Michael J. Lambert

Associate

Michael.Lambert@haynesboone.com
Austin
+1 512.867.8412

PRACTICES Media and Entertainment Litigation, Intellectual Property Litigation, Intellectual Property, Copyright, Social Media, Media, Entertainment and Sports, Streaming Media, Government and Public Policy

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Michael J. Lambert is an associate in the Intellectual Property Practice Group in Haynes Boone's Austin office. He focuses on media, entertainment, intellectual property, and First Amendment litigation. Recognized by *Best Lawyers* as "Ones to Watch" (2023-2024), Michael has represented a wide range of clients in state and federal trial and appellate courts. Outside of court, he counsels clients on defamation, privacy, access, and newsgathering matters and advocates for legislative reforms advancing press freedoms. He also writes and speaks publicly about First Amendment, internet law, and anti-SLAPP issues and is a regular guest on the HB Media Minute podcast.

Before joining Haynes Boone, Michael provided libel, newsgathering, and copyright advice to media clients and performed pre-publication review for national magazines at a Boston law firm. He also litigated libel and public records cases. Prior to that, he reviewed scripts and videos and contributed to litigation for the NBCUniversal News Group in New York City. Upon graduating law school, he served as the Ethics and Excellence in Journalism Legal Fellow for the Reporters Committee for Freedom of the Press, where he drafted amicus briefs in important press freedom cases in federal and state appellate courts.

Michael's experiences extend to internet and social media law. He has interned at Harvard Law School's Berkman Klein Center for Internet & Society and authored chapters on social media and copyright law for *Internet Law: The Complete Guide*.

His client relationships are shaped by his journalism background as a graduate of the Louisiana State University Manship School of Mass Communication and years working as a reporter.

A passionate advocate for speech and press freedoms, Michael is active in the media law bar. He serves as the Co-Chair of the Internet, Publicity, and Social Media Committee of the American Bar Association's Forum on Communications Law. He has written extensively on a variety of media law topics, provided client trainings, and guest lectured college journalism classes. Outside of law, Michael is proud to have run the 2020 Boston Marathon and raise over $20,000 for the Dana-Farber Cancer Institute.

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QUALIFICATIONS

EDUCATION

- J.D., Louisiana State University Paul M Hebert Law Center, 2015
- B.A., Mass Communication, Louisiana State University Manship School of Mass Communication, 2012

CLERKSHIPS

- Judicial clerk to the Honorable Steven M. Wellner, D.C. Superior Court, 2016-17

  Extern to the Honorable James J. Brady, U.S. District Court for the Middle District of Louisiana, 2014

  Intern to the Honorable Jon B. Comstock, Arkansas 19th Judicial Circuit West, 2013

ADMISSIONS

- Texas
- Louisiana
- District of Columbia
- New York
- Massachusetts

COURT ADMISSIONS

- U.S. Court of Appeals for the First Circuit
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Western District of Texas
- U.S. District Court for the District of Massachusetts
- U.S. District Court for the Middle District of Louisiana

PUBLICATIONS AND SPEAKING ENGAGEMENTS

- “Hot Topics in Copyright and Trademark Law,” speaker, The Center for American and International Law's 61st Annual Conference on Intellectual Property Law, November 10, 2023
- “Federal Court Strikes Down Texas Book Ban, but Constitutional Challenges Remain Across Country,” author, Haynes Boone Media, Entertainment and First Amendment Newsletter, October 16, 2023
- Seminar on Section 230 and social media law for Granite Media Partners and its community newspapers, co-presenter, July 13, 2023.
- “The Importance of Advancing DEI in the Communications Law Ecosystem,” moderator, ABA Forum on Communications Law Webinar, July 11, 2023.
- “Media law experts discuss legal risks and challenges of AI tools,” quoted, Reynolds Journalism Institute, July 10, 2023.
- “U.S. Supreme Court finds Andy Warhol’s use of Prince photograph infringing, provides guidance on first fair use factor,” guest, HB Media Minute podcast, June 28, 2023. Listen here.
- “When Copying Isn’t Right: The Blurred Lines Between Intellectual Property Rights and Creative Expression,” co-author, State Bar of Texas Annual Meeting, June 23, 2023.
- “Internet Law in Flux: The Future of Online Speech as Section 230 and State Social Media Laws Face Challenges,” Moderator, University of Kansas Media & the Law Seminar, Kansas City, Missouri, April 21, 2023.

