

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

American Broadcasting Companies, Inc., *et al.*,

Plaintiffs,

v.

Federal Communications Commission, *et al.*,

Defendants.

Civil Case No. 1:26-cv-2902

**DECLARATION OF ERIC N. LIEBERMAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

I, ERIC N. LIEBERMAN, declare as follows:

1. I am over the age of eighteen and fully competent to make this declaration. I am Chief Counsel, Disney Entertainment, Direct to Consumer, News and Technology at The Walt Disney Company (“Disney”), a diversified entertainment company and the parent corporation of a group of affiliated companies with operations throughout the United States and around the world. If called upon to testify as to the facts set forth herein, I could and would testify competently thereto.

2. I was in-house counsel at *The Washington Post* from 1998 through 2013, and in my last five years at the company, I served as the newspaper’s general counsel.

3. I was hired as Senior Vice President & General Counsel of BAMTech, LLC in June 2017. BAMTech was a joint venture between MLBAM (the then-interactive media and internet company of Major League Baseball), the National Hockey League, and Disney that provided direct-to-consumer streaming technology and other services. In August 2017, Disney agreed to acquire a controlling ownership interest in BAMTech. Under Disney’s ownership, I became Chief Counsel, BAMTech, LLC. I was responsible for overseeing a team of lawyers who supported the launch of

Disney's direct-to-consumer streaming services. In August 2023, I also began to oversee the ABC Legal, News & Regulation group. In that capacity, I lead a team of eight lawyers and one paralegal who perform pre-broadcast review and media law counseling for ABC News and ABC's eight owned television stations ("Stations"). This group also advises ABC News and the Stations on Federal Communications Commission ("FCC") regulatory compliance matters.

4. Disney is the indirect parent company of American Broadcasting Companies, Inc. ("ABC").

ABC's Stations

5. ABC's Stations have held their broadcast licenses without interruption for decades. These Stations are: WABC-TV, New York, NY; KABC-TV, Los Angeles, CA; WLS-TV, Chicago, IL; WPVI-TV, Philadelphia, PA; KTRK-TV, Houston, TX; KGO-TV, San Francisco, CA; WTVD, Durham, NC; and KFSN-TV, Fresno, CA.

6. ABC's first owned Station, WABC-TV, began broadcasting in New York City in 1948 and is one of the oldest, continuously operating television stations in the country.

7. The Stations produce over 390 hours per week of regularly scheduled local news, an average of almost 49 hours per station. That local news coverage airs throughout the day—beginning early in the morning, continuing during the afternoon, and concluding in the late evening—offering in-depth coverage of local news stories, investigative and consumer reporting, weather, traffic and sports. Seven out of the eight Stations rank first in viewership in their local markets for local news. The eighth is ranked first for morning news, and second in all other dayparts. WABC has consistently been the most-watched local television station in the country.

8. During the Stations' current license terms, national, regional, and local organizations have awarded or honored the Stations' reporting and staff over 200 times, including over 85 local Emmy Awards. Since 2020, the Stations have collectively received 63 Edward R. Murrow Awards,

including 37 in the past three years, with KABC, KGO, and WABC all taking national honors. The Murrow Awards are among the most prestigious in broadcasting, and are awarded to news organizations demonstrating journalistic excellence, technical skill, and public service through impactful productions.¹

9. In light of this consistent and uninterrupted record of service to the public interest, the Stations' licenses have been repeatedly renewed without fail over the past 78 years. No renewal application has ever been denied. Their current licenses are not due for renewal until 2028 for WTVD, 2029 for WLS, 2030 for KABC, KFSN, KGO, and KTRK, and 2031 for WABC and WPVI.

10. ABC also distributes network programming to hundreds of non-owned "affiliate" television stations.

11. ABC News is a division of ABC. ABC News provides news coverage via programs such as *World News Tonight with David Muir*, *Nightline*, *20/20*, *Good Morning America*, and *This Week with George Stephanopoulos*.

12. ABC also produces *The View*, which is a live program that combines prepared questions with spontaneous discussion among the hosts and guests.

The FCC's Escalating Pattern of Actions Against Plaintiffs

13. From the early days of the current Administration, the Administration has made direct threats to revoke the ABC Owned Stations' licenses. With the passage of time, ABC became increasingly concerned that the FCC would assert some pretextual basis to call up its Stations' licenses. Eventually those concerns proved to be well-founded when the agency called for the Stations to submit early license renewal applications, years ahead of schedule.

