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18 *and Kelly Chang Rickert*

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20 *\*\*Pro hac vice application forthcoming*

21 **UNITED STATES DISTRICT COURT**  
22 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

23 **The Babylon Bee, LLC and Kelly**  
24 **Chang Rickert,**

25 *Plaintiffs,*

26 v.

27 **Rob Bonta**, in his official capacity  
28 as Attorney General of the State of  
California, **Shirley N. Weber**, in  
her official capacity as California

Civil No. 2:24-cv-08377

**VERIFIED COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**ACTION SEEKING STATEWIDE  
RELIEF**

1 Secretary of State, **George Gascón**,  
2 in his official capacity as District  
3 Attorney for Los Angeles County,  
4 and **Hydee Soto**, in her official  
5 capacity as the Los Angeles City  
6 Attorney,

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*Defendants.*

## INTRODUCTION

1  
2 1. The Babylon Bee is a well-known Florida company that publishes  
3 online political satire seen by millions of Americans. Kelly Chang Rickert is  
4 a California attorney who regularly engages in online political debate on her  
5 blog and social media accounts. They each use humor and satire to  
6 entertain, communicate truth, and critique the powerful. Their political  
7 commentary rests at the core of the First Amendment.<sup>1</sup>

8  
9 2. But California recently passed two laws that punish speakers like  
10 them for posting certain political commentary online. In July, California  
11 Governor Gavin Newsom tweeted that a parody video of Kamala Harris  
12 should be “illegal.” The legislature heard the call and passed two laws that  
13 forbid political expression under the label of “materially deceptive content.”  
14 One law (AB 2839) bans people from distributing content California deems  
15 “materially deceptive” about candidates, elected officials, and elections,  
16 allowing various officials and anyone else who sees the content to sue, have  
17 posts removed, and get attorneys’ fees. The law also forces The Bee and  
18 Rickert to include a label on their satire that makes the satire so obvious  
19 that it defeats the point of posting it. The second law (AB 2655) converts  
20 social media platforms into California state snitches by requiring them to  
21 field reports about user posts with “materially deceptive content” and then  
22 remove or label them. Newsom eventually signed the bills, proudly tweeting  
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28 <sup>1</sup> This Court has jurisdiction over Plaintiffs’ claims. *See infra* ¶¶ 7–9.

1 that the laws now outlawed the political parody video that upset him earlier.  
2 For Newsom, it was mission accomplished.

3         3. But Newsom and the legislature forgot about the First  
4 Amendment. Their laws regulating “materially deceptive content” forbid  
5 anyone from posting or reposting content that harms a candidate’s  
6 “reputation” or “electoral prospects,” “influences an election in California,”  
7 undermines “confidence in” an election’s “outcome,” and more. These  
8 subjective terms are codewords that allow government officials and political  
9 opponents to sue over content they dislike. These broad and vague laws will  
10 chill speech and debate that criticizes politicians and their platforms.  
11

12         4. Such censorship threatens the heart of public discourse. When  
13 debating controversial political ideas, candidates, and views, it is often hard  
14 to separate fact from opinion, truth from lies, exaggerations from malicious  
15 deceptions, humor from ill will. That’s why the First Amendment gives  
16 breathing room for political ideas to air and ventilate—even ideas that are  
17 wrong or deceptive. The First Amendment protects this freedom because it  
18 trusts the American people to be able to think and decide for themselves in  
19 the context of debating political candidates and issues.  
20

21         5. California officials don’t share that trust. They want to be the  
22 arbiters of political truth online. So California passed AB 2839 and AB 2655  
23 to censor speech based on their officials’ perception of truth. But on this,  
24 government officials don’t get the benefit of the doubt. That’s First  
25 Amendment 101. We don’t trust the government to decide what is true in  
26 our online political debates.  
27  
28



1 approves almost all of the content The Bee produces—directs advertising  
2 into California, has many paying subscribers who reside in California, and  
3 films nearly all its satirical sketches, videos, and podcasts in California.

4 11. The Bee publishes satirical news articles, photographs, and  
5 videos on its website (www.babylonbee.com) which averages more than 20  
6 million viewers per month, including viewers in California.

7 12. The Bee also publishes satirical articles, photographs, and videos  
8 on social media sites including X (formerly known as Twitter), Facebook,  
9 Instagram, and YouTube. The Bee has millions of followers and subscribers  
10 across these social media platforms, including followers and subscribers in  
11 California.

12 13. Plaintiff Kelly Chang Rickert is a United States Citizen and  
13 resides in Los Angeles County, California. Rickert regularly posts on topics  
14 including politics, elections, and culture on a blog that she alone controls,  
15 owns, operates, and curates as well as on her public social media accounts on  
16 X and Instagram and her private account on Facebook.

17 ***Defendants***

18 14. Defendant Robert Bonta is the Attorney General of the State of  
19 California and is authorized to enforce California's laws, including AB 2839  
20 and AB 2655. Cal. Const. art. V, § 13; Cal. Elec. Code § 20516.

21 15. Defendant Shirley N. Weber is the California Secretary of State.  
22 She has authority to administer, enforce, and implement California's  
23 Elections Code, including AB 2839 and AB 2655. Cal. Gov't Code § 12172.5.

1 16. Defendant George Gascón is the District Attorney for Los Angeles  
2 County with the authority to “initiate ... all prosecutions for public offenses,”  
3 including violations of AB 2839 and 2655. Cal. Gov’t Code § 26500; Cal. Elec.  
4 Code § 20516.

5  
6 17. Defendant Hydee Soto is the Los Angeles City Attorney with the  
7 authority to enforce AB 2839 and AB 2655. Cal. Elec. Code § 20516.

8 18. Defendant Soto’s office has authority to “bring[] civil enforcement  
9 actions in the name of the People of the State of California.” *See*  
10 <https://perma.cc/N946-4LHJ>.

11 19. Under AB 2839, the Attorney General, the District Attorney, and  
12 the City Attorney are “elections official[s]” because they have the authority  
13 to “perform another duty related to administering the provisions of the  
14 Elections Code.” Cal. Elec. Code §§ 20012(f)(6)(iv). They have that authority  
15 by virtue of AB 2655. *See* Cal. Elec. Code § 20516.

16  
17 20. Under AB 2839 and AB 2655, the Secretary of State is an  
18 “elections official” with the same enforcement authority as the laws give to  
19 “elections official[s].” Cal. Elec. Code §§ 20012(f)(6)(ii), 20512(g)(2).

20  
21 21. Defendants Bonta, Weber, Gascón, and Soto “may seek injunctive  
22 or other equitable relief prohibiting the distribution of the materially  
23 deceptive content,” “bring an action for general or special damages,” seek  
24 attorney’s fees and costs as “election official[s]” for violations of AB 2839.  
25 Cal. Elec. Code § 20012(d).  
26  
27  
28

1 22. Defendants Bonta, Weber, Gascón, and Soto “may seek injunctive  
2 or other equitable relief” to compel the removal of “materially deceptive  
3 content” for violations of AB 2655. Cal. Elec. Code §§ 20515(b), 20516.

4 23. All defendants are named in their official capacities.  
5

## 6 **FACTUAL BACKGROUND**

### 7 **I. Satire has a rich and important history, including in America.**

8 24. Satire is a distinct type of literature with a history that stretches  
9 back to Ancient Rome. Gilbert Highet, *Anatomy of Satire* 24 (1962).

10 25. As a genre, satire focuses on topical content or individuals,  
11 speaks to particular moments, and generally “deals with actual cases,  
12 mentions real people by name or describes them unmistakably (and often  
13 unflatteringly).” *Id.* at 5, 13, 16.  
14

15 26. Parody is a form of satire that takes original content, imitates it,  
16 and then makes the original look absurd through various devices. *Id.* at 13.

17 27. The end of satire is often to criticize or mock an idea, event, or  
18 person for the purpose of correction and improvement.

19 28. Figures such as Horace, Plato (*Menexenus*), Miguel de Cervantes  
20 (*Don Quixote*), Voltaire (*Candide*), Jonathan Swift (*Gulliver’s Travels*), and  
21 George Orwell (*Animal Farm*) have used satire to provide social commentary  
22 in order to expose underlying truths.  
23

24 29. Satirists “intend[] to shock” their audience “[b]y compelling them  
25 to look at a sight they had missed or shunned” and help their audience to  
26 “realize the truth, and then move[] ... to feelings of protest.” *Id.* at 20.  
27  
28



1           30. In short, satirists “tell the truth with a smile, so that [they] will  
2 not repel [people] but cure them of th[eir] ignorance which is their worst  
3 fault.” *Id.* at 235.

4           31. In these ways, satire and parody make audiences do a double-  
5 take by believing that they are seeing a serious rendering of an original, and  
6 then allowing them to laugh at their own gullibility when they realize that  
7 they are really viewing satire or parody.

8           32. Through this technique, satirists intend to prompt thought,  
9 internal reflection, and public dialogue about the subject of the satire.

10           33. To do this effectively, satire and parody leverage the expectations  
11 that are created in an audience when they see something in a particular  
12 form and juxtapose that realism with the satirical form.

13           34. Satire and parody generate their most rhetorical power by  
14 leveraging the mimicry of a particular form, event, idea, or person against  
15 the heightened dissonance created by the form of satire.

16           35. This power comes from satire’s and parody’s proximity to the  
17 original.

18           36. As the Supreme Court recognized in another context, “[p]arody  
19 needs to mimic an original to make its point.” *Campbell v. Acuff-Rose Music,*  
20 *Inc.*, 510 U.S. 569, 580–81 (1994).

21           37. Because of its effectiveness and appeal, satire and parody have  
22 been used throughout American history to express matters of current  
23 interest—especially matters of politics and politicians.

1 38. From lampooning George Washington and Thomas Jefferson to  
2 Donald Trump and Kamala Harris, satire has been used to “tear[] down  
3 facades, deflate[] stuffed shirts, and unmask[] hypocrisy” with such  
4 consistency that “[n]othing is more thoroughly democratic than to have the  
5 high-and-mighty lampooned and spoofed.” *Falwell v. Flynt*, 805 F.2d 484,  
6 487 (4th Cir. 1986) (Wilkinson, J., dissenting from denial of rehearing).

8  
9 **II. The Babylon Bee is a satirical news source that posts “Fake news you can trust.”**

10 39. The Bee fits well within this longstanding tradition of using  
11 satire and parody to speak the truth, expose bad ideas, and encourage  
12 societal change.

13  
14 40. The Bee’s tagline is “Fake news you can trust.”

15 41. The Bee runs and controls a website that exposes foolishness,  
16 mocks absurdity, and highlights hypocrisy in faith, politics, and culture  
17 through satire, humor, and parody. *See* The Babylon Bee,  
18 <https://babylonbee.com>.

19  
20 42. Millions of people view The Bee’s website each month, and  
21 California is the Bee’s third largest state in terms of audience reach.

22 43. The Bee has accounts on social media platforms like X, Facebook,  
23 Instagram, and YouTube where it republishes its articles, posts videos, and  
24 republishes third-party content.<sup>2</sup>

25  
26  
27 <sup>2</sup> *See* The Babylon Bee, X, <https://bit.ly/3N3apJ7>; The Babylon Bee,  
28 Facebook, <https://bit.ly/3XLkpfj>; The Babylon Bee, YouTube,  
<https://bit.ly/3XLztcy>; The Babylon Bee, Instagram, <https://bit.ly/3TLjPgq>.

1           44. The Bee currently has four million followers on X, two million  
2 followers on Instagram, over one and a half million followers on Facebook,  
3 and over one and a half million subscribers on YouTube.

4           45. The Bee’s articles generate millions of “impressions”—i.e.,  
5 instances when a user sees its web page or social media post.  
6

7           46. The Bee’s articles also generate tens of thousands of “likes” and  
8 “reposts” on social media.

9           47. As one example, The Bee posted an article entitled “The Babylon  
10 Bee has obtained this exclusive, official, 100% real Gavin Newsom election  
11 ad” on X on September 18, 2024.<sup>3</sup> The Babylon Bee (@TheBabylonBee), X  
12 (Sept. 18, 2024), <https://perma.cc/5886-HDTJ>.  
13

14           48. As of September 25, 2024, the post had accumulated over thirty-  
15 six million views, one hundred and forty thousand likes, forty-seven  
16 thousand reposts, and seven thousand quotes.

17           49. The Bee posts between six to eight articles on its website during  
18 the workweek and three to five articles during the weekends and then  
19 republishes those articles on X, Facebook, and Instagram.  
20

21           50. The Bee also publishes videos that it creates on YouTube.  
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26  
27 <sup>3</sup> For some permanently linked multimedia content such as videos, audio, or  
28 images, the viewer may need to click on the “View the live page” icon at the  
top right of the page to view the content.

