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June 27, 2025

TO: [U.S. Department of Justice](#)
ATT: Assistant U.S. Attorney Carmen M. Banerjee

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: Assisting, with Evidence, Your Slam-Dunk Defense of President Trump & U.S. Taxpayers in the NPR & PBS Lawsuits – & Your Cross-Motions for Summary Judgment & for Sanctions Pursuant to Rule 11 and FRCP 56(h)

I am director and co-founder of the New York-based non-partisan, non-profit citizens' organization [Center for Judicial Accountability, Inc. \(CJA\)](#) and have testimonial capacity and substantiating evidence to assist you in defending against [NPR v. Trump](#) and [PBS v. Trump](#), assigned to Judge Randolph Moss, who is also hearing [CPB v. Trump](#), which your colleague, Assistant U.S. Attorney Jeremy Samuel Bloch Newman, is defending against.

In the event Mr. Newman has not shared with you my May 22nd e-mail, alerting him to the unconstitutionality of the [Public Broadcasting Act of 1967 \(47 U.S.C. §396\)](#), *as applied* – if not also *as written* – by reason of the corruption of CPB's "internal governance and operations" and the absence of congressional oversight, it is [here](#). Attached thereto was my devastating [February 18th letter to House DOGE Subcommittee Chair Marjorie Taylor Greene and FCC Chair Brendan Carr](#) entitled "Defunding NPR, PBS – & Firing the CPB's Inspector General, for starters" which, on March 25th, I e-mailed to NPR and PBS ([here](#) & [here](#)) so that NPR President/CEO Katherine Maher and PBS President/CEO Paula Kerger could have it in advance of their testimony at the next day's House DOGE Subcommittee hearing "[Anti-American Airwaves: Holding the Heads of NPR and PBS Accountable](#)". I received no response from Mr. Newman – nor from the cc'd CPB lawyers and Executive Branch DOGE personnel.

Notably, [NPR's May 27th complaint](#) and [PBS' May 30th complaint](#) contain NO history of oversight and enforcement by CPB and Congress of the mandatory provision of §396(g)(1)(A) requiring "strict adherence to objectivity and balance in all programs or series of programs of a controversial nature". Indeed, their two complaints do not even refer to the March 26th hearing, let alone identify the findings of fact and conclusions of law that a constitutionally-functioning subcommittee and Congress would have made based on the hearing record, whose content I inquired about by a [March 28th letter](#), without response. Certainly, findings of fact and conclusions of law based on that record would have revealed that Congress' duty was to have held the NPR and PBS presidents in contempt of Congress and to have referred their perjury to the Justice Department. In any event, it exposes

that the NPR and PBS lawsuits are fashioned on fraud. This includes NPR's due process claim, at ¶158 of its complaint and replicated at p. 40 of its memorandum in support of summary judgment:

“The Order punishes NPR because, in the government's view, NPR does not ‘present[] a fair, accurate, or unbiased portrayal of current events.’ Order §1. NPR did not have adequate notice that its journalistic activities would subject it to such punishment. ...” (underlining added).

Tellingly, the NPR complaint never refers to §396(g)(1)(A). The closest it comes is its deceptive ¶29, which, quoting from §396(g)(1)(A), omits its requirements of “strict adherence to objectivity and balance in all programs or series of programs of a controversial nature”. As for the PBS complaint, it is deceptive in a different way. Its ¶42 transmogrifies the express requirement of §396(g)(1)(A) of “strict adherence to objectivity and balance in all programs or series of programs of a controversial nature” – which pertains to content – to “a standard of ‘objectivity and balance’ in disbursing federal funds to local stations”. This is a falsification of the statute – and PBS' reliance on the FCC v. League of Women Voters majority opinion, 468 U.S. 364, 389 (1984), to legitimize its falsification does not change that fact.¹

That NPR and PBS conceal §396(g)(1)(A)'s requirement of “strict adherence to objectivity and balance in all programs or series of programs of a controversial nature” – and replicate that concealment in their June 13th summary judgment motions² – is the foundational fraud of their lawsuits, without which they could not purport, as they do, that NPR and PBS are in full compliance with the Public Broadcasting Act and that violations thereof are entirely President Trump's and involve his objections to “content”, as to which they have exclusive and absolute First Amendment constitutional protections. As illustrative, ¶1 of the PBS complaint, stating:

“... Consistent with Congress's mandate and funding, PBS has provided trusted...public affairs programming...our Constitution and laws forbid the President from serving as the arbiter of the content of PBS's programming...” (underlining added).

