean, carpeted, warmed and well-lit offices, by quiet men with white collars and cut fingernails and smooth-shaven cheeks who do not need to raise their voice."

Lewis, perhaps, couldn't have envisioned the day when a law allowing abortion up to the moment of birth would receive a standing ovation, as occurred last month with New York's passage of the absurdly named "Reproductive Health Act."

Upon signing the bill, which also permits some health care professionals who are not doctors to perform the abortions, New York Gov. Andrew Cuomo ordered that One World Trade Center be illuminated in pink, hijacking the color associated with saving breast-cancer victims — and the birth of a baby girl.

What a weird, wicked world we live in.

Last Monday in Virginia, Del. Kathy Tran testified on behalf of a bill that would have simplified the process for having a late-term abortion. Currently, Virginia law requires three doctors' approval for such a procedure. The bill, which was subsequently tabled, would've required only one.

This was hardly the stuff of "infanticide," a word that began tumbling from the lips of certain critics. For such a procedure, Ralph Northam wasn't helpful. Two days before his yearbook scandal broke, he talked during a radio interview about making distressed newborns "comfortable" while the family

decides whether to resuscitate.

Just maybe we're not very good at talking about the unspeakable.

Meanwhile, lawmakers in Rhode Island, Massachusetts, Vermont and other blue states are busy hammering out their own legal concoctions, likely concerned that Roe v. Wade will be overturned by the now-predominantly conservative Supreme Court. I leave others to argue the validity of those concerns, but my sources in the pro-life movement, including several legal scholars, think upending the decision is unlikely given that, in 1992, the court not only reinforced Roe but actually made the ruling stronger.

Regardless, the pro-choice movement has been preparing for such a frontal assault on the few abortion restrictions left to states. In 1973, when Roe was issued, a baby's viability was set at 24-28 weeks.

Today, thanks to technology and our finer understanding of human development, viability occurs around 22 weeks.

In New York City, where about two in five pregnancies are terminated, there will no longer be any presumption of humanity for the baby at any stage of pregnancy, which goes beyond abortion jurisprudence. Most Americans are fully against such extreme approaches to abortion. One survey puts the share who support abortion during the third trimester at just 13 percent.

Like many if not most Americans, I have been reasonably at ease with President Clinton's 1996 call for making abortion "safe, legal and rare," but had hoped we'd seriously pursue that goal through better information and limit abortion to the first trimester. The pro-choice side has resisted many attempts to educate.

Activists have opposed laws requiring that pregnant women have the option of viewing a sonogram before their abortion.

They've also thwarted attempts to make adoption resources available at abortion clinics.

What are they afraid of? That someone may change her mind?

My own thinking about abortion was partly formed by having almost witnessed a "back-alley abortion" when a college friend sought an abortion in 1970 in Spain. We walked into a room with a white linoleum table over which, not kidding, a single lightbulb hung. We bolted, called home for money, and put her on a plane to London for a legal abortion.

No one wants women to be subjected to such last resorts. But nor should we be celebrating laws that ignore the humanity of an unborn child. While there are only four doctors in the U.S. that perform third-trimester abortions and, obviously, "no one gets an abortion on the delivery table," as New York Times columnist Michelle Goldberg put it, the codification of late-term abortion should be discomfiting.

It is obvious, meanwhile, that these pro-abortion legislators' new efforts are aimed at undoing, one by one, the state-level "victories" of their pro-life counterparts — even, apparently, if it means putting women's lives at greater risk by allowing no doctors to perform abortions.

But more concerning than a possible increase in late-term abortions (now at fewer than 2 percent of all pregnancy terminations) is the clinical way we've come to view and discuss human life. When we use language to disguise reality — whether the developing human baby is a "clump of cells," a "fetus," or, even, a "product of termination" — we move ever-closer to the dehumanization of us all.

Email Kathleen Parker at kathleenparker@washpost.com. Distributed by Washington Post Writers Group.

Irrational political culture, about to get more so



Rich Lowry

Ralph Northam deserves his current friendless state.

The Virginia governor's initial reaction to a shocking image of a man in blackface standing next to someone dressed in a Klan outfit that appeared on his page of his medical school yearbook was to admit one of the figures was him.

His news conference the next day taking his confession back was, even if you believe his latest strange account (he supposedly knew nothing about his page or the yearbook), maladrofit and cringe-inducing. It included the

revelation that he used shoe polish to darken his face as part of a Michael Jackson costume he wore in a dance contest.

In 2017, when Northam won the governorship, he slimed as a racist his Republican opponent Ed Gillespie, a well-respected Republican whose alleged sin was running ads against MS-13.

Finally, in another controversy last week, Northam endorsed infanticide and refused to walk it back.

It's hard to recall a politician who has so quickly and starkly been exposed as a cipher who ascended to a major office almost by accident (any Democrat would have won in Virginia in 2017).

So there won't be a lot of tears for Ralph Northam, but the controversy consuming him is disturbing nonetheless for what it portends about the drift of our political culture. It is increasingly frenzied,

unforgiving and irrational, and only likely to get more so.

Let's assume for the sake of argument that Northam is in the yearbook image. What does that tell us about him? That he was thoughtless as a young man? That he had bad taste? That he was immature? Yes, all of the above. But does it mean that he was a racist? This is the leap that the sweeping condemnations of Northam implicitly or explicitly make.

In our public debate, we are losing the gray area of things that are offensive and ignorant — the yearbook image is emphatically both — for categorical assertions of racism. The difference is that ignorance can be forgiven and learned from, whereas racism must be punished. The cliché that used to be repeated during racially charged controversies, "a teaching moment," now feels quaint in

this new era of headhunting.

What is there to be taught or learned, after all, if Northam was an ally of white supremacy? That term once applied to the worldview of skinheads and neo-Nazis. Now, it is becoming a catchall. The lieutenant governor of Virginia, Justin Fairfax, who has been gentler in his denunciations than most, said the yearbook image suggests "a comfort with Virginia's darker history of white supremacy, racial stereotyping, and intimidation."

This is why there's no statute of limitations anymore — any offense is considered too grave for that. As far as Northam's critics are concerned, his yearbook image might as well have been published in the *Washington Post* the day that the person who appeared in the image might be different than the person sitting in the governor's mansion.

Nor is there any inquiry into whether the image was part of a pattern of conduct at the time. Did Northam express hostility to African-Americans in any other way? No one has produced any substantial evidence of this, or seems to have any interest in producing any.

By the same token, it doesn't matter that Northam has an impeccable civil-rights record. His three-decade-old lapse wipes out the rest of his adult life.

Northam has certainly done himself and his credibility no favors. Public life won't be poorer without him. But the collective outrage devouring him will find new targets and occasions for headhunting, and more deserving public figures will have to prey to it. Comments, both good and bad, at www.kingfeatures.com. Distributed by King Features Syndicate.