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- “Arizona Supreme Court Finds Radio Host’s Statements Protected as Opinion, Political Speech,” author, MLRC MediaLawLetter, April 2023.
- “Free Speech Victory at Arizona Supreme Court,” guest, HB Media Minute podcast, May 16, 2023. Listen here.
- “U.S. Supreme Court Finds Andy Warhol's Use of Prince Photograph Infringing, Provides Guidance On First Fair Use Factor,” author, Haynes Boone Media, Entertainment and First Amendment Newsletter, June 2023.
- “Arizona Supreme Court: Commentary by Radio Talk Show Host about U.S. Congressional Candidate Protected from Defamation Claim,” author, Haynes Boone Media, Entertainment and First Amendment Newsletter, June 2023.
- "New Copyright Board Takes Slow But Steady Approach," quoted, *Law360*, April 3, 2023.
- “Hot Issues in Anti-SLAPP Law,” Facilitator, American Bar Association Forum on Communications Law Annual Conference, New Orleans, Louisiana, February 2023.
- “Copyright law training for journalists," presenter, *The Texas Tribune*, January 13, 2023.
- “With the Future of Online Liability at Stake, Courts Consider the Constitutionality of State Social Media Regulations and Scope of Section 230,” co-author, Haynes Boone Media, Entertainment and First Amendment Year in Review Newsletter, November 2022.
- “U.S. Supreme Court Rules That Unknowing Mistakes of Law Do Not Invalidate Copyright Registrations,” co-author, Haynes Boone Media, Entertainment and First Amendment Year in Review Newsletter, November 2022.
- “Litigation Roundtable on the *Depp v. Heard* Trial,” panelist, State Bar of Texas Entertainment Law Institute, November 10, 2022.
- “The Modern Public Square: The Past, Present, and Future of Online Speech Regulations,” presenter, the University of Texas at Austin, October 20, 2022.
- "Copyright and Censorship: Many Ways, Many Motives," panelist, American Bar Association Intellectual Property Law Fall Institute, October 12, 2022.
- "SCOTUS Review of Copyright Registrations," co-author, *Landslide* magazine, September 28, 2022.
- “Ethics, the Press and your Practice: Getting out there without getting into trouble,” panelist, *Bloomberg* Law panel, June 8, 2022.
- Media Law seminar for Granite Media Partners and its community newspapers, lead presenter, June 3, 2022.
- “Texas Journalists Can Now Reap Benefits of Using Drones,” author, *Texas Press Messenger*, May 2, 2022
- “Professional Perspective: Anti-SLAPP: Tort Defense,” *Bloomberg Law*, April 4, 2022.
- “Texas Federal Courts Analyze Personal Jurisdiction in Online Defamation Cases,” author, *MLRC MediaLawLetter*, 22-24, March 2022.
- “Racial Injustice Exposed on Camera: Police Transparency and Government Access in a Viral World,” facilitator, Annual Conference of the Forum on Communications Law, January 20, 2022.
- “US Copyright Claims Board: What You Need to Know,” co-author, *World IP Review*, January 4, 2022.
- “Winning Under the Negligence Standard: CBS Affiliate Reasonably Relied on Law Enforcement When Airing Wrong Mug Shot,” author, MLRC *MediaLawLetter*, 14-15, October 2021.
- “The Copyright Small Claims Court,” author, MLRC *MediaLawLetter*, 32-35, October 2021.
- “The Copyright Small Claims Court: What You Need to Know Before Litigating in the U.S. Copyright Office’s New Three-Judge Court for Copyright Claims Under $30,000,” author, Haynes Boone Media, Entertainment and First Amendment Newsletter, November 2021.
- “What is Section 230?” speaker, *HB Media Minute* podcast, October 25 2021. Listen here.
- “Pre-Publication & Pre-Broadcast Review,” facilitator, MLRC Media Law Conference, Leesburg, VA, September 30, 2021.
- “Anti-SLAPP Litigation and Legislation,” facilitator, MLRC Media Law Conference, Leesburg, VA, September 30, 2021.