1           51. The Bee posts about various topics, including the economy,  
2 California, fall traditions, government censorship, and much else.<sup>4</sup>

3 **Fast-Food Meal Costs Family \$100 After**  
4 **They Idle In Drive-Thru For Ten**  
5 **Minutes**

6 U.S. · Mar 15, 2022 · BabylonBee.com

7 [Click here](#) to view this article with reduced ads.



9 **Residents Become Chief Export Of**  
10 **California**

11 POLITICS · Aug 30, 2022 · BabylonBee.com

12 [Click here](#) to view this article with reduced ads.



14 **Governor Abbott Declares Texas**  
15 **Sanctuary State For Memers**

16 U.S. · Sep 19, 2024 · BabylonBee.com

17 [Click here](#) to view this article with reduced ads.



19 **Ohio Restaurant Unveils New**  
20 **Pumpkin Spice Cat**

21 U.S. · Sep 21, 2024 · BabylonBee.com

22 [Click here](#) to view this article with reduced ads.



24           52. The Bee regularly posts about politics, elections, and politicians.

25 <sup>4</sup> *Fast-Food Meal Costs Family \$100 After They Idle In Drive-Thru For*  
26 *Ten Minutes*, Babylon Bee (Mar. 15, 2022), <https://perma.cc/L2ZL-48QR>;  
27 *Residents Become Chief Export Of California*, Babylon Bee (Aug. 30,  
28 2022), <https://perma.cc/RRP8-DT69>; *Ohio Restaurant Unveils New Pumpkin*  
*Spice Cat*, Babylon Bee (Sept. 21, 2024), <https://perma.cc/CX62-KUVH>.  
*Governor Abbott Declares Texas Sanctuary State for Memers*, Babylon Bee  
(Sept. 19, 2024), <https://perma.cc/29ZD-LJS5>.

1 53. For example, before September 17, 2024, The Bee posted articles  
2 about Presidential candidates Donald Trump and Kamala Harris, Vice  
3 Presidential candidates J.D. Vance and Tim Walz, and voting in California.

4 54. Screenshots of these headlines are included in Exhibit 1 and the  
5 posts are viewable here:  
6

- 7 • *Kamala Responds to Criticism Over Lack of Policies by Posting*  
8 *Another Truck Stop Junk Food Video*, Babylon Bee (Sept. 6,  
9 2024), <https://perma.cc/L7X6-DFY3>.
- 10 • *Trump Team Reveals Debate Strategy: Trump Will Cede All*  
11 *His Time To Kamala And Then Quietly Play With His*  
12 *Tamagotchi*, Babylon Bee (Sept. 10, 2024),  
13 <https://perma.cc/S7HM-BFDP>.
- 14 • *In Brief Moment Of Lucidity, Biden Endorses Trump*, Babylon  
15 Bee (Sept. 11, 2024), <https://perma.cc/P5VZ-TUF8>.
- 16 • *Trump Prepares For Debate Against Kamala By Going To Bar*  
17 *And Arguing With Drunks*, Babylon Bee (Sept. 5, 2024),  
18 <https://perma.cc/C7J6-47BX>.
- 19 • *Kamala Harris Unveils New Economic Platform ‘We Must*  
20 *Seize the Means of Production and Execute the Bourgeoisie’*,  
21 Babylon Bee (Aug. 18, 2024), <https://perma.cc/8TTE-33H8>.
- 22 • *Tim Walz Asks Guy Guarding Tomb Of The Unknown Soldier*  
23 *Why He Doesn’t Just Desert Him*, Babylon Bee (Aug. 10, 2024),  
24 <https://perma.cc/5KT6-76YS>.
- 25  
26  
27  
28

- 1 • *Vance Dons Helmet And Body Armor In Preparation To Run*  
2 *With Trump*, Babylon Bee (July 15, 2024),  
3 <https://perma.cc/7PWK-2F7E>.
- 4 • *Trump Adds A Kennedy In Hopes He Will Draw All The Sniper*  
5 *Fire*, Babylon Bee (Aug. 23, 2024), [https://perma.cc/A62V-](https://perma.cc/A62V-97C8)  
6 [97C8](https://perma.cc/A62V-97C8).
- 7 • *Democrat Governors Promise They Will Do Everything In Their*  
8 *Power To Make Elections Appear Legitimate*, Babylon Bee  
9 (Apr. 12, 2024), <https://perma.cc/5Y27-ZZ9W>.
- 10 • *Democrats Concerned California Wildfires May Burn Up Their*  
11 *Stock of Prefilled Kamala Harris Ballots*, Babylon Bee (Sept.  
12 12, 2024), <https://perma.cc/PX7S-MKC7>.
- 13 • *Newsom Issues Ban on Legal-Citizen Voting*, Babylon Bee  
14 (May 23, 2024), <https://perma.cc/XNL7-SPMF>.
- 15 • *California Passes Law Requiring People Fail A U.S. Civics*  
16 *Exam To Be Eligible To Vote*, Babylon Bee (Aug. 12, 2024),  
17 <https://perma.cc/36T6-3ECQ>.

18  
19  
20  
21 55. The Bee intentionally digitally created or modified some of the  
22 images contained in the bullet points above.

23 56. Before September 17, 2024, The Bee also posted articles about  
24 President Biden and COVID-19, Vice President Harris and Hillary Clinton,  
25 President Biden and elections, and Donald Trump.

26 57. Screenshots of these headlines are included in Exhibit 2 and  
27 some of the posts are viewable here:  
28

- 1 • *New White House Doctor Sadly Informs Biden Only Cure For*  
2 *COVID Is Euthanasia*, Babylon Bee (July 18, 2024),  
3 <https://perma.cc/DW4A-5N69>.
- 4 • *Hillary Clinton Meets With Kamala To Help Her Improve Her*  
5 *Black Accent*, Babylon Bee (Aug. 1, 2024),  
6 <https://perma.cc/LVN7-AL4R>.
- 7 • *In Victory Speech, Biden Assures Americans Elections Were*  
8 *‘Mostly Legitimate’*, Babylon Bee (Nov. 9, 2020),  
9 <https://perma.cc/DCB6-4VNF>.
- 10 • *Biden Unveils Official Campaign Slogan ‘Death To America’*,  
11 Babylon Bee (Apr. 17, 2024), <https://perma.cc/48GW-TW9W>.

12  
13  
14 58. The Bee intentionally digitally created or modified the image  
15 contained in bullet point one above.

16 59. Since September 17, 2024, The Bee has posted articles about  
17 Governor Newsom’s new law (that, coincidentally, is the basis of this  
18 lawsuit) and Vice-Presidential candidate Tim Walz.

19 60. Screenshots of these headlines are included in Exhibit 3 and the  
20 posts are viewable here:

- 21 • *‘We Can’t Afford Another Four Years Of This!’ Shouts Running*  
22 *Mate Of Candidate Who Has Been Leading Country for Four*  
23 *Years*, Babylon Bee (Sept. 21, 2024), [https://perma.cc/4LVU-](https://perma.cc/4LVU-UGXM)  
24 [UGXM](https://perma.cc/4LVU-UGXM).

- 1 • *Furious Gavin Newsom Bans A.I. Images After Getting Tricked*  
2 *Into Thinking Pic of Trump As A Mer-Man Was Real*, Babylon  
3 Bee (Sept. 18, 2024), <https://perma.cc/35Q7-ZNDD>.
- 4 • *Here Are 9 AI-generated Deep Fakes Of Gavin Newsom That*  
5 *Are Illegal To Share In California*, Babylon Bee (Sept. 18,  
6 2024), <https://perma.cc/38CA-XSEV>.
- 7 • The Babylon Bee (@TheBabylonBee), X (Sept. 17, 2024),  
8 <https://perma.cc/74L2-ENAR>.

9  
10 61. The Bee intentionally digitally created or modified some of the  
11 images contained in the bullet points above.

12  
13 62. The Bee intends to continue to create and post content on its own  
14 website, X, Facebook, Instagram, and YouTube materially similar to the  
15 content referenced in paragraphs 52–61, meaning the Bee will post digitally  
16 created or modified satire and parody about politicians, including Donald  
17 Trump, Kamala Harris, Gavin Newsom, presidential and vice presidential  
18 candidates for office who appear on the ballot in California, other candidates  
19 who appear on the ballot in California, elected officials saying or doing  
20 something in connection to an election in California, and ballots, voting  
21 machines, and voting sites related to an election in California.

22  
23 63. The Bee also intends to continue to create and post digitally  
24 created or modified content on its own website, X, Facebook, Instagram, and  
25 YouTube materially similar to the content referenced in paragraphs 52–62  
26 that violate or arguably violate AB 2839 and 2655.  
27  
28



1           64. As with satire and parody more generally, the Bee intends to and  
2 desires to have these posts expose bad ideas, cause viewers to reflect on the  
3 consequences of those ideas, and prompt viewers to take appropriate action  
4 to remedy the consequences of those ideas. *See supra* ¶¶ 24–38.

5           65. The Bee created the content identified in paragraphs 52–61 and  
6 creates and will create materially similar content that is intentionally  
7 digitally created or modified, knowing that the content is not literally true.  
8

9           66. Indeed, the purpose of The Bee’s satire and parody—like other  
10 satire and parody—is to create content that is not literally true in all  
11 respects, and so The Bee knows that at least some of that content is literally  
12 false or acts without regard to that literal truth, but The Bee does so anyway  
13 to prove a broader point.  
14

15           67. The Bee thus follows the traditional path for satire and parody by  
16 mimicking the original for maximum effect. *See supra* ¶¶ 24–38.

17           68. Ironically, some of The Bee’s satirical headlines have become  
18 actual news stories in time.  
19

20           69. To date, over one hundred of the Bee’s satirical headlines have  
21 later become actual headlines to date. *Cf.* Kassy Dillon, *When satire becomes*  
22 *reality: Nearly 100 Babylon Bee joke stories have come true*, Fox News ( Mar.  
23 26, 2023), <https://perma.cc/PJF9-7DEN>.  
24  
25  
26  
27  
28

1 70. Here are two examples, with the satire on the left and the real  
2 articles on the right.<sup>5</sup>

3 **Xi Jinping Criticizes Trudeau's Heavy-**  
4 **Handed Approach**

5 WORLD - Feb 15, 2022 - babylonbee.com  
6 Click here to view this article with reduced ads.



9 **China slams Canada over Hong Kong, Ottawa protests**

10 India Blooms News Service | @indiablooms | 23 Feb 2022, 09:46 am

11 **9 Reasons Not To Worry About The**  
12 **Tanking Economy**

13 WORLDWIDE - Sep 26, 2022 - babylonbee.com



15 **9 Reasons Not To**  
16 **Worry About The**  
17 **Tanking Economy**

18 **The Washington Post**

19 *Democracy Dies in Darkness*

20 **7 ways a recession could be good for you financially**

21 **Hey, a recession isn't all bad news. Here are seven silver linings.**



23 **Advice by Michelle Singletary**

24 **Columnist**

25 Updated September 29, 2022 at 10:41 a.m. EDT | Published September 28, 2022 at 7:00 a.m. EDT

26 71. The Bee's critics have denounced its approach.

27 <sup>5</sup> Compare *Xi Jinping Criticizes Trudeau's Heavy-Handed Approach*,  
28 *Babylon Bee* (Feb. 15, 2022), <https://perma.cc/3N7P-4DQS> and *9 Reasons*  
*Not To Worry About The Tanking Economy*, *Babylon Bee* (Sept. 26,  
2022), [https://babylonbee.com/news/9-reasons-not-to-worry-about-the-](https://babylonbee.com/news/9-reasons-not-to-worry-about-the-tanking-economy/)  
*tanking-economy/* with *China slams Canada over Hong Kong, Ottawa*  
*protests*, *India Blooms* (Feb. 23, 2022), <https://perma.cc/FA4M-ZGUN>  
and *Michelle Singletary, 7 ways a recession could be good for you*  
*financially*, *Wash. Post* (Sept. 29, 2022), <https://perma.cc/B76H-Y9KF>.

