

## Media, Entertainment and First Amendment Newsletter - May 2022

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May 26, 2022 Lee Johnston, Michael Lambert, Reid Pillifant

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**PRACTICES** Anti-SLAPP and First Amendment Rights, Media and Entertainment Litigation, Media Entertainment and Sports

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### **The Ninth Circuit Rejects (Again) LinkedIn's Attempt to Prevent Web-Scraping of Its Publicly Available Member Profiles under the Computer Fraud & Abuse Act (CFAA)**

On April 18, 2022, the Ninth Circuit, in *hiQ Labs v. LinkedIn Corporation*, 41 F. 4th 1180 (9th Cir. 2022), upheld (again) a 2018 injunction which enjoined LinkedIn from preventing its small start-up competitor, hiQ, from accessing and scraping data from LinkedIn members' public profiles. The Ninth Circuit's ruling has likely dealt the final death blow to website owners' attempts to use the CFAA as a means to combat web-scraping activity on their public-facing web pages.

To better understand the Ninth Circuit's most recent decision, it is useful to take a look back at this long-running David versus Goliath battle.

[Read more.](#)

### **Texas Journalists Can Now Reap Benefits of Using Drones – What You Need to Know Before Taking Flight**

A cheaper, safer and more innovative way of reporting from the Texas skies has become available after a federal court struck down a state law that threatened civil and criminal penalties for using drones for newsgathering.

On March 28, 2020, U.S. District Court Judge Robert Pitman ruled that the Texas drone law violated the First Amendment by improperly restricting the right to gather news. The process of capturing photographs and videos using a drone, the court wrote, has "just as much protection under the First Amendment as the images themselves."

[Read more.](#)

### **Sign Ordinances and the First Amendment - City of Austin v. Reagan National Advertising**

The Supreme Court has narrowed its definition of content based speech discrimination, retreating from a 2015 ruling that sought to draw a bright-line rule for content-related regulations. How the Court defines content discrimination is crucial in a variety of First Amendment cases, since that definition determines what level of scrutiny is applied.

[Read more.](#)