

Haynes Boone Helps Nonprofit News Outlet Defeat Defamation Claim

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PRACTICES Advertising, Marketing and Promotional Law, Litigation, Intellectual Property Litigation

Haynes Boone Counsel [Joseph Lawlor](#) and Partner [Richard Rochford](#) successfully secured dismissal of defamation claims filed by a former middle school teacher, who was criticized over her allegedly controversial approach to teaching her students about slavery.

On June 16, the U.S. Second Circuit Court of Appeals upheld a lower court ruling fully dismissing defamation and others claims filed by the teacher, Patricia Cummings, against firm clients The Hechinger Institute on Education and the Media at Teachers College, Columbia University, and Dr. Andre Perry.

Ms. Cummings taught seventh grade social studies in the Bronx, New York. During a 2013 lesson about the transatlantic slave trade, Ms. Cummings, who is white, allegedly directed several students to sit or lay on the classroom floor and pushed them closer together to demonstrate the cramped conditions on a slave ship. Ms. Cummings was criticized by various media outlets.

Dr. Perry referred to the Cummings story in an article titled “Teachers, how does it feel to be oppressors?”, which appeared in *The Hechinger Report*, a nonprofit news outlet that covers inequality and innovation in education. A Senior Fellow at Brookings Metro, Dr. Perry is a nationally known and respected commentator on race, structural inequality, and education.

Ms. Cummings filed suit asserting defamation and other claims against her critics. A New York federal district court dismissed Ms. Cummings’ complaint on various grounds, including that her defamation claims against the Hechinger Institute and Dr. Perry were statements of opinion and protected by the First Amendment.

The Second Circuit upheld the dismissal, concluding that the allegedly defamatory statements were nonactionable statements of opinion.

Following the Second Circuit decision, Rochford and Lawlor issued the following statement:

“We are glad the Second Circuit panel fully affirmed the District Court’s dismissal of the defamation claims against the Hechinger Institute and Dr. Perry because our clients’ statements are constitutionally-protected opinion. This victory highlights the importance of free speech rights, particularly in protecting academic discussion of sensitive topics like education and race.”

Lawlor and Rochford are based in Haynes Boone’s New York office. Lawlor litigates and counsels clients involved in high-stakes advertising, branding, media, and First Amendment disputes. Rochford, chair of the firm’s Intellectual Property Litigation Practice Group, has been handling patent, trademark, copyright, and trade secret cases—at trial and through successful motion practice and favorable settlements—for more than 25 years.

Haynes Boone is an international corporate law firm with 18 offices spanning Texas, New York,

California, Charlotte, Chicago, Denver, Washington, D.C., London, Mexico City, and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With 600 lawyers, Haynes Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*. It was recognized in the BTI Consulting Group's 2022 "A-Team" report, which identifies the law firms that in-house counsel commend for providing superior client service.