¹ Edward R. Murrow Awards, RTDNA, <https://perma.cc/B2W4-MN4L> (archived Aug. 13, 2026).

14. In just over a year, the FCC has initiated three separate but related actions against the ABC Owned Stations: (1) on **March 27, 2025**, an investigation into the employment practices of Disney and the ABC Owned Stations (“EEO Investigation”); (2) on **February 11, 2026**, an investigation into whether Owned Station KTRK had violated the equal opportunities rule and related disclosure requirement in connection with the appearance of Texas U.S. senatorial candidate James Talarico on *The View*, despite an FCC declaratory ruling that has been in effect for over two decades establishing that *The View* is exempt and does not trigger those station obligations (“*The View* Investigation”); and (3) on **April 28, 2026**, an unprecedented directive calling for all eight of the ABC Owned Stations to submit early license renewal applications in 30 days.

15. The EEO Investigation has involved multiple expansive Letters of Inquiry which were issued with increasing frequency and with overlapping deadlines in recent months. The first of these was issued in June 2025, and requested information about employment practices at the Stations, Disney, and its entire family of companies, including some that have nothing to do with broadcasting. Plaintiffs objected to the scope of these demands, but promptly and thoroughly complied with written responses and productions totaling approximately 6,000 pages of documents between July and September 2025. The Commission then issued additional requests in February 2026, in response to which Plaintiffs produced more than 4,000 pages of additional documents in April 2026, and issued yet more requests after ordering Plaintiffs to file for early license renewal. To date, though Plaintiffs have objected to the scope and burden of the EEO Investigation requests, they have responded to over 600 separate requests and produced more than 12,900 pages of documents.

16. On **February 11, 2026**, the Commission’s Media Bureau initiated *The View* Investigation by sending a Letter of Inquiry to KTRK, the ABC Owned Station in Houston, in connection with a

potential violation of the FCC's equal opportunities rule and Section 315 of the Communications Act relating to the appearance of Texas U.S. senatorial candidate James Talarico on *The View*.

17. On **March 26, 2026**, the Commission directed KTRK to file a petition for declaratory ruling on *The View*'s status as exempt from the equal opportunities rule, even though the FCC had already issued a declaratory ruling in 2002 that *The View* is exempt, and that exemption remains in effect. The Commission has also issued a total of four Letters of Inquiry in *The View* Investigation thus far, including letters demanding disclosure about ABC's editorial decision-making and political donations made by employees and co-hosts. In response to these requests, ABC has filed the petition for declaratory ruling, responded to numerous requests for information, and produced hundreds of pages of documents.

18. In recent months, the Administration's threats and FCC pressure on ABC have escalated dramatically.

19. On **April 23, 2026**, ABC late-night program *Jimmy Kimmel Live* included a skit to satirize the then-upcoming White House Correspondents' Dinner. During the skit, Mr. Kimmel pretended to address First Lady Melania Trump, commenting that she had "a glow like an expectant widow."²

20. Following the shooting at the White House Correspondents' Dinner, on **April 27, 2026**, President Trump wrote in a Truth Social post that Mr. Kimmel's comments were a "despicable call to violence," and demanded that he "be immediately fired by Disney and ABC."³

21. The very next day, on **April 28, 2026**, the Commission issued an order requiring ABC to file early renewal applications for all eight of its Owned Stations within 30 days. Under the ordinary

² Exhibit 39 to Declaration of Beth A. Wilkinson ("Wilkinson Ex.") (Donald J. Trump (@realDonaldTrump), Truth Social (Apr. 27, 2026, at 1:26 PM ET), <https://perma.cc/6QGQ-C4NH>).

³ *Id.*

regulatory schedule prescribed by FCC rules, the Stations' licenses would not have come up for renewal for several years—the earliest expiration is not until 2028 (WTVD), and the latest are not until 2031 (both WABC and WPVI). ABC asked for a 60-day extension to prepare the renewal applications, but the Commission denied that request.