1           72. One critic maintained that “even if the Babylon Bee’s satire itself  
2 should not be considered misinformation, its satire draws on and reinforces  
3 actual misinformation and conspiracy.” Parker J. Bach, *Can the Right Make*  
4 *Good Satire Without Collapsing Due to Fake News?*, Slate (June 22, 2021),  
5 <https://perma.cc/FB2X-6KMS>.  
6

7           73. One article accused The Bee and other satirical sites of “Helping  
8 [to] spread misinformation on social media.” Peter Suciu, *Not Fake News—*  
9 *Satire Is Helping Spread Misinformation On Social Media*, Forbes (Feb. 2,  
10 2024), <https://perma.cc/QL9L-QYNV>.  
11

12           74. One reporter accused The Bee of being a “far-right  
13 misinformation site[.]” *New York Times: Far-Right misinformation site The*  
14 *Babylon Bee uses “satire” claim to Protect its presence on Facebook*, Twitchy  
15 (Mar. 22, 2021), <https://tinyurl.com/yc6ck5sv>.  
16

17           75. Another reporter called The Bee “dangerous.” Libby Emmons,  
18 *CNN reporter claims The Babylon Bee is dangerous but The Onion is*  
19 *hilarious*, The Post Millennial (Jan. 7, 2020), <https://tinyurl.com/khbcbbax>.  
20

21           76. Some of The Bee’s satirical articles have been mistaken for real  
22 news articles.

23           77. For example, Donald Trump once presumed a satirical article  
24 written by The Bee was a real news article and retweeted it. The article was  
25 entitled, “Twitter Shuts Down Entire Network to Slow Spread Of Negative  
26 Biden News.” David Jackson, *Trump retweets satirical news story about Joe*  
27 *Biden and Twitter*, USA Today (Oct. 16, 2020, 9:45am),  
28 <https://perma.cc/83LJ-Z5XT>.

1 78. Fact-checking sites have reviewed The Bee’s satirical posts for  
2 factual accuracy to determine if the posts are, indeed, satire.

3 79. Snopes is one such fact-checker.

4 80. Snopes is “the oldest and largest fact-checking site online, widely  
5 regarded by journalists, folklorists, and readers as an invaluable research  
6 companion.” Snopes, About Us, <https://perma.cc/LL39-5BKW>.

7 81. Snopes fact checks and provides “original investigative reporting”  
8 “[w]hen misinformation obscures the truth.” *Id.*

9 82. Snopes has fact-checked dozens of satirical articles posted by The  
10 Bee, including articles posted as recently as August 2024. Snopes,  
11 <https://perma.cc/E7BB-26SX>.

12 83. For example, The Bee posted the following three articles.<sup>6</sup>

13  
14  
15 **Ocasio-Cortez Appears On 'The Price Is Right,' Guesses Everything Is Free**

16 POLITICS · Apr 12, 2019 · BabylonBee.com

17 [Click here](#) to view this article with reduced ads. ↗



15 **CNN Purchases Industrial-Sized Washing Machine To Spin News Before Publication**

16 U.S. · Mar 1, 2018 · BabylonBee.com

17 [Click here](#) to view this article with reduced ads. ↗



25 <sup>6</sup> *CNN Purchases Industrial-Sized Washing Machine To Spin News Before*  
26 *Publication*, Babylon Bee (Mar. 1, 2018), <https://perma.cc/G4EKF9VS>;  
27 *Ocasio-Cortez Appears On 'The Price Is Right,' Guesses Everything Is Free*,  
28 Babylon Bee (Apr. 12, 2019), <https://perma.cc/3MXWJ6Q6>; and *Ninth Circuit*  
*Overturns Death Of Ruth Bader Ginsburg*, Babylon Bee (Sept. 21, 2020),  
<https://perma.cc/9TBH-6HUX>.

## Ninth Circuit Court Overturns Death Of Ruth Bader Ginsburg

POLITICS · Sep 21, 2020 · BabylonBee.com

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84. Under the guise of preventing “misinformation,” Snopes and the newspaper USA Today initially reviewed these articles for accuracy, rated them as “false,” and even suggested they were intentionally misleading.

85. Later, Snopes and USA Today changed course and confirmed that the articles were satire.<sup>7</sup>

86. USA Today verified the article about Justice Ginsburg after consulting fifteen different sources.

87. The Bee has also experienced censorship by social media platforms because of the content of their posts.

88. For example, during Justice Barrett’s confirmation hearing, Facebook determined that The Bee “incit[ed] violence” by posting a Monty

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<sup>7</sup> David Mikkelson, *Did CNN Purchase an Industrial-Sized Washing Machine to Spin News?*, Snopes (Mar. 1, 2018), <https://perma.cc/BN6Q-3YBP>; Dan Evon, *Did U.S. Rep. Ocasio-Cortez Repeatedly Guess ‘Free’ on TV Show ‘The Price is Right?’*, Snopes (Apr. 15, 2019), <https://perma.cc/NM62-NXSS>; Chelsey Cox, *Fact check: Satirical claim that the 9th Circuit Court of Appeals overturned Ginsburg’s death*, USA Today (Sept. 27, 2020), <https://perma.cc/93Y9-PZZY>.

1 Python-inspired satire piece entitled, “Senator Hirono Demands ACB Be  
2 Weighed Against a Duck to See If She Is a Witch.” When challenged,  
3 Facebook refused to change its determination. *See AGAIN! Facebook censors*  
4 *and penalizes The Babylon Bee for the most ridiculous article ever, Not the*  
5 *Bee* (Oct. 20, 2020), [perma.cc/7FG5-GENV](https://perma.cc/7FG5-GENV).

7 89. Instagram determined that The Bee’s CEO violated Instagram’s  
8 community guidelines against “harmful false information” and “hate speech  
9 or symbols” for sharing a Slate article entitled, “It’s About Time for Us to  
10 Stop Wearing Masks Outside,” along with the comment, “Sane people never  
11 did this.” *See Babylon Bee CEO posted this to Instagram and they’re now*  
12 *threatening to ban him for “harmful false information” and “hate speech.”*  
13 *WHAT??*, Not the Bee (Apr. 18, 2021), [perma.cc/4WUV-5AYY](https://perma.cc/4WUV-5AYY).

15 90. YouTube flagged The Bee as a “violent criminal organization[]”  
16 and removed its video titled “If the LEAKED Nashville Shooter Manifesto is  
17 legit, what does it say about censorship in the US?” Seth Dillon  
18 (@SethDillion), X (Nov. 8, 2023, 6:44 AM), [perma.cc/ZCJ6-4WJ7](https://perma.cc/ZCJ6-4WJ7). Even after  
19 appealing the mischaracterization of the content, YouTube held to its  
20 determination that the video violated its violent criminal organization  
21 policy. Seth Dillon (@SethDillion), X (Nov. 8, 2023, 10:48 AM),  
22 [perma.cc/FMF9-R8MY](https://perma.cc/FMF9-R8MY).

24 91. Twitter also suspended The Bee’s account for “hateful conduct”  
25 under its content moderation policies after it named U.S. Assistant  
26 Secretary for Health Dr. Rachel Levine the site’s “Man of the Year.” Seth  
27 Dillon (@SethDillion), X (Mar. 20, 2022, 5:52 PM), [perma.cc/7M3L-XJGZ](https://perma.cc/7M3L-XJGZ).

1 92. Twitter refused to reinstate The Bee unless it agreed to delete the  
2 tweet.

3 93. Because The Bee refused to do so on principle, Twitter did not  
4 reinstate The Bee's account.

5 94. This incident, among other considerations, culminated in Elon  
6 Musk purchasing Twitter to restore free speech on the platform.

7 95. Had Twitter not been sold to Musk, The Bee would have  
8 remained banned from the platform unless and until they censored  
9 themselves by deleting the violative tweet. Gabriel Hays, *The Babylon Bee's*  
10 *Twitter account reinstated by Elon Musk after suspension for transgender*  
11 *joke: 'We're back,'* Fox News (Nov. 18, 2022), [perma.cc/TU3A-8NGD](https://perma.cc/TU3A-8NGD).  
12

13 96. After Musk purchased Twitter (now X), he reinstated The Bee's  
14 account almost immediately.

15 97. X has not suspended, removed, or taken any adverse action  
16 against The Bee's X account since Musk purchased the platform.

17 98. Musk significantly amended X's content moderation policy that  
18 had been the basis for Twitter's suspension of The Bee's account, and The  
19 Bee's content does not violate X's current content moderation policy.  
20

21  
22 **III. Rickert actively engages in political expression with the**  
23 **public.**

24 99. Rickert immigrated to the United States from Taiwan.

25 100. She is an attorney who practices law in California.

26 101. Rickert has served as a legal expert for media outlets such as  
27 CBS News, MTV, People Magazine, US Weekly, and others.  
28

1           102. Rickert recently joined a public-interest law firm in California  
2 that focuses on issues involving religious freedom, free speech, election  
3 integrity, parental rights, and the rights of children.

4           103. Rickert has owned and operated her own law firm since 2005—  
5 the Law and Mediation Offices of Kelly Chang (“law firm”).  
6

7           104. Rickert’s law firm has its own blog that she alone operates and  
8 controls. *See* Blog, <https://purposedrivenlawyers.com/blog/> (last visited Sept.  
9 26, 2024).

10           105. Rickert has final editorial control over the content posted on the  
11 law firm’s blog and therefore considers it to be her personal blog.  
12

13           106. No one has the authority to post on this blog except for her and  
14 no one has posted on this blog except for her.

15           107. No third parties can post comments to the blog because Rickert  
16 disabled the comment section and has no present intention of re-engaging  
17 the comment feature.

18           108. Rickert curates the content on the blog by selecting which blogs  
19 to post consistent with the types of expression she desires to communicate  
20 and to reflect the law firm’s values.  
21

22           109. Over the last year, Rickert has written, created, and posted over  
23 seventy posts for the blog.

24           110. Rickert has written posts about abortion, gender ideology, Gavin  
25 Newsom, California bills, parental rights, elections, politicians, and other  
26 topics.  
27  
28



1 111. Several hundred people subscribe to her blog, including  
2 subscribers in California, and countless more view it on her website,  
3 including other California residents.

4 112. Rickert also has personal accounts on social media sites,  
5 including X, Facebook, Instagram, and TikTok.

6 113. Rickert's X and Instagram accounts are public; she currently has  
7 over 1,600 followers on X, over 25,000 followers on Instagram, and nearly  
8 400,000 followers on TikTok, including many followers in California.

9 114. Rickert's Facebook account is private, but she has 7,400 followers  
10 on Facebook.

11 115. Rickert regularly posts on these accounts on issues related to  
12 politics, elections, and culture.

13 116. For example, before September 17, 2024, Rickert posted or  
14 reposted about quotes she attributed to Kamala Harris, Tim Walz, politics,  
15 society, and cultural and moral issues.

16 117. Screenshots of these posts are included in Exhibit 4.

17 118. Since September 17, 2024, Rickert has desired to post or repost  
18 additional content on her blog and her social media accounts, but she has  
19 refrained from doing so because of AB 2839 and AB 2655.

20 119. For example, Rickert would like to post a parody video that was  
21 intentionally digitally created by a conservative political commentator of  
22 Presidential candidate Kamala Harris ("Harris Parody Video").

1 120. The Harris Parody Video is available on X. See @MrReaganUSA,  
2 *Kamala Ad 2 PARODY*, X (July 26, 2024, 6:23am), [https://perma.cc/M45N-](https://perma.cc/M45N-G9BW)  
3 [G9BW](https://perma.cc/M45N-G9BW).

4 121. Below is a still screenshot of the Harris Parody Video posted on  
5 X.  
6



122. Rickert desires to post similar satirical videos created by the  
same commentator.

123. Those videos are available at

- @MrReaganUSA, Kamala Harris Ad PARODY, YouTube (July 2024), <https://perma.cc/AM2V-RMCK>.
- @MrReaganUSA, Kamala Harris Ad PARODY 2, YouTube (July 2024), <https://www.youtube.com/watch?v=RIjoPqIcyaw>.
- @MrReaganUSA, Kamala Harris Ad PARODY 3, YouTube (Aug. 2024), <https://www.youtube.com/watch?v=XMCPVQAA3rc>.

1 124. Rickert would like to post the Harris Parody Video and  
2 comparable videos because she thinks they are funny and creative and  
3 believes that the laughter generated by the videos will be good for people  
4 and that the statements in the videos will cause people to think carefully  
5 about certain aspects of Harris’s candidacy.  
6

7 125. Rickert learned about the Harris Parody Video on September 17,  
8 2024, after viewing Governor Newsom’s post on X that he passed a law  
9 banning that content. *See infra* ¶¶ 157–60.