This is echoed at page 1 of PBS' summary judgment memorandum:

“... Pursuant to Congress's mandate and funding under the Act...PBS has provided trusted...public affairs programming”.... (underlining added).

¹ By contrast, the dissenting opinion of then Associate Justice William Rehnquist correctly quotes §396(g)(1)(A), at 404. See page 8, *infra*.

² See PBS' summary judgment memorandum (at pp. 7-8) for the identical falsification. As for NPR's summary judgment memorandum, it is identical to the NPR complaint in making no mention of “strict adherence to objectivity and balance in all programs or series of programs of a controversial nature” or to §396(g)(1)(A).

In the words of the NPR summary judgment memorandum: “the [President’s Executive] Order lacks any statutory basis” (at p. 18, underlining added).

It is because NPR and PBS have no defense to their flagrant violations of the “statutory basis” and “Congress’s mandate” of “strict adherence to objectivity and balance in all programs or series of programs of a controversial nature” – chronicled for decades by such organizations as the [Media Research Center \(MRC\)](#)³ and the [Committee for Accuracy in Middle East Reporting and Analysis \(CAMERA\)](#)⁴ – that they load their complaints and summary judgment memoranda with diversionary filler, having nothing to do with the evidentiary issue that is the basis for the President’s May 1st “[Executive Order](#)” *“Ending Taxpayer Subsidization of Biased Media”*.

As the face of the Executive Order makes obvious:

- it is predicated on NPR and PBS “news”, NOT educational and cultural programming, or emergency notification/alert capacities. Thus, its “Section 1. Purpose” refers to “news options”, “news media”, “fair, accurate, unbiased, and nonpartisan news coverage”, and “fair, accurate, or unbiased portrayal of current events”. Based thereon, its “Sec. 2. Instructions to the Corporation for Public Broadcasting” instructs, by the first sentence of its section (a) “The CPB Board shall cease direct funding to NPR and PBS, consistent with my Administration’s policy to ensure that Federal funding does not support biased and partisan news coverage.”
- reasonable interpretation of the second sentence of subsection (a), of subsection (b), and of “Sec. 3. Instructions to Other Agencies” is that they are LIMITED to funding and contracts pertaining to NPR and PBS “news coverage”;
- it contains a “Sec. 4. Severability” clause, stating:

“If any provision of this order, or the application of any provision to any agency, person, or circumstance is held to be invalid, the remainder of this order and the application of its provisions to any other agencies, persons, or circumstances shall not be affected thereby.”

³ Here’s [CJA’s webpage for MRC](#), showcasing illustrative advocacy, testimony, and complaints pertaining to NPR, PBS, and CPB. Its director of media analysis and its NewsBusters executive editor is Tim Graham, who testified at the May 8, 2024 House subcommittee hearing “[Examining Accusations of Ideological Bias at NPR, a Taxpayer Funded Entity](#)”, the record of which I requested “including subsequent meetings of the Subcommittee at which the members debated, deliberated, and voted on findings of facts, conclusions of law, recommendations, legislation, etc.” by an [April 3rd e-mail](#), without response.

⁴ Here’s [CJA’s webpage for CAMERA](#), showcasing illustrative advocacy, testimony, and complaints pertaining to NPR, PBS, and CPB.

Yet NPR and PBS lawsuits do not expressly challenge President Trump's Executive Order as inconsistent, overbroad, or disproportionate, and do not seek to restrict its provisions to "news coverage". The only explanation for this is that it would require them to confront that their "news coverage" is, as the Executive Order asserts, "biased and partisan".

Tellingly, NPR's complaint nowhere claims that NPR's "news coverage" has not been "biased and partisan" or that it has adhered to "objectivity and balance in all programs or series of programs of a controversial nature". Rather, it baldly purports – not repeated in its summary judgment memorandum:

"48. NPR upholds the highest standards of public service in journalism....

49. NPR ensures the integrity and high standards of its journalism through multiple, rigorous safeguards. It maintains an editorial firewall that protects against interference in editorial decision-making by its management or external actors, and it requires all editorial staff to adhere to stringent ethics policies set out in the NPR Ethics Handbook. Among other things, the NPR Ethics Handbook prohibits staff connected with news coverage from making contributions to political campaigns and referendums."