22. On **May 28, 2026**, the Stations timely filed applications for renewal of their licenses under protest. As part of their renewal applications, the Stations each filed Public Interest Statements. Community officials, organizations, and viewers have filed thousands of comments, demonstrating the depth of the Stations' service to their communities.

Adverse Effects Of The FCC's Retaliation

23. On **July 16, 2026**, President Trump delivered an address concerning election interference. ABC considered a number of factors and exercised its editorial discretion not to broadcast the address on the ABC Network, but to livestream it on ABC News LIVE. There was ample precedent for not broadcasting a President's speech during the Biden, Obama, and H.W. Bush Administrations. However, ABC considered the fact that the Administration wanted the speech to be broadcast live and might take some adverse action against ABC if it did not. In the end, ABC decided to livestream the speech on ABC News LIVE, which ABC ordinarily would not have done. This decision had the added benefit of providing the speech for free to people who wanted to watch it live. ABC also broke into regularly scheduled programming on the ABC Network to broadcast a special report immediately after the speech concluded that contained key clips, commentary, and context.

24. I understand that other broadcasters took varying approaches to airing the President's address. NBC, like ABC, carried the speech live on its streaming platform and broke into regularly scheduled NBC Network entertainment programming after the speech to air special reports analyzing the address. CBS broadcast some portions of the speech live on the CBS Network, with cutaways for analysis and fact-checking. Fox broadcast the speech in its entirety on its network.

25. In response to ABC’s decision not to broadcast the address on the ABC Network, the President expressly called for the revocation of ABC Owned Stations’ broadcast licenses during his address: “NBC and ABC fake news have both said that they would not cover this speech [T]his should mean a revocation of their licenses.”⁴

26. The following week, at a public press conference, the FCC Chairman opined that “I think that when you have the president of the United States standing inside the White House delivering an important speech, I think that’s something that broadcasters should be carrying.”⁵ He then specifically promised that the Commission would weigh ABC’s decision not to broadcast the address as a factor in the impending license renewal proceedings, referencing the ongoing renewal process and stating: “We are looking into this question itself about the decision to air programming or not.”⁶

27. The Commission’s statements and combined actions suggest that it is on a path toward holding a hearing to decline to renew the Stations’ licenses or even to revoke their licenses. Indeed, public reporting has suggested that the Commission intends to issue an order setting the hearing prior to Labor Day.⁷

28. The approaching midterm elections compound the pressure—the breadth of ABC’s electoral coverage will undoubtedly create additional opportunities for the Commission to retaliate against ABC’s reporting.

⁴ Wilkinson Ex. 49 (*Speech: Donald Trump Delivers a Primetime Address to the Nation - July 16, 2026*, Roll Call (July 16, 2026), <https://perma.cc/227P-G5R7>).

⁵ Federal Communications Commission, *July 2026 Open Commission Meeting*, at 1:22:28 (YouTube, July 22, 2026), <https://perma.cc/RM6E-EWFA>.

⁶ Alisa Vasquez, *Full Transcript: Chairman of the Federal Communications Commission Brendan Carr*, Politico (July 31, 2026), <https://perma.cc/3RKM-2L3S>.

⁷ Wilkinson Ex. 46 (Kelcee Griffis, *FCC Nearing Rulings Against Disney Over ‘The View,’ TV Licenses*, Bloomberg (July 15, 2026), <https://perma.cc/C9WY-7X77>).

29. Although the Media Bureau itself issued a declaratory ruling in 2002, which remains in effect, that *The View* qualifies for the bona fide news interview exemption from the equal opportunities rule,⁸ the FCC has nonetheless persisted in its investigation of whether the appearance of Texas U.S. Senate candidate James Talarico on *The View* violated the equal opportunities rule. The Commission's investigation of *The View* portends a decision that *The View* does not qualify for its longstanding exemption. If the Commission revokes *The View*'s current exemption, each Station would (if *The View* interviews a legally qualified candidate running for office in that Station's service area) have to place a record of the appearance in its political file and offer equal opportunities to any other legally qualified candidates running for the same office who request it, regardless of whether that candidate's appearance would be deemed newsworthy.