10 126. If not for AB 2839 and AB 2655, Rickert would have immediately  
11 posted the Harris Parody Video, and the other videos referenced above in  
12 paragraphs 119–124.  
13

14 127. In addition to the Harris Parody Video and other similar videos,  
15 Rickert has refrained from posting other content, including intentionally  
16 digitally modified videos and images of Kamala Harris asking illegal  
17 immigrants to vote, appearing in a Seinfeld episode, wearing communist  
18 attire, wearing a “Make USA Great Again” hat, and speaking to a  
19 communist gathering, and a digitally altered video of Governor Newsom  
20 endorsing Donald Trump.  
21

22 128. Rickert has refrained from posting content included in Exhibit 5  
23 and that content is viewable here:

- 24 • Defiant World (@DefiantWorld), X (Sept. 20, 2024, 8:20 AM),  
25 <https://perma.cc/U8YP-22SE>.
- 26 • Charlie Kirk (@charliekirk11), X (Sept. 7, 2024, 11:37 PM),  
27 <https://x.com/charliekirk11/status/1832624311573663988>.  
28

- 1 • Elon Musk (@elonmusk), X (Sept. 2, 2024, 1:18 PM),  
2 <https://perma.cc/J92B-HYPC>.
- 3 • Drew Hernandez (@DrewHLive), X (Aug. 31, 2024, 6:40 PM),  
4 <https://perma.cc/AU5Z-BEQK>.
- 5 • Donald J. Trump (@realDonaldTrump), X (Aug. 18, 2024, 7:50  
6 AM), <https://perma.cc/KF9Q-3U75>.
- 7 • Brenden Dilley (@Warlord Dilley), X (Sept. 18, 2024, 5:35 AM),  
8 <https://perma.cc/3HT4-TT8N>.

9  
10 129. But for AB 2839 and AB 2655, Rickert would immediately post  
11 and repost the content identified in paragraphs 127–128 on her blog or her  
12 social media accounts.  
13

14 130. She would also post content on her blog or X, Facebook, or  
15 Instagram materially similar to the content referenced in paragraphs 118–  
16 128, meaning Rickert would post intentionally digitally created or modified  
17 content—including satire or parody—about politicians, including Kamala  
18 Harris, Gavin Newsom, future presidential and vice presidential candidates  
19 for office who appear on the ballot in California, other candidates who  
20 appear on the ballot in California, elected officials saying or doing something  
21 in connection to an election in California, and ballots, voting machines, and  
22 voting sites related to an election in California.  
23

1           131. In addition to the content identified in paragraphs 118–128,  
2 Rickert would like to, but has refrained from posting, the following images  
3 on her social media accounts.  
4



23           132. The three above images been digitally modified to depict  
24 Presidential candidate Donald Trump doing something that he did not do.

25           133. Rickert desires to caption the post containing these images as:  
26 “This is the strategy to get Kamala Harris elected—political retaliation” or  
27 something materially similar.  
28

1 134. Rickert has refrained from posting the content identified in  
2 paragraphs 131–133 on her social media platforms because of AB 2839 and  
3 AB 2655.

4 135. But for AB 2839 and AB 2655, Rickert would immediately post  
5 the images and text identified in paragraphs 131–133 on at least one of her  
6 social media accounts, including X, Facebook, or Instagram.

7 136. Rickert has posted and will republish satire or parody that she  
8 knows is not literally true in all respects, meaning she knows at least some  
9 of that content is literally false or acts without regard to that literal truth.  
10

11 137. Rickert has also posted and will republish other content that is  
12 not satire or parody that she knows is not literally true, meaning she knows  
13 some of that content is false or acts without regard to that literal truth.  
14

15 138. Rickert has posted and desires to post such content, like that  
16 identified in paragraphs 118–133 and materially similar content, even  
17 though she knows it is not literally true because she believes such content  
18 helps to make certain political arguments that cannot be made with the  
19 literal truth.  
20

21 139. Rickert has been subjected to past instances of censorship or  
22 threatened censorship because of her posts on social media for posts that  
23 were materially different than the posts identified in paragraphs 118–133.

24 140. For example, Facebook, Instagram, and TikTok have removed  
25 content from her account between ten and twenty times.  
26

27 141. Likewise, the State Bar of California improperly began to  
28 investigate Rickert in 2022 for a TikTok video that she created which

1 commented on abortion and a then-pending California law regarding  
2 abortion.

3 142. The post generated many reactions on TikTok, and several users  
4 commented about how to file complaints with the State Bar of California.

5 143. After conducting a month-long investigation, the State Bar of  
6 California closed the investigation.

7 144. But this investigation caused Rickert to rarely post on TikTok to  
8 avoid future complaints related to her bar license.  
9

10  
11 **IV. California accelerates passage of AB 2839 and AB 2655 to**  
12 **confront conservative political commentary.**

13 145. California began considering the bills for AB 2655 and AB 2839  
14 in February 2024.

15 146. The bills were proceeding through the regular, slow legislative  
16 process.

17 147. But, in July 2024, a conservative political commentator created  
18 the Harris Parody Video.

19 148. The video used an AI-generated voiceover to mimic Harris's voice  
20 and was designed to mimic a campaign ad.

21 149. The commentator entitled the video "Kamala Harris Campaign  
22 Ad PARODY" and posted the video on X.  
23

24 150. That same day, Elon Musk reposted the Harris Parody Video on  
25 X, where it gained over 100 million views. Elon Musk (@elonmusk), X (July  
26 26, 2024), <https://perma.cc/PL28-7QGE>.  
27  
28

1 151. Two days later, Governor Newsom posted a photo of a news story  
2 discussing Musk’s retweet of the Harris Parody Video, asserting that the  
3 video “should be illegal” and promising to sign “a bill in a matter of weeks to  
4 make sure it is.” Gavin Newsom (@GavinNewsom), X (July 28, 2024),  
5 <https://perma.cc/V6C7-R2H3>.  
6

7 152. The passage of AB 2655 and AB 2839 took off from there.

8 153. After Governor Newsom’s tweet, the California legislature  
9 accelerated steps to ensure that AB 2655 and AB 2839 would pass during its  
10 current legislative session.

11 154. The bills passed through the California legislature in August,  
12 only about one month after Governor Newsom’s promise to make parody  
13 videos like the Harris Parody Video “illegal.”  
14

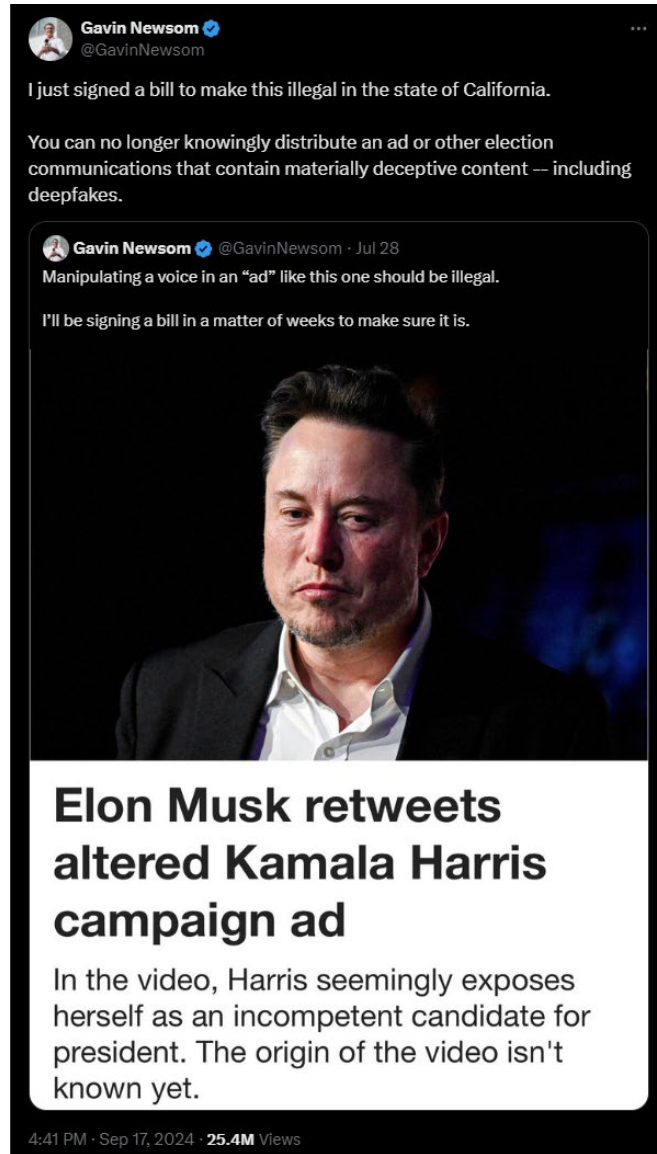
15 155. Governor Newsom signed both bills on September 17, 2024.

16 156. On that same day, Governor Newsom posted another tweet  
17 declaring that he had “just signed a bill to make this illegal in the state of  
18 California.” Gavin Newsom (@GavinNewsom), X (Sept. 17, 2024, 4:41 PM),  
19 <https://perma.cc/J3RC-X9NA>.  
20

21 157. Below is a screenshot of the Governor Newsom’s post.  
22  
23  
24  
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158. By “this,” and as read in context, Governor Newsom meant the Harris Parody Video.

159. Also on September 17, 2024, the creator of the Harris Parody Video filed a lawsuit challenging the laws. *See Kohls v. Bonta*, Case No. 24-cv-02527 (E.D. Cal. Sept. 17, 2024), ECF No. 1.

160. California is defending the laws, claims they are constitutional, never disagrees that AB 2839 prohibits the video and others like it, and

1 never disavows enforcing the laws. *See* Opp'n to Pls.' Mot. for Prelim. Inj.,  
2 *Kohls v. Bonta*, Case No. 24-cv-02527 (E.D. Cal. Sept. 23, 2024), ECF No. 9.

3  
4 **V. California acknowledges that AB 2839 restricts core political**  
5 **speech.**

6 161. California acknowledged throughout the legislative process that  
7 AB 2839 imposed serious burdens on speech.

8 162. For example, in April 2024, the Assembly Committee on  
9 Judiciary reaffirmed that the bill covered “the right to speak about  
10 elections,” “the right to receive information regarding them,” and “political  
11 speech” and would be subject to “strict scrutiny.” *See* Exhibit 6 (with report  
12 excerpts). The Committee recognized that “[t]he use of questionable tactics  
13 to win an election are as old as America’s democracy.” The Committee  
14 acknowledged that the bill “implicates both the right to speak about  
15 elections, as well as the right to receive information regarding them”;  
16 implicates “political speech” subjecting it to “the most exacting legal review”;  
17 and acts “as a prior restriction on speech ... subject to strict scrutiny.”  
18

19 163. The Committee moved the bill forward even though it could not  
20 “ignore the longstanding preference of the courts to protect all forms of  
21 speech” or how “the current Supreme Court has demonstrated a willingness  
22 to greatly expand the scope of speech rights, especially when the speaker’s  
23 views align with the court’s majority.”  
24

25 164. In the end, the Committee concluded that “[t]he constitutional  
26 questions posed by this bill present an exceedingly difficult decision.” And,  
27 the Committee said, “while this bill is certainly designed to provide the  
28

1 greatest chance of withstanding constitutional review, it is almost  
2 guaranteed to be the subject of litigation.”

3 165. The Committee anticipated that the bill “will almost certainly be  
4 the target of immediate litigation.”

5 166. Then, in June 2024, the Senate Judiciary Committee published a  
6 report noting that AB 2839 “prohibits certain forms of speech” and  
7 “implicates the protections of the First Amendment.” As before, the  
8 Committee thought “this bill may face legal challenge” as “most restrictions  
9 on political speech” had. But the Committee felt the bill was “arguably  
10 narrowly tailored.” *See* Exhibit 7 (with report excerpts).

11 167. Later in August—after Governor Newsom’s tweet condemning  
12 the Harris Parody Video—the full Senate amended the bill.

13 168. The Senate’s amendment struck language that had previously  
14 stated: “This section does not apply to materially deceptive content that  
15 constitutes satire or parody.” *See* Exhibit 8 (indicating changes between  
16 August 15, 2024 and September 17, 2024 with additions in *blue italics* and  
17 deletions in ~~red-strikeout~~).

18 169. The bill’s co-sponsor later explained that “[w]e’ve worked with  
19 the Governor’s office on Senate amendments that require deep fake parody  
20 material to be labeled as being digitally manipulated for those purposes ...  
21 Additionally, recent amendments add an urgency clause—that was a great  
22  
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28

1 idea—so the bill can take effect before the November 5, 2024 general  
2 election.”<sup>8</sup>

3 170. AB 2839 passed the California legislature with a declaration of  
4 urgency via two supermajority votes and AB 2839 took effect immediately  
5 upon the Governor’s signature.  
6

7 171. Governor Gavin Newsom signed the bill on September 17, 2024,  
8 so it is now in effect.  
9

10 **VI. AB 2839 targets political expression, especially satire and  
11 parody.**

12 172. AB 2839 applies to a “person, committee, or other entity.” Cal.  
13 Elec. Code § 20012(b).