A summary judgment motion is required to be based on "undisputed material facts" and evidence ([FRCP 56](#)), with

"Affidavits or Declarations...used to support or oppose a motion...made on personal knowledge, set(ing) out facts that would be admissible in evidence, and show[ing] that the affiant or declarant is competent to testify on the matters stated." (FRCP 56(c)(4)).

NPR's summary judgment motion is supported by no evidence of the "multiple, rigorous safeguards" ensuring "the integrity and high standards of its journalism". There is no sworn statement from NPR's public editor, Kelly McBride, whose total nonfeasance with respect to my fully-documented complaints of "*knowingly* false, corruption-abetting, election-rigging journalism" by New York NPR member stations – and the total nonfeasance of President Maher and NPR leadership in face thereof – are particularized by my [February 18th letter](#). Nor is there a sworn statement of a single NPR news editor – or from President Maher, notwithstanding her personal knowledge of what has been going on. Instead, there is an irrelevant [declaration of NPR Vice President of Distribution Badri Munipalla](#), who says nothing on the subject, and a non-probative [declaration of NPR Chief Financial Officer/Treasurer Daphne Kwon](#), who does not show herself to have personal knowledge to support her rhetorical assertions, whose falsity is known to President Maher, Public Editor McBride, and, reasonably, NPR top tier news editors:

"4. For decades, NPR has delivered independent, accurate, fact-based journalism. ...

5. NPR has upheld, and continues to uphold, the highest standards of public service in journalism. ...

6. NPR ensures the integrity and high standards of its journalism through multiple, rigorous safeguards. NPR maintains an editorial firewall that protects NPR's newsroom from political and other interference in its editorial decisions. This firewall is a critical feature of our public broadcasting system.

7. In addition, NPR requires all editorial staff to adhere to stringent ethics policies set out in the NPR Ethics Handbook.^{fn1} The NPR Ethics Handbook instructs editorial staff to pursue the core journalistic values of accuracy, fairness, completeness, honesty, independence, impartiality, transparency, accountability, respect, and excellence. Among other things, the NPR Ethics Handbook prohibits staff connected with news coverage from making contributions to political campaigns or referendums.

8. These safeguards, among others, enable NPR to be a trusted, independent news provider. NPR fills critical news and information gaps in America's communities with fair, accurate, and fact-based reporting. Indeed, NPR's role in disseminating factual, non-partisan news supports a functioning democracy and an informed public."

NPR's "Statement of Material Undisputed Facts" then reprises, *as if established*:

"7. NPR maintains an editorial firewall intended to protect NPR's newsroom from political and other interference in its editorial decisions. *Id.* at 3 (¶6).

8. NPR requires all editorial staff—defined as staff members who play a role in shaping the journalistic or creative direction of NPR's content—to adhere to ethics policies set out in the NPR Ethics Handbook, which instructs editorial staff to pursue the core journalistic values of accuracy, fairness, completeness, honesty, independence, impartiality, transparency, accountability, respect, and excellence. *Id.* (¶7).

9. Among other things, the NPR Ethics Handbook prohibits staff connected with news coverage from making contributions to political campaigns or referendums. *Id.*"

^{fn1} The Ethics Handbook is available online at <https://www.npr.org/series/688409791/npr-ethics-handbook>."

PBS' complaint, by contrast to NPR's, says nothing about any "multiple, rigorous safeguards", "ethics policies" or "Handbook" for ensuring the integrity of its journalism. It does, however, baldly "dispute[]" the accuracy of President Trump's charges against it, as follows:

"1. ...in an Executive Order issued on May 1, 2025, the President...singled out PBS (alongside National Public Radio) as failing to provide 'fair, accurate, unbiased, and nonpartisan news.'... PBS disputes those charged assertions in the strongest terms.

...

51. ...PBS disputes those examples and assertions as inaccurate – and misrepresentative of the variety of PBS programming discussed above.

52. Once again, PBS disputes these cherry-picked 'studies,' which are inaccurate and misrepresent the balanced range of viewpoints presented on PBS programs." (underlining added).

Similarly, the PBS summary judgment memorandum:

p. 1: "As the EO itself explains, the president believes that PBS content is not 'fair, accurate, unbiased, and nonpartisan.' EO §1. PBS disputes those charged assertions in the strongest terms." (underlining added).

p. 16: "... PBS disputes those examples, assertions, and cherry-picked 'stud[ies]' as inaccurate and misrepresentative of the variety and balance of PBS programming." (underlining added).