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- “Internet Law: The Complete Guide,” Author, Social Media, Copyright, Patent, and Trade Secret Chapters, 2016-17
- “Hot Issues in Social Media Law,” Facilitator, American Bar Association Forum on Communications Law Annual Conference, Austin, Texas, February 2020 and Virtual Conference, February 2021
- Media Law Resource Center Libel Law Survey, Co-Author, First Circuit Chapter, 2018-21
- Media Law Resource Center Employment Libel and Privacy Law Survey, Co-Author, Massachusetts Chapter, 2018-20
- “Courts Weigh Validity of Injunctions Against Speech as Summer Brings Waves of Prior Restraints,” Author, ABA Forum on Communications Law’s Communications Lawyer, November 2020
- “Examining the Embedding Evolution: Counseling Clients on Safely Embedding Copyrighted Material,” Author, ABA Forum on Communications Law’s Communications Lawyer, August 2020
- “N.D. Cal.: Section 230 Shields Twitter, Facebook, and Google from Terrorism and Emotional Distress Claims,” Author, MLRC Media Law Letter, January 2018
- “Massachusetts High Court Invalidates Involuntary Non-Disparagement Order Between Parents as Prior Restraint,” Author, MLRC Media Law Letter, June 2020
- “First Circuit: First Amendment Protects Secretly Recording Police Officers In Public,” Author, MLRC Media Law Letter, January 2021
- “Mass. High Court Orders Disclosure of Police Incident Reports and Prosecution Data,” Co-Author, New England First Amendment Coalition, April 2020
- “Supreme Court Nominee’s Record Provides Insight into Views on Internet and Social Media Law,” Author, Specialty Technical Publisher, 2018
- The Harvard Crimson Libel Seminar, Speaker, 2019-21
- Boston University Summer Journalism Institute, Speaker, July 2019
- Boston University College of Communication, Guest Lecturer, 2019-20
- Georgetown University Graduate School of Journalism, Guest Lecturer, 2016-20
- “Wikileaks and the First Amendment,” POPLAW Podcast Guest, September 2019
- American Society of Magazine Editors, Speaker, October 2019
- “With Title VII Undecided, Queer Rights Hang in the Balance,” Interviewee, Teens in Print, January 2020
- “Ron Beaty and the First Amendment,” Interviewee, The Providence Journal, March 2019

PROFESSIONAL AFFILIATIONS AND ENGAGEMENTS

- American Bar Association Forum on Communications Law, Governing Board Member, Diversity Committee Co-Chair, 2022-present; Internet, Social Media, and Publicity Co-Chair, 2016-2022
- Student Press Law Center Summer Media Law Institute, Coach, 2020-21
- WriteBoston, Board Member, 2019-2021
- Internet Law & Policy Foundry, Fellow, 2019
- Price Media Law Moot Court Competition, Judge, 2016
- American Bar Association Section of Intellectual Property Law, Student Reporter, 2015
- American Bar Association Forum on Communications Law, Annual Conference Scholarship Recipient, 2015
- American Bar Association Section of Intellectual Property Law, Member
- Media Law Resource Center, Legislative Affairs and Next Generation Committees, Member
- New York City Bar Committee on Communications & Media Law, Member
- LGBT Bar Association of Greater New York, Member

