



CARDOZO

Benjamin N. Cardozo School of Law

LARC @ Cardozo Law

AEJ Blog

Journal Blogs

10-10-2017

Trump is at it again with Twitter. . .

Catherine Campoverde

Cardozo Arts & Entertainment Law Journal

Follow this and additional works at: <https://larc.cardozo.yu.edu/aelj-blog>



Part of the [Law Commons](#)

Recommended Citation

Campoverde, Catherine, "Trump is at it again with Twitter. . ." (2017). *AEJ Blog*. 165.
<https://larc.cardozo.yu.edu/aelj-blog/165>

This Article is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in AELJ Blog by an authorized administrator of LARC @ Cardozo Law. For more information, please contact larc@yu.edu.

Trump is at it again with Twitter. . .

BY [CATHERINE CAMPOVERDE](#) /ON OCTOBER 10, 2017

Last Friday, September 22, Golden State Warrior's player Stephen Curry had a press conference^[1] during the Warriors' Media Day. This year's Media Day marks the unofficial start of the 2017-2018 basketball season where the players pose for photos, record promotional materials, and hold press conferences.^[2] During Curry's press conference, he was asked about what statement he would like to make by declining the White House's invitation after winning an NBA championship this past June.^[3] Curry's response was straightforward, "By acting and not going, hopefully that will inspire some change when it comes to what we tolerate in this country[.]"^[4] Of course, Trump was not going to stay quiet regarding Curry's comments.

The next day, Trump used his usual Twitter platform to withdraw the invitation to Curry.^[5] Trump told Curry that going to the White House is a "great honor for a championship team."^[6] The back-and-forth continued with LeBron James defending Curry on Twitter.^[7] James called Trump a "bum" and considers that, "[g]oing to the White House was a great honor until you showed up!"^[8] With this comment and others suggesting NFL owners fire players who do not stand for the national anthem,^[9] Trump has inserted himself into the fiery debate over race, social justice, and athletic activism.^[10] Unfortunately, he appears to be on the wrong side of the debate.

It is demonstrative of where Trump stands on race and social justice when he said that blame belongs 'on many sides' after the violence in Charlottesville^[11] and yet referred to the NFL players who kneeled during the national anthem as "son of a b****."^[12] It seems that Trump forgets that when he tweets, he is doing so, not as the private citizen Donald J. Trump, but as the President of the United States, and the tweets are considered official statements from the executive office.^[13] As such, it is useful to remember that Trump's tweets can be and have been used against him in a court of law.^[14] The most recent example of this came out of the D.C. Circuit Court of Appeals which decided that Democratic attorneys general for 16 states can sue the Trump administration to keep paying Obamacare subsidies.^[15] The court's reasons for allowing state attorneys general to intervene were that states could 'suffer concrete injury' if payments stopped and because of the 'accumulating public statements by high-level officials.'^[16] Trump's June 5th tweet on his infamous travel ban was also used against him. The federal appeals court ruled not to reinstate the President's travel ban and actually cited the President's tweet in the ruling!^[17] The court read Trump's tweet as aiming the ban at entire countries, which was not what his lawyers were arguing.^[18] The President failed to prove that public safety outweighed curtailing people's liberties.^[19]

Now that Trump is immersed in the race and social justice debate, his tweets will be scrutinized even more. He is the President of the United States, and what he says really matters. What he says can move financial markets, move Congress, and move people around the world.^[20] His recent tweets suggesting that if NFL fans refuse to go to the games until the players stop disrespecting the American flag, there will be changes in the NFL,^[21] and changes can be very likely. Some people are starting to react to Trump's tweet with boycott calls against the NFL.^[22] As difficult as it may be, Trump, as the President, has the power to change things in the NFL. Even though the NFL has put out a statement calling Trump's tweets "divisive comments" that "demonstrate an unfortunate lack of respect for the NFL. . ."^[23], a few NFL owners have contributed to Trump's inauguration.^[24] Now, their players are taking a stand on current social issues and are against the current administration. What are the NFL owners to do now sitting in the cross hairs? Their players do not approve of the man they financially helped to be placed in the White House. Some NFL owners or representatives might not have a choice but to make "changes in the NFL". Some can retaliate against those players that kneel during the singing of the national anthem. If the "changes in the NFL" do happen, we can be looking at First Amendment-free speech lawsuits against the NFL. It is important to note though, that the First Amendment protects the players for sanctions by the federal government, not NFL owners.^[25] Under their contracts with the NFL, the NFL owner can fire the player and the player could challenge this with: arbitration, an Equal Employment Opportunity Commission charge, or a defamation lawsuit.^[26] Whatever course the player might take, Trump's tweets may be presented as evidence of inciting a violation of the player's First Amendment right. In 140 characters, Trump can cause a tsunami of changes in the NFL's fan world and in the NFL. Sadly, those likely to pay consequences are the players themselves who might get fired, receive sanctions, or be prohibited from kneeling. All we can do now is wait and see what effects Trump's tweets will have on the NFL culture and the debate of race, social justice, and athletic activism.