14 173. AB 2839 targets “materially deceptive content,” defined as “audio  
15 or visual media that is digitally created or modified, and that includes, but is  
16 not limited to, deepfakes, such that it would falsely appear to a reasonable  
17 person to be an authentic record of the content depicted in the media.” Cal.  
18 Elec. Code § 20012(f)(8)(A)–(B).

19 174. AB 2839 applies to “materially deceptive content” communicated  
20 through an “advertisement or other election communication.” Cal. Elec. Code  
21 § 20012(b)(1).  
22

23 175. “Election communication” is “any general or public  
24 communication not covered under ‘advertisement’ that is broadcast by or  
25

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26 <sup>8</sup> Remarks in support of Concurrence with Senate Amendments, Aug. 30,  
27 2024, 4:27:44–28:06, [https://www.assembly.ca.gov/media/assembly-floor-session-20240830?time\[media-element3753\]=16064.105438](https://www.assembly.ca.gov/media/assembly-floor-session-20240830?time[media-element3753]=16064.105438).  
28

1 through television, radio, telephone, or text, distributed through the  
2 internet, or disseminated by print media, ... and other similar types of  
3 communications, that concerns any of the following.” Cal. Elec. Code  
4 § 20012(f)(5).

5  
6 176. “Election communication” covers communications, including  
7 those about “[a] candidate for office or ballot measure.” Cal. Elec. Code  
8 § 20012(f)(5)(A).

9 177. AB 2839 bans any person or entity from knowingly distributing  
10 with malice “an advertisement or other election communication containing  
11 materially deceptive content of”

- 12 • a “candidate for any federal, state, or local elected office in  
13 California portrayed as doing or saying something that the  
14 candidate did not do or say if the content is reasonably likely  
15 to harm the reputation or electoral prospects of a candidate”;
- 16 • “[a]n elections official portrayed as doing or saying something  
17 in connection with an election in California that the elections  
18 official did not do or say if the content is reasonably likely to  
19 falsely undermine confidence in the outcome of one or more  
20 election contests”;
- 21 • “[a]n elected official portrayed as doing or saying something in  
22 connection with an election in California that the elected  
23 official did not do or say if the content is reasonably likely to  
24 harm the reputation or electoral prospects of a candidate or is  
25  
26  
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1 reasonably likely to falsely undermine confidence in the  
2 outcome of one or more election contests;” or

- 3 • “[a] voting machine, ballot, voting site, or other property or  
4 equipment related to an election in California portrayed in a  
5 materially false way if the content is reasonably likely to  
6 falsely undermine confidence in the outcome of one or more  
7 election contests.” Cal. Elec. Code § 20012(b)(1).  
8

9 178. AB 2839 defines “malice” as “knowing the materially deceptive  
10 content was false or with a reckless disregard for the truth.” Cal. Elec. Code  
11 § 20012(f)(7).  
12

13 179. AB 2839 compels and restricts satire or parody related to subjects  
14 governed by the law.

15 180. AB 2839 requires that any person or entity who posts “satire or  
16 parody” label the post with a disclosure saying, “This \_\_\_\_ has been  
17 manipulated for purposes of satire or parody.” Cal. Elec. Code § 20012(b)(3).  
18

19 181. AB 2839 forbids any person or entity from republishing any  
20 “satire or parody” without a disclosure saying, “This \_\_\_\_ has been  
21 manipulated for purposes of satire or parody.” Cal. Elec. Code § 20012(b)(3)–  
22 (4).  
23

24 182. Refusing to include the required label on republished content “is  
25 evidence of intent to knowingly distribute” election communications  
26 “containing materially deceptive content.” Cal. Elec. Code § 20012(b)(4)(B).  
27  
28

1 183. AB 2839’s label must be “easily readable by the average viewer”  
2 and “no smaller than the largest font size of other text [if any] appearing” in  
3 the content. Cal. Elec. Code § 20012(b)(2)(B), (3).

4 184. For a video, the text must appear throughout the duration of the  
5 video, and while for audio, “a clearly spoken” disclosure must be repeated  
6 during several intervals. Cal. Elec. Code § 20012(b)(2)(B), (3).

7 185. AB 2839 begins to apply one hundred and twenty days before any  
8 election in California and stops applying either the day of the election or  
9 sixty days after the election depending on the subject matter of the content.  
10 Cal. Elec. Code § 20012(c).

11 186. The Attorney General, Secretary of State, District Attorney, and  
12 City Attorney have the authority to “seek injunctive or other equitable relief  
13 prohibiting the distribution of the materially deceptive content” and are  
14 entitled to attorneys’ fees and costs for the action. Cal. Elec. Code  
15 § 20012(d)(1).

16 187. The Attorney General, Secretary of State, District Attorney, and  
17 City Attorney also have authority to “bring an action for general or special  
18 damage against” a person or entity who “distributed or republished the  
19 materially deceptive content” and are entitled to reasonable attorney’s fees  
20 and costs. Cal. Elec. Code § 20012(d)(2)(A).

21 188. AB 2839 has many exemptions.

22 189. For example, AB 2839 does not apply to “materially deceptive  
23 content” in a broadcasting station’s “bona fide” news if the station includes a  
24 disclosure. Cal. Elec. Code § 20012(e)(1).

1 190. AB 2839 does not apply to a broadcasting station that is paid to  
2 broadcast “materially deceptive content” if certain conditions are met. Cal.  
3 Elec. Code § 20012(e)(2).

4 191. AB 2839 does not apply to certain broadcasters, online  
5 newspapers, magazines, or periodicals that publish “materially deceptive  
6 content” if they include a disclosure. Cal. Elec. Code § 20012(e).

7 192. The disclosure requirement for broadcasters, newspapers,  
8 magazines, or periodicals is not subjected to the same size regulations as the  
9 label for as satire or parody. Cal. Elec. Code § 20012(e)(2)–(3).

10 193. AB 2839 also exempts broadcasting stations and internet  
11 websites from special damages for distributing materially deceptive content  
12 if they “did not create the content.” Cal. Elec. Code § 20012(d)(2).

13 194. AB 2839 does not apply to “an interactive computer service, as  
14 defined in Section 230(f)(2)” of the Communications Decency Act.<sup>9</sup> Cal. Elec.  
15 Code § 20012(e)(4).

16 195. Nor does AB 2839 apply to “candidate[s] for elective office” who  
17 “portray” themselves “as doing or saying something that the candidate did  
18 not do or say” if the content is labeled. Cal. Elec. Code § 20012(b)(2), (F)(1).

19  
20  
21  
22  
23  
24  
25 <sup>9</sup> The Communications Decency Act defines an “interactive computer service”  
26 as “any information service, system, or access software provider that  
27 provides or enables computer access by multiple users to a computer server,  
28 including specifically a service or system that provides access to the Internet  
and such systems operated or services offered by libraries or educational  
institutions.” 47 U.S.C.A. § 230(f)(2).



1 **VII. California recognizes that AB 2655 restricts core political**  
2 **speech.**

3 196. California acknowledged throughout the legislative process that  
4 AB 2655 imposes serious burdens on speech and would be “vulnerable” to a  
5 constitutional challenge.

6 197. For example, the Assembly Committee on Judiciary published a  
7 report in April 2024 acknowledging that the law “would interfere with both  
8 the expression and reception of information based upon its content.” The  
9 Committee recognized this was “potentially problematic” because the bill  
10 singled “out particular content” that “relates to political candidates and  
11 elections,” which normally receives full constitutional protection. The  
12 Committee admitted “[i]t is difficult to imagine any content more related to  
13 ‘political expression’ and ‘discussion of public issues’ than content about  
14 candidates and elections.” The Committee also acknowledged that  
15 “opponents of this bill”—including “the industry groups and the ACLU”—  
16 “believe that with no sure means to determine what is ‘materially deceptive,’  
17 the platforms will err on the side of blocking content, thus burdening more  
18 speech than is necessary.” *See* Exhibit 9 (with report excerpts).

19 198. The Committee acknowledged that opponents claimed the bill  
20 was not narrowly tailored and that “it will be a court – not the findings and  
21 declarations of the bill – that will determine whether the bill is narrowly  
22 tailored. The court may consider, for example, if there are other less  
23 restrictive and more effective means of protecting election integrity.”  
24  
25  
26  
27  
28

1           199. When surveying cases pending before the Supreme Court (as of  
2 April 2024), the Committee stated that “there is no obvious or certain  
3 answer as to whether this bill violates the First Amendment.”

4           200. Several months later, in a June 2024 Senate Judiciary  
5 Committee report, California admitted that “[h]yperbole, distortion,  
6 invective, and tirades are as much a part of American politics as kissing  
7 babies and distributing bumper stickers and pot holders.” California  
8 recognized “the extraordinary protection afforded to political speech” under  
9 the First Amendment—including “false statements of fact.” *See* Exhibit 10  
10 (with report excerpts).

11           201. The Senate Judiciary Committee also understood that the bill  
12 “could be found to implicate the First Amendment rights of platforms in  
13 their editorial discretion.”

14           202. The Senate Judiciary Committee ultimately concluded that “it is  
15 inherently difficult to predict whether this law will be struck down for  
16 violating the protections of the First Amendment,” especially “in the more  
17 politically charged federal judiciary of the day.” But, the Committee  
18 believed, “it is safe to say [AB 2655] will likely face legal challenge and  
19 arguably be vulnerable thereto.”

20           203. In the final Assembly Floor Analysis in August 2024—just weeks  
21 before the bill became law—the California legislature still acknowledged the  
22 law may be unconstitutional. That analysis recognized the law “burdens core  
23 political speech,” would be subject to strict scrutiny under the First  
24  
25  
26  
27  
28

1 Amendment, and might not be “adequately protect[ed] ... against a  
2 constitutional challenge.” *See* Exhibit 11.

3 204. The California legislature passed AB 2655.

4 205. Governor Gavin Newsom signed the bill on September 17, 2024,  
5 and AB 2655 goes into effect on January 1, 2025.  
6

7 **VIII. AB 2655 targets political expression.**

8 206. AB 2655 applies to “large online platform[s].” Cal. Elec. Code  
9 § 20512(h).  
10

11 207. Large online platforms are defined as “a public-facing internet  
12 website, web application, or digital application, including a social media  
13 platform ... video sharing platform, advertising network, or search engine  
14 that had at least 1,000,000 California users during the preceding 12  
15 months.” Cal. Elec. Code § 20512(h).  
16

17 208. The law targets “materially deceptive content,” which “means  
18 audio or visual media that is digitally created or modified, and that includes,  
19 but is not limited to, deepfakes and the output of chatbots, such that it  
20 would falsely appear to a reasonable person to be an authentic record of the  
21 content depicted in the media.” Cal. Elec. Code § 20512(i)(1).  
22

23 209. “[M]aterially deceptive content” prohibited by the law includes a

- 24 • “candidate for elective office portrayed as doing or saying  
25 something that the candidate did not do or say and that is  
26 reasonably likely to harm the reputation or electoral prospects  
27 of a candidate”;  
28

- 1 • “elections official portrayed as doing or saying something in  
2 connection with the performance of their elections-related  
3 duties that the elections official did not do or say and that is  
4 reasonably likely to falsely undermine confidence in the  
5 outcome of one or more election contests”;
- 6 • “elected official portrayed as doing or saying something that  
7 influences the election that the elected official did not do or say  
8 and that is reasonably likely to falsely undermine confidence  
9 in the outcome of one or more election contests;” or
- 10 • “voting machine, ballot, voting site, or other property or  
11 equipment related to an election in California portrayed in a  
12 materially false way if the content is reasonably likely to  
13 falsely undermine confidence in the outcome of one or more  
14 election contests. Cal. Elec. Code § 20513.

17 210. AB 2655 starts to apply to “materially deceptive content”  
18 beginning 120 days before an election in California and ending the day of the  
19 election or sixty days after the election depending on the content. Cal. Elec.  
20 Code § 20513(e)(1)–(2).

22 211. AB 2655 requires large online platforms to take three actions  
23 with respect to materially deceptive content.

24 212. *First*, AB 2655 requires large online platforms to “provide an  
25 easily accessible way for California residents to report that” content should  
26 be removed or labeled as “manipulated” and “not authentic.” Cal. Elec. Code  
27 § 20515(a). This is the “Reporting Requirement.”  
28

1 213. Large online platforms must also respond to the person reporting  
2 the content within 36 hours “describing any action taken or not taken ...  
3 with respect to the content.” Cal. Elec. Code § 20515(a).

