



Viewpoints

Ninth Circuit Clarifies When School Officials' Social Media Use May Constitute State Action And Violate The First Amendment



The Ninth Circuit Court of Appeals issued further direction on school board member use of social media in the case of *Garnier v. O'Connor-Ratcliff*, which was on remand from the U.S. Supreme Court. The Court held that the school board member did, in fact, take “state action” on behalf of the school district and thereby created legal liability, when she blocked a community member from her social media account.

The Court reasoned that the board member was acting on behalf of the school district because (1) the school board’s bylaws reflected that, as Board president, she had actual authority to speak on behalf of the school district, and (2) the appearance and content of her social media accounts more closely resembled those of a public official acting in their official capacity than personal accounts of a private citizen.

However, the Court reaffirmed that “public officials assuredly do have the right to speak on public affairs, including issues related to their official duties, in their personal capacity. . . . [P]ublic officials can limit the risk of liability for personal speech on social media by, for instance, ‘keep[ing] personal posts in a clearly designated personal account,’ including a disclaimer, or refraining from labelling their personal pages as official means of communication.” The Plaintiff community members were awarded declaratory and injunctive relief, but not monetary damages because the Board president was subject to qualified immunity. *Garnier v. O'Connor-Ratcliff*, No. 21-55118, 2025 WL 1387929 (9th Cir. May 14, 2025)

[Click here](#) to read more about the U.S. Supreme Court’s 2024 decision.

Professionals



Gretchen M. Shipley
Partner
San Diego
760.304.6015
gshipley@f3law.com



Lynn Beekman
Partner
San Diego
760.304.6037
lbeekman@f3law.com



Peter K. Fagen
Partner
San Diego
760.304.6000
pfagen@f3law.com



Christopher D. Keeler
Partner
Inland Empire
951.215.4910
ckeeler@f3law.com