SELECTED CLIENT REPRESENTATIONS

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- *Harris v. Warner, No. CV-21-0242-PR, 2023 WL 2941654 (Ariz. Apr. 14, 2023)* Former Republican Congressional candidate Daniel McCarthy filed a $120 million defamation lawsuit against our clients, iHeartMedia, Inc. and James T. Harris, based on 29 statements made by Harris on a political radio talk show, The Conservative Circus. After the Arizona Superior Court found that nine of the statements could be actionable, we filed a Petition for Review with the Arizona Supreme Court, which granted review. In a unanimous decision, the Arizona Supreme Court dismissed the suit with prejudice, holding that none of the statements were actionable. The Court found that seven of the nine statements either cannot be reasonably interpreted as a factual assertion, are not provable as false, or both. One statement did not harm McCarthy's reputation, and another statement concerned protected political speech.
- *Brad Namdar v. DallasNews Corporation, No. DC-23-02052 (95th Dist. Ct., Dallas County)* We successfully defended claims brought against the Dallas Morning News by a former candidate for public office in Texas after articles were published regarding his alleged involvement with a professional escort, allegations of inappropriate conduct while a teacher and coach at a local high school, and a lawsuit concerning his failure to pay attorneys in a prior dispute. We moved to dismiss the claims under the Texas Citizens Participation Act (TCPA), asserting truth or substantial truth, the third-party allegation rule, privilege, and lack of damages, among other defenses. After a hearing, the 95th Judicial District Court of Dallas County granted our motion to dismiss and awarded us attorneys' fees. The plaintiff filed a motion for a new trial, which the Court overruled after a hearing.
- *Colby E. Ray v. FreedomPark, L.P., No. DC-23-00744 (192nd Dist. Ct., Dallas County)* We filed a motion to quash a subpoena served on our client KXAS-TV, a non-party to the underlying lawsuit in which a motion under the TCPA had been filed. The subpoena, which was served (improperly) by a non-movant that was also seeking to lift the automatic stay of discovery while the movant's TCPA motion was pending, sought documents and testimony from KXAS. In addition to moving to quash the subpoena, we also responded to the motion seeking to lift the stay. After arguing at a hearing on the non-movant's motion to lift the TCPA discovery stay to conduct limited discovery, the Court denied the party's request for discovery from KXAS.
- *Paramount Rare Coin & Currency, LLC v. John O'Leary*, Cause No. 63056 in the 88th Judicial District Court of Hardin County, Texas. A coin company sued our client, John O'Leary, for defamation and business disparagement after he wrote an online review expressing his views about the company's sales tactics. We informed the company that Mr. O'Leary's statements were protected under the First Amendment and that we were planning to file a motion to dismiss under the Texas Citizens Participation Act. After learning that it would be responsible for attorney's fees for attempting to prevent our client from opining about a matter of public concern, the company dismissed the lawsuit.
- *Nunes v. NBCUniversal,* Case No. 21-cv-00608 in the United States District Court for the Eastern District of Texas, Sherman Division. We represented NBCUniversal in a defamation case over statements made on The Rachel Maddow Show and successfully argued for the denial of jurisdictional discovery in Texas and for the Eastern District of Texas to transfer the case to the Southern District of New York, where NBCUniversal is located.
- *Clopper v. The Harvard Crimson, No. 20-cv-11363 (D. Mass. Nov. 5, 2020), aff'd, 20-2140 (1st Cir. August 1, 2022)*
- *Gatehouse Media v. City of Worcester*, No. 1885CV1526A (Mass. Super. Ct. June 2, 2021)

AWARDS AND RECOGNITIONS

- Included in the "Ones to Watch" category of *The Best Lawyers in America*, Woodward/White, Inc.; Entertainment and Sports Law 2023-2024; Litigation - Intellectual Property, 2024; Communications Law, 2024

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