4 214. *Second*, AB 2655 demands that large online platforms “develop  
5 and implement procedures for the use of state-of-the-art techniques to  
6 identify and remove materially deceptive content if” four criteria are met.  
7 Cal. Elec. Code § 20513(a). This is the “Removal Requirement.”  
8

9 215. The criteria are: (1) the content has been reported under the  
10 Reporting Requirement; (2) the content is “materially deceptive content”; (3)  
11 the content is posted within the applicable timeframe; and (4) the large  
12 online platform “knows or acts with reckless disregard of the fact that the  
13 content meets the” prior three requirements. Cal. Elec. Code § 20513(a).  
14

15 216. Large online platforms must remove the content within 72 hours.  
16 Cal. Elec. Code § 20513(b).

17 217. Large online platforms must also remove “any identical or  
18 substantially similar materially deceptive content” that they had previously  
19 removed upon discovery that the content has been reposted. Cal. Elec. Code  
20 § 20513(c).  
21

22 218. *Third*, AB 2655 requires large online platforms to “develop and  
23 implement procedures for the use of state-of-the-art techniques to identify  
24 materially deceptive content” and label it if three criteria are met. This is  
25 the “Labeling Requirement.”  
26

27 219. The criteria are: (1) the content has been reported under the  
28 Reporting Requirement; (2) the content is either “materially deceptive

1 content” regardless of when it is posted or the content is “materially  
2 deceptive content” and appears in an “advertisement” or “election  
3 communication”; and (3) the large online platform “knows or acts with  
4 reckless disregard for the fact that the content meets the” prior two  
5 requirements. Cal. Elec. Code § 20514(a).  
6

7 220. The Labeling Requirement forces large online platforms to label  
8 the content within 72 hours of discovery or receipt of a report; that label  
9 must state: “This [image, audio, or video] has been manipulated and is not  
10 authentic.” Cal. Elec. Code § 20514(b)–(c).  
11

12 221. The Labeling Requirement also forces large online platforms to  
13 “permit users to click or tap on [the label] for additional explanation about  
14 the materially deceptive content in an easy-to-understand format.” Cal. Elec.  
15 Code § 20514(d).  
16

17 222. Any person—including the Secretary of State—who has filed a  
18 report with a large online platform “may seek injunctive or other equitable  
19 relief” to enforce the Reporting Requirement, the Removal Requirement, or  
20 the Labeling Requirement. Cal. Elec. Code § 20515(b).  
21

22 223. Likewise, the Attorney General, District Attorney, or City  
23 Attorney “may seek injunctive or other equitable relief” to enforce the  
24 Reporting, Removal, or Labeling Requirements. Cal. Elec. Code § 20516.  
25

26 224. By authorizing the government to coerce large online platforms to  
27 remove and label content through a reporting process, AB 2655 uses  
28 governmental authority and the threat of punishment to coerce private

1 parties into punishing or suppressing speech based on its content and  
2 viewpoint.

3 225. Though AB 2655 applies to large online platforms in these ways,  
4 the law makes many exceptions.

5 226. For example, AB 2655 does not apply to certain online  
6 newspapers, magazines, or periodicals that publish “materially deceptive  
7 content” if the publisher includes a disclosure. Cal. Elec. Code § 20519(a).

8 227. AB 2655 does not apply to a “broadcasting station that broadcasts  
9 any materially deceptive content” if the station includes a disclosure. Cal.  
10 Elec. Code § 20519(b)(1).

11 228. AB 2655 does not apply to a broadcasting station that is paid to  
12 broadcast “materially deceptive content” in some situations. Cal. Elec. Code  
13 § 20519(b).

14 229. AB 2655 does not apply to “materially deceptive content that  
15 constitutes satire or parody.” Cal. Elec. Code § 20519(c).

16 230. AB 2655 applies only to “materially deceptive content” concerning  
17 certain candidates—i.e., to persons running for a voter-nominated office as  
18 defined in Cal. Elec. Code § 359.5(a), persons running for President or Vice  
19 President of the United States, and persons running for the office of  
20 Superintendent of Public Instruction. Cal. Elec. Code § 20512(c).

21 231. “Materially deceptive content” about candidates who do not meet  
22 these criteria is not prohibited.

23 232. AB 2655 defines “election in California” to mean “any election  
24 where a candidate ... is on the ballot, and any election where a statewide  
25  
26  
27  
28

1 initiative or statewide referendum measure is on the ballot.” Cal. Elec. Code  
2 § 20512(f).

3 233. And AB 2655’s removal requirement does not apply to  
4 “candidate[s] for elective office” who “portray” themselves “as doing or saying  
5 something that the candidate did not do or say” if the content is labeled. Cal.  
6 Elec. Code § 20513(d).

8  
9 **IX. AB 2839 and 2655 impose overwhelming burdens on The Bee  
and Rickert, compelling and restricting their speech.**

10 234. AB 2839 and AB 2655 have imposed and will continue to impose  
11 significant pressures and burdens on The Bee’s and Rickert’s expression.

12 235. AB 2839 and AB 2655 use vague and overbroad terms that grant  
13 California unbridled enforcement discretion, including but not limited to  
14 phrases like “falsely appear to a reasonable person,” “reasonably likely to  
15 harm the reputation or electoral prospects of a candidate,” “undermine  
16 confidence in the outcome of [an] ... election contest[],” and others.

17 236. Whether expression falls into these vague and overbroad  
18 categories depends on the subjective perceptions of others, including state  
19 enforcement officials.

20 237. For example, The Bee once posted an article about U.S.  
21 Representative Ocasio-Cortez guessing everything was free on the  
22 gameshow “Price is Right.” *See supra* ¶¶ 83–86.

23 238. The article generated enough attention from viewers—i.e., the  
24 presumptively “reasonable person”—that Snopes deemed it necessary to  
25 fact-check the article to determine that it was satirical. *See supra* ¶¶ 79–86.  
26  
27  
28



1 239. Snopes, USA Today, and others have mistaken The Bee’s satirical  
2 articles for real news in the past, and that is likely to continue to happen in  
3 the future. *See supra* ¶¶ 69–86.

4 240. Whether content “harm[s] the reputation ... of a candidate” is  
5 inherently subjective, vague, and overbroad and depends on others’  
6 perception of the effect of the content.  
7

8 241. And whether content “harms” the “electoral prospects of a  
9 candidate” is inherently subjective, vague, and overbroad because it depends  
10 on others’ perception of the effect of the content.

11 242. AB 2655’s exemption for “satire or parody” is also problematic  
12 because persons often disagree over whether something is or is not satire.  
13

14 243. For example, the Harris Parody Video was clearly marked as a  
15 parody. *See, e.g., supra* ¶¶ 119–21.

16 244. But Governor Newsom still tweeted that the video should be  
17 “illegal.” *See supra* ¶¶ 151–57.

18 245. Because of the vagueness and overbreadth of AB 2839 and 2655  
19 and their discretionary terms, it is unclear if the following content—  
20 including content from a social media account attributed to the Harris  
21 presidential campaign that has been accused of “repeatedly deceiv[ing]”  
22 viewers “with misleading edits and captions”—would violate those laws:  
23

- 24 • Republican Nat’l Comm., *12 Minutes of Democrats Denying*  
25 *Election Results*, (June 23, 2022), [https://gop.com/video/12-](https://gop.com/video/12-minutes-of-democrats-denying-election-results/)  
26 [minutes-of-democrats-denying-election-results/](https://gop.com/video/12-minutes-of-democrats-denying-election-results/).  
27  
28

- Daniel Dale, *Fact Check: Harris campaign social media has repeatedly deceived with misleading edits and captions*, CNN (Sept. 14, 2024, 2:57 PM), <https://perma.cc/KUZ2-AMEY>.

246. The example in bullet point two above is in Exhibit 12.

247. It is likewise unclear if the digitally altered image below, which depicts Taylor Swift endorsing Donald Trump, violates AB 2839 or AB 2655 by harming a candidate's "electoral prospects," undermining "confidence" in the election, or violating some other clause.



248. As applied here, AB 2839 threatens The Bee and Rickert with attorneys' fees, injunctions, and other forms of punishment for creating, posting, or reposting content they desire to create, post, or repost.

1 249. The Bee and Rickert are direct objects of AB 2839 because they  
2 each operate their own websites and social media accounts where they  
3 regularly post political content—including content that is satire or parody—  
4 that is or is arguably regulated by AB 2839 and they distribute that content  
5 over the internet.  
6

7 250. The Bee posts satirical articles on its website and social media  
8 accounts every day.

9 251. The Bee has and will continue to post satirical articles on its  
10 website and social media accounts containing content that is or is arguably  
11 regulated by AB 2839, including intentionally digitally created or modified  
12 content portraying candidates in California, elected officials saying  
13 something in connection with an election in California, ballots, and voting  
14 sites as stated in paragraphs 52–61 above.  
15

16 252. The Bee faces a substantial risk that many of its existing articles  
17 and social media posts are already actionable under AB 2839.  
18

19 253. Meanwhile, Rickert desires to create blog posts and posts on her  
20 social media accounts with content that has been intentionally digitally  
21 created or modified that would be actionable under AB 2839.

22 254. For example, Rickert desires to repost on her blog and social  
23 media accounts the Harris Parody Video as stated in paragraphs 118–133  
24 above.  
25

26 255. This is the same video that Governor Newsom found to be  
27 “illegal” under AB 2839, and therefore posting this video would violate AB  
28 2839.

1           256. Rickert desires to post on her blog and social media accounts  
2 other content that faces a substantial risk of being actionable under AB  
3 2839—intentionally digitally created or modified content portraying  
4 candidates in California, elected officials saying something in connection  
5 with a candidate in California, ballots, and voting sites as stated in  
6 paragraphs 118–133 above.  
7

8           257. Rickert has refrained from posting the content identified in  
9 paragraphs 118–133 above on her own blog and social media accounts to  
10 avoid being subject to liability under AB 2839.  
11

12           258. Rickert would immediately post the content identified in  
13 paragraphs 118–133 above or materially similar content but for AB 2839.  
14

15           259. The Bee and Rickert also desire to post satirical or parodical  
16 content that has been intentionally digitally created or modified on their  
17 social media accounts hosted by large online platforms or republish to those  
18 accounts such content created by others.  
19

20           260. The only way for The Bee and Rickert to publish or republish  
21 satire or parody on their own websites or on their social media accounts  
22 without violating AB 2839 is by labeling the content (“This \_\_\_\_ has been  
23 manipulated for purposes of satire or parody”) in a size that complies with  
24 AB 2839.  
25

26           261. This disclaimer alters the content of the messages The Bee and  
27 Rickert want to express by alerting the viewer to the satirical or parodical  
28 nature of the communication and thereby depriving the expression of its  
rhetorical force.

1 262. This disclaimer also alters the content of the messages The Bee  
2 and Rickert desire to express by forcing them to incorporate California's  
3 desired messages into their satire or parody.

4 263. Neither The Bee nor Rickert are willing to post satire or parody  
5 with this label because they do not want this disclaimer to alter their  
6 messages and because AB 2839 size requirements ruin the communicative  
7 impact of satire or parody.