Catherine Campoverde is second-year law student at Benjamin N. Cardozo School of Law and a Staff Editor of the Cardozo Arts & Entertainment Law Journal. She is a member of the Latin American Law Student Association (LALSA) at Cardozo. She wishes to practice in a field of law that combines International Law with Entertainment Law that includes traveling to Latin America.

^[1] Yoni Hoops, *Stephen Curry Press Conference | Warriors Media Day 2018 NBA Season | Sep 22, 2017*, YouTube (Sept. 22, 2017), <https://www.youtube.com/watch?v=h6iEK7Lngml>.

^[2] NBA.com, *Media Day: The Unofficial Start to the Season* (Sept. 19, 2017), <http://www.nba.com/warriors/20170919/2017-media-day-preview/>.

[3] Kristian Winfield, *Stephen Curry supports skipping White House visit, hopes it will 'inspire some change'*, SBNation (Sept. 22, 2017), <https://www.sbnation.com/2017/9/22/16352408/stephen-curry-white-house-visit-warriors-donald-trump-kevin-durant>.

[4] *Id.*

[5] @realDonaldTrump, Twitter (Sept. 23, 2017, 8:45 AM), <https://twitter.com/realDonaldTrump/status/911572182060453893>.

[6] *Id.*

[7] LeBron James (@KingJames), Twitter (Sept. 23, 2017, 11:17 AM), <https://twitter.com/KingJames/status/911610455877021697>.

[8] *Id.*

[9] @realDonaldTrump, Twitter (Sept. 23, 2017, 2:18 PM), <https://twitter.com/realDonaldTrump/status/911655987857281024>.

[10] Ken Belson & Julie Hirschfeld Davis, *Trump Attacks Warriors' Curry. LeBron James's Retort: 'U Bum.'*, N.Y. Times (Sept. 23, 2017), <https://www.nytimes.com/2017/09/23/sports/football/trump-nfl-kaepernick.html?mcubz=0> html.

[11] Jackie Calmes, *Trump responds to Charlottesville violence with vague statements blaming 'many sides'*, L.A. Times (Aug. 12, 2017), <http://www.latimes.com/politics/la-pol-updates-trump-tweets-charlottesville-violence-htmllstory.html>.

[12] Sophie Tatum, *Trump: NFL owners should fire players who protest the national anthem*, CNN Politics (Sept. 23, 2017) <http://www.cnn.com/2017/09/22/politics/donald-trump-alabama-nfl/index.html?iid=EL>.

[13] Amber Phillips, *Sean Spicer just settled it: We should all pay attention to Trump's tweets*, The Washington Post (June 6, 2017) https://www.washingtonpost.com/news/the-fix/wp/2017/06/06/sean-spicer-just-settled-it-we-should-all-pay-attention-to-trumps-tweets/?utm_term=.c8424f70d187.

[14] Amber Phillips, *Trump's tweets keep being used against him in a court of law*, The Washington Post (Aug. 2, 2017), https://www.washingtonpost.com/news/the-fix/wp/2017/08/02/trumps-tweets-keep-being-used-against-him-in-a-court-of-law/?utm_term=.95a25b6dcf6c.

[15] *Id.*

[16] *Id.*

[17] @realDonaldTrump, Twitter (June 5, 2017, 9:20 PM), https://twitter.com/realDonaldTrump/status/871899511525961728?ref_src=twsrc%5Etfw&ref_url=https%3A%2F%2Fwww.washingtonpost.com%2Fnews%2Fthe-fix%2Fwp%2F2017%2F08%2F02%2Ftrumps-tweets-keep-being-used-against-him-in-a-court-of-law%2F.

[18] *See supra* note 14.

[19] *Id.*

[20] *See supra* note 13.

[21] @realDonaldTrump, Twitter (Sept. 24, 2017, 6:44 AM), <https://twitter.com/realDonaldTrump/status/911904261553950720>.

[22] Donna Warren (@DonnaWR8), Twitter (Sept. 24, 2017, 2:23 PM), <https://twitter.com/DonnaWR8/status/912019764838649857>.

[23] NFL Communications, *Statement From NFL Commissioner Roger Goodell* (Sept. 23, 2017), <https://nflcommunications.com/Pages/Statement-From-NFL-Commissioner-Roger-Goodell.aspx>.

[24] Jay Busbee, *NFL owners contributed millions to President Trump's inauguration*, Yahoo! Sports (Apr. 19, 2017) <https://sports.yahoo.com/news/nfl-owners-contribute-millions-president-trumps-inauguration-175403023.html>.

[25] Michael McCain, *Can An NFL Owner Legally 'Fire' A Player For Protesting?*, Sports Illustrated (Sept. 23, 2017), <https://www.si.com/nfl/2017/09/23/donald-trump-fired-roger-goodell-player-protest>.

[26] *Id.*