Yet these bald assertions that "PBS disputes" are not substantiated by any specifics or evidence. PBS' summary judgment motion is not supported by a sworn statement from a single PBS news editor – nor by its public editor, Ricardo Sandoval-Palos, whose total nonfeasance with respect to my fully-documented complaints of "*knowingly* false, corruption-abetting, election-rigging journalism" by New York PBS member stations – and the total nonfeasance of President Kerger and PBS leadership in face thereof – are particularized by my [February 18th letter](#). Instead, PBS offers up an essentially irrelevant [declaration of President Kerger](#), furnishing no illumination as to what "PBS disputes", which it does not even mention. Concealed, *in toto*, is her knowledge of facts pertaining to PBS' biased, fraudulent journalism – including the facts I furnished her and PBS leadership *via* my [June 6th e-mail to the PBS News Hour](#), to which they were cc'd, entitled "FACT-CHECKING THE PBS NEWS HOUR (1) your referred-to 'independent analyses' that PBS/NPR journalism is 'objective and reliable' and not 'leftist news'; (2) the scholars & experts you have interviewed opposing federally-funded media", thereafter reinforced by [two additional e-mails, on June 12th & here](#). As for PBS' scant "Statement of Undisputed Material Facts", accompanying its summary judgment motion, it is not separately docketed, but [hidden behind PBS's notice of motion and memorandum](#). Unlike NPR's, it makes no assertion about the integrity of PBS' journalism – or of "multiple, rigorous safeguards" or "ethics policies" or a "Handbook", stating only:

“9. The EO attempts to cut off federal funding to PBS because (as stated in the EO itself, and confirmed by the accompanying Fact Sheet and other materials) the President believes PBS provides ‘biased and partisan news coverage’ and fails to ‘present[] a fair, accurate, [and] unbiased portray of current events to taxpaying citizens.’ EO §§1, 2”.

As for the fraud that the NPR and PBS lawsuits commit pertaining to the law, over and beyond their fraudulent concealment of §396(g)(1)(A)’s requirement of “strict adherence to objectivity and balance in all programs or series of programs of a controversial nature”, here’s some of what Professor Jed Rubenfeld, “a professor of constitutional law at Yale Law School, a free speech lawyer, and host of the Straight Down the Middle podcast” had to say about NPR’s lawsuit, in his May 27th article in The Free Press “[NPR and PBS Aren’t Entitled to Your Tax Dollars](#)”:

“National Public Radio is suing the Trump administration for cutting off its federal funds, which, [according to the NPR complaint](#), is a ‘blatant,’ ‘textbook’ First Amendment violation.

But NPR seems to have forgotten some free speech basics. As the District of Columbia District Court – the court where NPR filed suit on Tuesday – [stated just a few weeks ago](#) [*National Urban League v. Trump* (2025)], ‘the government does not abridge the right of free speech by choosing not to subsidize it.’

On May 1 of this year, Trump issued another of his innumerable executive orders, [this one telling the Corporation for Public Broadcasting](#) – the vehicle through which the government disburses about \$500 million annually to public radio and television – to stop giving any more federal money to NPR and PBS. The executive order said funding would be withheld because ‘neither entity presents a fair, accurate, or unbiased portrayal of current events to taxpaying citizens.’

...

But NPR, in its complaint, says that the government can’t defund public radio or television for being politically biased. That’s ‘an egregious form of content discrimination,’ forbidden by the First Amendment.

NPR is right that taking action against a news organization because of its biased political news coverage is what First Amendment jurisprudence calls a ‘[content-based](#)’ distinction, and it would usually be flat-out unconstitutional. But again, some free speech basics: When the government is *subsidizing* speech, the normal rule against content-based discrimination doesn’t apply.

‘It is well established,’ [as the Supreme Court held](#) in 2007 [*Davenport v. Washington Education Association*, 551 U.S. 177], ‘that the government can make content-based distinctions when it subsidizes speech.’

No broadcaster has a right to taxpayer funding. The government is not constitutionally obliged to subsidize any activity it doesn't want to fund, even if that activity is constitutionally protected. To [quote the Supreme Court again](#) [*United States v. American Library Association*, 539 U.S. 194 (2003)]: The 'refusal to fund protected activity, without more, cannot be equated with the imposition of a 'penalty' on that activity,' which is why the typical 'recourse' for a party that 'objects to a condition on the receipt of federal funding' is '[to decline the funds](#).' [*Agency for International Development v. Alliance for Open Society International*, 570 U.S. 205 (2013)].