8 264. For example, AB 2839 requires The Bee to alter its headlines or  
9 video identified above by stamping the following disclaimer on its content:  
10

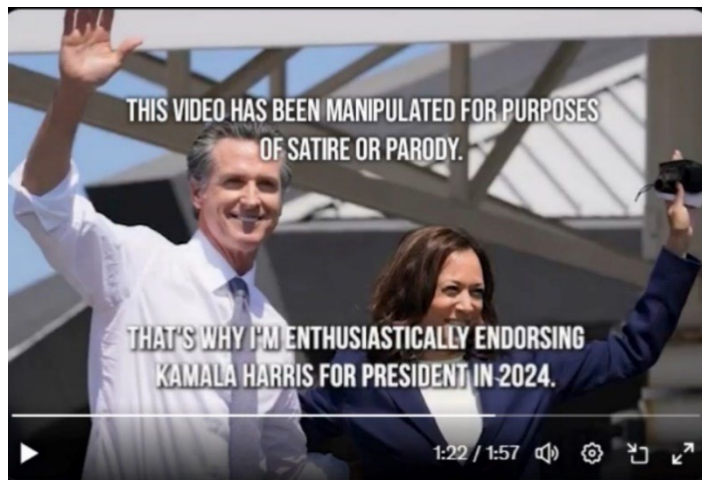


20  
21  
22  
23  
24  
25  
26  
27  
28

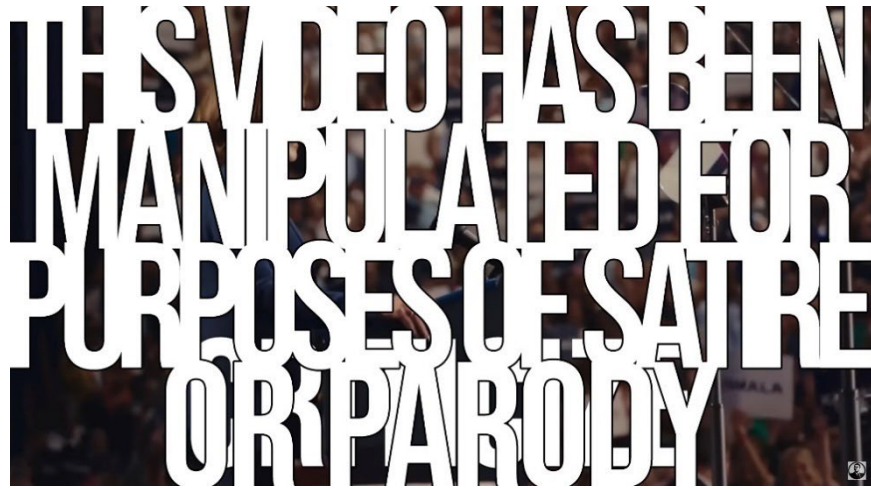
### Kamala Responds To Criticism Over Lack Of Policies By Posting Another Truck Stop Junk Food Video

POLITICS · Sep 6, 2024 · BabylonBee.com

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1           265. And AB 2839 requires Rickert to alter the Harris Parody Video  
2 by post the following disclaimer throughout the video:



12           266. The Bee has continued to post satirical and parodical content  
13 without the disclaimer despite the substantial risk of harm imposed by AB  
14 2839 because The Bee is unwilling to include the disclaimer and unwilling to  
15 chill its own speech.

16           267. By contrast, Rickert has refrained from posting the content  
17 identified in paragraphs 118–133 because she is unwilling to include the  
18 disclaimer and unwilling to risk liability under AB 2839.

19           268. AB 2839 harms The Bee and Rickert by threatening them, their  
20 websites, and their social media accounts for posting content California  
21 defines as “materially deceptive content.”  
22

23           269. AB 2839 likewise harms The Bee and Rickert by conditioning  
24 their freedom to post or republish satire or parody on their willingness to  
25 include a large disclaimer.  
26  
27  
28

1 270. If The Bee or Rickert declines to include the disclaimer,  
2 California officials threaten them with lawsuits and penalties.

3 271. AB 2655 independently and in conjunction with AB 2839 stifles  
4 and burdens The Bee's and Rickert's expression.

5 272. AB 2655 requires large online platforms to accept reports of  
6 "materially deceptive content" and remove or label that content beginning  
7 January 1, 2025.  
8

9 273. AB 2655's structure encourages large online platforms to err on  
10 the side of removing or labeling content rather than allowing it, even if the  
11 content arguably falls within the "satire or parody" exemption of AB 2655.  
12

13 274. The Bee posts content on X, Instagram, Facebook, and YouTube,  
14 all of which qualify as large online platforms under AB 2655.

15 275. Despite these threats, The Bee has and will continue to post  
16 intentionally digitally created or modified content on large online platforms  
17 that is materially similar to content that it has posted in the past as  
18 identified in paragraphs 52–61 above, even if AB 2655 threatens to coerce  
19 large online platforms into removing that content.  
20

21 276. Material that is similar to content The Bee has posted in the past  
22 includes the content identified in paragraphs 52–61 above and other  
23 intentionally digitally created or modified content about Donald Trump,  
24 Kamala Harris, Gavin Newsom, future presidential and vice presidential  
25 candidates for office who appear on the ballot in California, other candidates  
26 who appear on the ballot in California, elected officials saying or doing  
27 something in connection to an election in California.  
28

1 277. Meanwhile, Rickert has accounts with X, Facebook, and  
2 Instagram.

3 278. Rickert has refrained from posting certain content on her social  
4 media accounts because of AB 2655 as described in paragraphs 118–133  
5 above.

6  
7 279. For example, Rickert would like to post the Harris Parody Video.

8 280. But she has specifically refrained from reposting the Harris  
9 Parody Video because Governor Newsom said that AB 2655 makes the video  
10 “illegal” and therefore forces social media companies to remove it.

11 281. The Bee’s and Rickert’s posts identified in paragraphs 52–61 and  
12 118–133 above that have been posted have not been removed or labeled by X,  
13 Instagram, Facebook, or YouTube, and because this content arguably  
14 violates AB 2655, these large online platforms will arguably violate AB 2655  
15 for not removing the content when that law goes into effect.  
16

17 282. The Bee and Rickert face a substantial risk that AB 2839 and AB  
18 2655 will cause their content to be removed or labeled by these large online  
19 platforms.  
20

21 283. X, Facebook, Instagram, and YouTube have certain content  
22 moderation policies that govern what content may be uploaded to those  
23 platforms.

24 284. These platforms’ internal policies give them discretion to  
25 determine whether particular content violates their policies.  
26

27 285. But AB 2839 and AB 2655 impose different content moderation  
28 requirements than these platforms’ current policies and threaten to impose



1 those requirements under the authority of California and the threat of  
2 penalties and damages.

3 286. And because these platforms reference applicable state law in  
4 their terms of service agreements, AB 2839 and AB 2655 require these  
5 platforms to moderate content in ways that they otherwise would not under  
6 their existing policies.  
7

8 287. For that reason, The Bee, Rickert, and other speakers risk being  
9 deplatformed for posting content that violates or arguably violates AB 2839  
10 and AB 2655.

11 288. If The Bee continues to post or if Rickert begins posting content  
12 that violates AB 2839 or AB 2655, they risk disciplinary action or other  
13 sanctions from X, Facebook, Instagram, or YouTube, which may include  
14 temporary bans or removal of their accounts.  
15

16 289. The Bee's and Rickert's substantial risk of being deplatformed or  
17 otherwise punished by these large online platforms for posting their desired  
18 content causes them material harm because of content that they have posted  
19 in the past as identified in paragraphs 52–61 and 118–133 above or content  
20 that they wish to post in the future as identified in these paragraphs.  
21

22 290. The Bee's revenue, access to followers and subscribers, and access  
23 to a platform of its choice are materially harmed by AB 2839 and AB 2655.

24 291. Because of AB 2839 and AB 2655, The Bee faces a substantial  
25 risk that the enforcement of these laws will cause it to be removed from  
26 these platforms or cause these platforms to label its content if that content is  
27  
28

1 materially similar to content it has posted in the past as described in  
2 paragraphs 52–61 above.

3 292. Such removal would impair The Bee’s revenue and reputation,  
4 cause it to lose access to one or more large platforms to proclaim its  
5 messages, and cause it to lose access to the millions of followers and  
6 subscribers it has attracted across X, Facebook, Instagram, and YouTube.  
7

8 293. Likewise, the risk of being deplatformed for posting content is  
9 substantial and would significantly burden Rickert.

10 294. If Rickert posted the content she desires to post in violation of AB  
11 2839 and AB 2655 as identified in paragraphs 118–133 above, she risks  
12 disciplinary action or other sanctions from the platforms, which may include  
13 temporary bans or removal of her account.  
14

15 295. These sanctions would harm her reputation among her followers,  
16 cause her to lose access to platforms to communicate her preferred messages,  
17 views, and opinions, and cause her to lose access to the tens of thousands of  
18 followers that she has acquired over X, Facebook, and Instagram.  
19

20 296. If not for AB 2839 and AB 2655, Rickert would immediately  
21 publish the content listed in paragraphs 118–133 above and would publish  
22 materially similar content as described in paragraphs 118–133 above.

23 297. AB 2839 and AB 2655 also harm The Bee and Rickert because  
24 they wish to view other content creators’ content that would be available  
25 absent AB 2839 and AB 2655.  
26

27 298. They are prejudiced, as viewers of this content, to the extent that  
28 AB 2839 and AB 2655 curtail others’ protected speech.

1 299. The Bee and Rickert’s freedom to engage in their desired  
2 expression is burdened by AB 2839 and AB 2655.

3 **ALLEGATIONS OF LAW**

4 300. Plaintiffs publish, distribute, republish, and circulate content  
5 that is subject to AB 2839 and AB 2655.

6 301. AB 2839 and AB 2655 violate Plaintiffs’ constitutional rights, and  
7 chill and deter them from exercising their constitutional rights.

8 302. As a direct and proximate result of Defendants’ violations of  
9 Plaintiffs’ constitutional rights, Plaintiffs have suffered and will suffer  
10 ongoing irreparable harm, entitling Plaintiffs to declaratory and injunctive  
11 relief.  
12

13 303. Plaintiffs do not have an adequate monetary or legal remedy for  
14 the loss of their constitutional rights.  
15

16 304. Unless Defendants are enjoined, Plaintiffs will continue to suffer  
17 irreparable harm.

18 **FIRST CAUSE OF ACTION**

19 **Violation of the First Amendment’s Free Speech and Free Press**  
20 **Clauses by AB 2839**

21 305. Plaintiffs repeat and reallege each allegation contained in  
22 paragraphs 1–304 of this complaint.  
23

24 306. The First Amendment’s Free Speech and Free Press Clauses  
25 protect Plaintiffs’ ability to create, publish, and distribute their speech.

26 307. The First Amendment also protects Plaintiffs’ right to be free  
27 from content, viewpoint, and speaker-based discrimination, overbroad  
28

1 restrictions on speech, and vague laws allowing unbridled discretion by  
2 enforcement officials.

3 308. Plaintiffs engage in activities protected by the First Amendment  
4 when they create, publish, or distribute their own speech or republish the  
5 speech of others or view others' speech.  
6

7 309. AB 2839 uses governmental authority and the threat of  
8 punishment to coerce private parties into punishing or suppressing  
9 Plaintiffs' speech that Defendants disfavor.

10 310. AB 2839 constitutes an impermissible and unreasonable  
11 restriction of protected speech because it burdens substantially more speech  
12 than is necessary to further any governmental interest.  
13

14 311. As applied and facially, AB 2839 bars and chills speech based on  
15 content and viewpoint.

16 312. As applied and facially, AB 2839 is not content-neutral because it  
17 targets only "materially deceptive content," and only a certain subset of that  
18 kind of speech. Specifically, it targets speech that is "reasonably likely to  
19 harm the reputation or electoral prospects of a candidate" and speech that is  
20 "reasonably likely to falsely undermine confidence in the outcome of one or  
21 more election contests."  
22

23 313. AB 2839 is not content- or viewpoint-neutral because it singles  
24 out "satire or parody" by restricting that content unless the "satire or  
25 parody" includes a disclaimer.  
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1 314. As applied and facially, AB 2839 is not speaker-neutral because  
2 it exempts actual candidates from making “materially deceptive content” if  
3 they include a disclaimer in their content.

4 315. AB 2839 is unconstitutional as applied to Plaintiffs’ speech  
5 because AB 2839 is a content-, viewpoint-, and speaker-based regulation  
6 that bans, chills, and burdens Plaintiffs’ desired speech.  
7

8 316. As applied to Plaintiffs, AB 2839 compels speech Plaintiffs object  
9 to, interferes with their editorial judgment, and compels them to publish and  
10 disseminate speech they object to.

11 317. As applied to Plaintiffs, AB 2839 is vague and allows Defendants  
12 unbridled discretion to evaluate Plaintiffs’ speech and then discriminate  
13 against it based on content and viewpoint in determining whether to apply  
14 AB 2839.  
15

16 318. AB 2839 punishes Plaintiffs for publishing speech Defendants  
17 deems to be “materially deceptive content.”

18 319. AB 2839 prohibits Plaintiffs from publishing their own “satire or  
19 parody” without a disclaimer.  
20

21 320. AB 2839 compels Plaintiffs to publish a disclaimer as a condition  
22 of publishing “satire or parody.”

23 321. AB 2839 prohibits Plaintiffs from re-publishing third-parties’  
24 “satire or parody” without a disclaimer.

25 322. AB 2839 compels Plaintiffs to publish a disclaimer as a condition  
26 of re-publishing third-parties’ “satire or parody.”  
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1 323. AB 2839 is substantially overbroad in relation to any legitimate  
2 sweep and is facially unconstitutional for that reason.

3 324. AB 2839 is substantially overbroad because it does not  
4 adequately define various material terms in the statute, including but not  
5 limited to “deep fake,” “materially deceptive content,” “harm the reputation  
6 or electoral prospects of a candidate,” and “falsely undermine confidence in  
7 the outcome of one or more election contests.”  
8

9 325. AB 2839 also vests unfettered discretion in state officials to  
10 define these terms and remove content in accordance with their own  
11 subjective ends for election regulations.  
12

13 326. Plaintiff Rickert has not and will not engage in certain protected  
14 speech because of AB 2839.