30. The practical result of losing that exemption would be that, in making decisions as to whether to interview a newsworthy candidate, Plaintiffs would need to consider the obligation to provide equal opportunities to all other candidates for that same office who request it—regardless of newsworthiness—on *The View* or other comparable ABC airtime. In races with large fields of candidates, the FCC's reversal of *The View*'s exemption could require airing numerous non-newsworthy candidates. This outcome is unworkable, is antithetical to booking decisions grounded in newsworthiness, and compels ABC to carry speech that it otherwise would not. To avoid this result, ABC might instead decide *against* interviewing a candidate it deems newsworthy and otherwise *would* have aired. In all cases, a reversal of the exemption could mean that Plaintiffs' editorial judgment over whether a given candidate's appearance would be newsworthy is overridden.

⁸ See Wilkinson Ex. 1 (Letter from Robert Baker, Chief, Off. of Pol. Programming, Pol'y and Rules Div., Mass Media Bureau, FCC, to ABC, Inc. (Mar. 1, 2002)).

31. As a result of the FCC's pressures on ABC, any invitation to a political candidate must now also be evaluated based on whether such an invitation would provide further pretextual justification for sanctions, including whether it might be cited by the Commission as a basis for non-renewal of the Stations' licenses in the impending proceedings. Even if ABC could have withstood lesser sanctions to vindicate its belief that the equal opportunities rule cannot be enforced against *The View*, the risk of losing their broadcasting licenses shifts that calculus.

32. As a result of these cumulative pressures from *The View* Investigation as well as the early license renewal process, where some Petitions to Deny have called for non-renewal based on the political affiliations of guests on ABC's programming, the process for evaluating potential guests for *The View* has changed. Historically, decisions about which candidates or public figures to invite as guests were made based on newsworthiness, audience interest, and scheduling alone. Since the Bureau's inquiry began, Plaintiffs must now evaluate any invitation to a political candidate for its potential consequences, including whether it might later be cited by the Commission as a basis for non-renewal in the Stations' impending license renewal proceedings. These additional considerations were not taken into account before the Bureau's inquiry.

33. To my knowledge, no candidate for public office has appeared on *The View* since the Bureau's February 2026 inquiry regarding Mr. Talarico's appearance on February 2, 2026. I am not aware of any change in the program's editorial standards regarding the newsworthiness of any candidate who might otherwise have been invited during this period; however, the cumulative pressure from the FCC's multiple actions against ABC has impacted ABC's decisions about which guests to invite. Those escalating pressures have led Plaintiffs to be more circumspect in booking political candidates on *The View*, and have resulted in passing on further consideration of booking several political candidates. Those pressures have impacted not only potential bookings, but also the video clips that Plaintiffs have chosen to include on the program that could constitute an

“appearance” on *The View* under the FCC equal opportunities regulation: Plaintiffs have chosen not to air clips that they otherwise would have aired during the Hot Topics segment of *The View* and also in the cold open of the program.

34. As long as the early license renewal proceedings are looming, ABC’s editorial discretion on candidate appearances must operate in the shadow of the potential loss of Station licenses—at precisely the time the public most needs coverage of the upcoming elections.

35. The ongoing attacks directed at ABC for its speech, false accusations that ABC has failed to comply with investigations, and existential threat to the Stations in the impending early license renewal process have tarnished, and continue to tarnish, the reputation that Plaintiffs have cultivated over numerous decades.

36. If the Commission ultimately refuses to renew or decides to revoke the Stations’ broadcast licenses, millions of Americans in the Stations’ broadcast footprint will be deprived of important, life-saving breaking news coverage and award-winning local journalism. As the record in support of the Stations’ early license renewal applications demonstrates, the Stations have held their broadcast licenses without interruption for decades based on their service in the public interest in their local communities. Throughout that time, they have provided millions of viewers with life-saving coverage during emergencies, local news stories, and locally tailored programming.

37. A refusal to renew the Stations’ broadcast licenses would also be devastating to ABC’s business and the Stations’ employees. ABC derives substantial revenue annually from advertising and retransmission fees attributable to the Stations. If the Stations’ licenses are not renewed, those revenues will suffer as ABC’s bargaining power dwindles and ultimately cease when the Stations’ respective license terms expire.

38. The Stations collectively employ over 1,500 members of their communities, whose livelihoods will be jeopardized if the Stations lose their broadcast licenses.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. *See* 28 U.S.C. § 1746.

Executed on this 17th day of August, 2026,

By: 
Eric N. Lieberman