But Trump is not merely engaging in content discrimination, says NPR; he's engaging in 'viewpoint discrimination.' That's possible, although the executive order is carefully drafted to avoid explicit viewpoint discrimination.

'Which viewpoints NPR and PBS promote does not matter,' says the order. If the administration is defunding NPR and PBS solely because their coverage is slanted and inaccurate, and not because of the particular viewpoints they espouse, that's not viewpoint discrimination as a legal matter, and it's consonant with CPB's statutory mandate to maintain '[strict adherence to objectivity and balance](#)' in the programming it funds.

...

NPR also alleges in its complaint that the federal statute creating the Corporation for Public Broadcasting prohibits Trump from making this defunding decision. That's a very different argument, which I'm not addressing here. But if the question is whether U.S. taxpayers are constitutionally required to fund ideologically slanted news organizations, or indeed any news organizations, the answer has to be no." (hyperlinks in the original, bracketed identification of the hyperlinked cases added, italicized "*subsidizing*" in the original).

Examination of the NPR and PBS complaints and summary judgment memoranda reveals their concealment of First Amendment law applicable to publicly-funded broadcast media. In that regard, they do not cite to any of the four-justice dissenting opinions, in favor of the FCC, in [FCC v. League of Women Voters](#), 468 U.S. 364, 402 (1984), notwithstanding it is where, at 404, §396(g)(1)(A) is correctly quoted by then Associate Justice Rehnquist, in contrast to the majority opinion, where it is falsified – and notwithstanding the [FCC appeal was argued by the now Associate Justice Alito](#).

Based on the foregoing, you have slam-dunk evidence with which to defend against the NPR and PBS summary judgment motions – and to substantiate your own [summary judgment cross-motions, due on July 11th](#), to which, based on the above, you must join a request for sanctions pursuant to [FRCP Rule 11](#) "Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions" and pursuant to FRCP 56(h) "Affidavit or Declaration Submitted in Bad Faith"⁵.

⁵

FRCP 56(h) reads:

For both your defensive and offensive purposes, you will require sworn statements from persons having personal knowledge and testimonial capacity concerning NPR's and PBS' "biased and partisan news coverage" – the basis of President Trump's Executive Order, derided, besmirched, and challenged by their lawsuits. In addition to myself, the Media Research Center and the Committee for Accuracy in Middle East Reporting and Analysis (CAMERA) are pre-eminent authorities – and by copy of this letter to them, I am alerting them that they should begin preparation of the sworn statements you will need, summarizing their decades of public advocacy, complaints, and testimony about NPR's and PBS' "biased and partisan news coverage" – essentially ignored by NPR, by PBS, by CPB, and by Congress.

Please confirm, as soon as possible – and no later than Friday, July 4th – that you will welcome and use such evidentiary statements so that we may be guided accordingly. By copy of this e-mail to Assistant U.S. Attorney Newman, I ask that he comparably advise by then as to the status of the Justice Department's determination of my [May 22nd e-mail](#) as to the unconstitutionality of the Public Broadcasting Act of 1967 (47 U.S.C. §396), by reason of the corruption of CPB's "internal governance and operations" and the absence of congressional oversight. Obviously, that issue, pertinent to the CPB lawsuit, is also pertinent to the NPR and PBS lawsuits.

I will refrain from furnishing this letter to adverse counsel and to NPR, PBS, and CPB until Monday, July 7th, unless I hear from you to the contrary. Likewise, I will refrain from furnishing it to Judge Moss and from publicizing and publicly posting it on CJA's website. I will, however, get busy on preparing a supplemental presentation, analyzing the *amicus curiae* briefs filed on June 20th in support of plaintiffs.

I am available to answer questions – including under oath – and affirm the foregoing to be true, to the best of my knowledge, information, and belief, under penalties of perjury.

Thank you.

s/Elena Ruth Sassower

cc: Assistant U.S. Attorney Jeremy Samuel Bloch Newman
Media Research Center (MRC)
Committee for Accuracy in Middle East Reporting and Analysis (CAMERA)

“(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court — after notice and a reasonable time to respond — may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.”