15 327. If not for AB 2839, Plaintiff Rickert would immediately begin to  
16 engage in this protected speech.

17 328. AB 2839 imposes a substantial risk of harm on Plaintiff The  
18 Babylon Bee because it has posted and will continue to post content that  
19 violates or at least arguably violates AB 2839.  
20

21 329. Defendants do not serve any compelling or even valid interest in  
22 a narrowly tailored way by infringing on Plaintiffs’ free speech and free  
23 press rights.

24 330. Accordingly, facially and as applied to Plaintiffs, AB 2839 violates  
25 the First Amendment’s protections for free speech and free press.  
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1 **SECOND CAUSE OF ACTION**

2 **Violation of the Fourteenth Amendment by AB 2839**

3 331. Plaintiffs repeat and reallege each allegation contained in  
4 paragraphs 1–304 of this complaint.

5 332. The Fourteenth Amendment’s Due Process Clause prohibits the  
6 government from censoring speech using vague standards that grant  
7 unbridled discretion to government officials to arbitrarily prohibit some  
8 speech and that fail to give speakers sufficient notice regarding whether  
9 their desired speech violates AB 2839.  
10

11 333. Due process requires that people of ordinary intelligence be able  
12 to understand what conduct a given statute or regulation prohibits.  
13

14 334. Statutes or regulations that fail to provide this fair notice and  
15 clear guidance are void for vagueness.

16 335. Statutes, rules, or regulations that authorize or even encourage  
17 arbitrary or viewpoint-discriminatory enforcement are void for vagueness.

18 336. Plaintiffs, Defendants, and third parties of ordinary intelligence  
19 cannot know what content is prohibited by AB 2839.  
20

21 337. AB 2839 chills and restrains satirists, political humorists, and  
22 other original content-creators, subjecting them to censorship and other  
23 punitive sanctions for their speech.

24 338. AB 2839 chills and restrains the speech of those wishing to  
25 republish certain content prohibited by AB 2839 by subjecting that content  
26 to censorship and other punitive sanctions.  
27

28 339. AB 2839 does not provide fair notice of what it prohibits.

1 340. AB 2839 authorizes and encourages discriminatory enforcement.

2 341. AB 2839 uses unconstitutionally vague phrases, including but not  
3 limited to “falsely appear to a reasonable person to be an authentic record of  
4 the content depicted in the media”; “reasonably likely to harm the reputation  
5 or electoral prospects of a candidate”; “reasonably likely to falsely undermine  
6 confidence in the outcome of one or more election contests”; and “satire or  
7 parody.”  
8

9 342. Defendants can use this vagueness, and the unbridled discretion  
10 it provides, to apply AB 2839 in a way that discriminates against content,  
11 viewpoints, and actions Defendants disfavor.  
12

13 343. Accordingly, facially and as applied to Plaintiffs, AB 2839 violates  
14 the Fourteenth Amendment’s Due Process Clause and chills protected  
15 speech.  
16

### 17 **THIRD CAUSE OF ACTION**

#### 18 **Violation of the First Amendment’s Free Speech and Free Press** 19 **Clauses by AB 2655**

20 344. Plaintiffs repeat and reallege each allegation contained in  
21 paragraphs 1–304 of this complaint.

22 345. The First Amendment’s Free Speech and Free Press Clauses  
23 protect Plaintiffs’ ability to speak and to publish and distribute their speech.

24 346. The First Amendment also protects Plaintiffs’ right to be free  
25 from content-, viewpoint-, and speaker-based discrimination, overbroad  
26 restrictions on speech, and vague laws allowing unbridled discretion by  
27 enforcement officials.  
28



1 347. Plaintiffs engage in activities protected by the First Amendment  
2 when they create, publish, or distribute their own speech, including when  
3 they publish it on third-party online platforms, and view others' speech.

4 348. AB 2655 uses governmental authority and the threat of  
5 punishment to coerce private parties into punishing or suppressing  
6 Plaintiffs' speech that Defendants disfavor.

7 349. AB 2655 constitutes an impermissible and unreasonable  
8 restriction of protected speech because it burdens substantially more speech  
9 than is necessary to further any governmental interest.

10 350. As applied and facially, AB 2655 bars and chills speech based on  
11 content and viewpoint.

12 351. As applied and facially, AB 2655 is not content-neutral because it  
13 targets only "materially deceptive content," and only a certain subset of that  
14 kind of speech. Specifically, it targets speech that is "reasonably likely to  
15 harm the reputation or electoral prospects of a candidate" and speech that is  
16 "reasonably likely to falsely undermine confidence in the outcome of one or  
17 more election contests."

18 352. As applied and facially, AB 2655 is also not content-neutral  
19 because it only regulates "materially deceptive content" directed at specific  
20 public offices and referenda, not all elections.

21 353. AB 2655 is unconstitutional as applied to Plaintiffs' speech  
22 because AB 2655 is a content-, viewpoint-, and speaker-based regulation  
23 that bans, chills, and burdens Plaintiffs' desired speech (and the publication  
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1 of that speech) on large online platforms where they desire to publish and  
2 have previously published their speech.

3 354. As applied to Plaintiffs, AB 2655 is vague and allows Defendants  
4 unbridled discretion to coerce large online platforms to report, remove, and  
5 label speech and then discriminate based on content and viewpoint in  
6 determining whether to apply AB 2655.  
7

8 355. AB 2655 forces large online platforms where Plaintiffs publish  
9 their speech to either create a mechanism where viewers can report  
10 Plaintiffs' posts or risk prosecution for not providing that mechanism.  
11

12 356. AB 2655 uses governmental authority and the threat of  
13 punishment to coerce private large online platforms into punishing or  
14 suppressing Plaintiffs' speech that Defendants disfavor.

15 357. AB 2655 forces large online platforms where Plaintiffs publish  
16 their speech to either remove "materially deceptive content" as defined by  
17 California or risk prosecution for not removing that content.  
18

19 358. AB 2655 coerces large online platforms to remove any of  
20 Plaintiffs' speech published on those platforms deemed "materially deceptive  
21 content" as defined by Defendants.

22 359. AB 2655 forces large online platforms where Plaintiffs publish  
23 their speech to label "materially deceptive content" that is not otherwise  
24 removable with a label or risk prosecution for not labeling that content.  
25

26 360. AB 2655 coerces large online platforms where Plaintiffs publish  
27 their speech to either label Plaintiffs' speech that is deemed to be "materially  
28

1 deceptive content” and otherwise fits the criteria for the Labeling Require-  
2 ment or risk prosecution for not labeling that content.

3 361. AB 2655 is substantially overbroad in relation to any legitimate  
4 sweep and is facially unconstitutional for that reason.

5 362. AB 2655 is substantially overbroad because it does not  
6 adequately define various material terms in the statute, including but not  
7 limited to “deep fake,” “materially deceptive content,” “harm the reputation  
8 or electoral prospects of a candidate,” “falsely undermine confidence in the  
9 outcome of one or more election contests,” “something that influences the  
10 election,” and “satire or parody.”

11 363. AB 2655 also vests unfettered discretion in state officials to  
12 define these terms and coerce large online platforms to remove content in  
13 accordance with the officials’ own subjective ends for election regulations.

14 364. AB 2655 imposes a substantial risk of harm on Plaintiff Babylon  
15 Bee because it has posted and will continue to post content that violates or  
16 at least arguably violates AB 2655.

17 365. Plaintiff Rickert has not and will not engage in certain protected  
18 speech because of AB 2655.

19 366. If not for AB 2655, Plaintiff Rickert would immediately begin to  
20 engage in this protected speech.

21 367. Defendants do not serve any compelling or even valid interest in  
22 a narrowly tailored way by infringing on Plaintiffs’ free speech and free  
23 press rights.

1 368. Accordingly, facially and as applied, AB 2655 violates the First  
2 Amendment’s protections for free speech and free press.

3 **FOURTH CAUSE OF ACTION**

4 **Violation of the Fourteenth Amendment by AB 2655**

5 369. Plaintiffs repeat and reallege each allegation contained in  
6 paragraphs 1–304 of this complaint.

7  
8 370. The Fourteenth Amendment’s Due Process Clause prohibits the  
9 government from censoring speech using vague standards that grant  
10 unbridled discretion to government officials to arbitrarily prohibit some  
11 speech and that fail to give speakers sufficient notice regarding whether  
12 their desired speech violates California’s law.

13  
14 371. Due process requires that people of ordinary intelligence be able  
15 to understand what conduct a given statute or regulation prohibits.

16 372. Statutes or regulations that fail to provide this fair notice and  
17 clear guidance are void for vagueness.

18 373. Statutes or regulations that authorize or even encourage  
19 arbitrary or viewpoint discriminatory enforcement are void for vagueness.

20 374. Plaintiffs, Defendants, and third parties of ordinary intelligence  
21 cannot know what content is prohibited by AB 2655.

22 375. AB 2655 does not provide fair notice of what it prohibits.

23 376. AB 2655 authorizes and encourages discriminatory enforcement.

24 377. AB 2655 uses unconstitutionally vague phrases including but not  
25 limited to “falsely appear to a reasonable person to be an authentic record of  
26 the content depicted in the media”; “reasonably likely to harm the reputation  
27  
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1 or electoral prospects of a candidate”; “in connection with the performance of  
2 their elections-relate duties”; “reasonably likely to falsely undermine  
3 confidence in the outcome of one or more election contests”; “something that  
4 influences the election”; and “satire or parody.”

5  
6 378. Defendants can use this vagueness, and the unbridled discretion  
7 it provides, to apply the AB 2655 in a way that discriminates against  
8 content, viewpoints, and actions Defendants disfavor.

9 379. Accordingly, facially and as applied to Plaintiffs, AB 2655 violates  
10 the Fourteenth Amendment’s Due Process Clause and chills protected  
11 speech.

### 12 **PRAYER FOR RELIEF**

13  
14 Plaintiffs respectfully ask this Court to enter judgment against  
15 Defendants and provide the following relief:

16 1. An expedited preliminary injunction and a permanent injunction  
17 to stop Defendants and any person acting in concert with them from:

- 18 a. enforcing AB 2839 and AB 2655 as applied to Plaintiffs’  
19 constitutionally protected speech and press;
- 20 b. enforcing AB 2839 and AB 2655 as applied to other  
21 similarly speakers engaging in similarly situated speech as  
22 Plaintiffs;
- 23 c. enforcing AB 2839 and AB 2655 facially.

24  
25 2. A declaration that AB 2839 and AB 2655, as applied to Plaintiffs  
26 and similarly situated speakers, have violated and continue to violate their  
27  
28

1 First Amendment Rights under the United States Constitution to engage in  
2 speech and press;

3 3. A declaration that AB 2839 and AB 2655 facially violate the First  
4 Amendment protections for speech and press and the Fourteenth  
5 Amendment protections for due process;

6 4. A ruling concerning the rights and other legal relations of the  
7 parties to the subject matter here in controversy that ensures these  
8 declarations shall have the force and effect of a final judgment;

9 5. An order retaining jurisdiction of this matter for the purpose of  
10 enforcing the Court's orders;

11 6. An award of Plaintiffs' costs and expenses in this action,  
12 including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988;

13 7. The requested injunctive relief without a condition of bond or  
14 other security required of Plaintiffs; and

15 8. Any other relief that the Court deems equitable and just in the  
16 circumstances.

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21 DATED: September 30, 2024

22  
23 */s/ David A. Shaneyfelt*

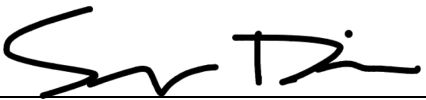
24 David A. Shaneyfelt

25 *Counsel for Plaintiffs*

**DECLARATION UNDER PENALTY OF PERJURY**

I, Seth Dillon, have reviewed the complaint and declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my personal knowledge as to the policies, practices, posts, statistics, articles, intentions, and other factual statements that relate to The Babylon Bee.

Executed this 28th day of September, 2024, at [REDACTED] Jupiter, Florida.



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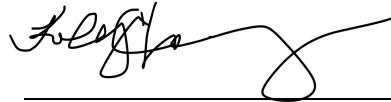
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**DECLARATION UNDER PENALTY OF PERJURY**

I, Kelly Chang Rickert, have reviewed the complaint and declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my personal knowledge as to the practices, posts, statistics, articles, intentions, and other factual statements that relate to Kelly Chang Rickert.

Executed this 27th day of September, 2024, at Los Angeles, California.



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Kelly Chang Rickert

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