



Written by [James Murphy](#) on April 4, 2019

House Democrats Attack Free Press: Demand Oversight of Fox's Editorial Decisions

The powerful House Oversight Committee is set to investigate claims that a Fox News executive spiked a 2016 story about an alleged affair that then-candidate Donald Trump had with porn actress Stormy Daniels.

The chairman of the Oversight Committee, Representative Elijah Cummings (D-Md.), wrote to former Fox reporter Diana Falzone in mid-March and insisted that she turn over documents on Trump's alleged affairs, including one with Daniels that had occurred several years before.



The impetus for Cummings' demands seems to be a [New Yorker piece](#) written by Jane Mayer, which suggested that Fox executive Ken LaCorte spiked the story to protect the Trump candidacy — a charge that LaCorte vehemently denies.

In an [op-ed penned for Mediaite](#), LaCorte explained, "a lawyer for a former Fox News reporter who, in trying to get her client from underneath a non-disclosure agreement, baselessly speculated on MSNBC that I and Fox may have broken campaign contribution laws because I wouldn't publish a half-cooked Stormy Daniels story two weeks before the 2016 election. It's another silly notion that, unfortunately, Congress is now acting on."

"Falzone's lawyer announced that she would comply with the committee. I won't."

If it's true that Cummings and other House Democrats are of the opinion that a news organization's decision to run or not run a story is tantamount to campaign contribution, then their grasp of the First Amendment is tenuous, at best.

As LaCorte points out, "If House Oversight can launch an investigation based on the ridiculous notion that publishing, or even more bizarrely not publishing, a story can be construed as an in-kind campaign contribution, then no journalist in America is safe from government intimidation. It's a vast overreach of power and I won't have any part of it."

The Cummings letter may have been a warning shot to Fox that a subpoena may be on the way — which would effectively nullify any non-disclosure agreement. But Falzone's lawyer, Nancy Erika Smith, believes that Cummings' letter alone is all that is needed to pave the way for Falzone's testimony.

"This is an exception to the NDA [non-disclosure agreement]," Smith told MSNBC. "Nobody can enter an NDA that will interfere with a government investigation."

Cummings has chosen his patsy well as it seems that Falzone may have a score to settle with her former employer. Falzone left Fox in 2017 and alleged in a lawsuit that the network had discriminated against her based on her gender and disability. In January of 2017, Falzone published an article on the Fox



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News website, in which she revealed she was diagnosed with endometriosis, a condition which Falzone claimed left her infertile.

In that article, Falzone wrote, “It was just days after my 33rd birthday when my doctor delivered the worst news of my life: I will likely never have a child and fulfill my greatest wish of being a mother.”

Falzone claimed that she had been banned from on-air activities three days after the article was published. In her complaint, her attorneys claimed that her revelation regarding her infertility caused Fox executives to believe that her condition “detracted from her sex appeal and made her less desirable” to Fox’s male viewers.

In March of 2018, it was revealed that Fox and Falzone had settled the case out of court. In August of 2018, despite her endometriosis, Falzone delivered a baby boy.

The fact that Cummings and the Oversight Committee are even considering investigating a private news organization’s editorial decisions is a frightening proposition. It is completely antithetical to the free press that our First Amendment calls for. If Cummings brings this scurrilous issue before his committee for review, then the First Amendment essentially means nothing to him.

In case Chairman Cummings has forgotten: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of people to peacefully assemble, and to petition the government for a redress of grievances.”

To make it clear, investigating Fox for its editorial decisions is an abridgement. Those decisions by Fox, ABC, NBC, CBS, CNN or MSNBC are none of the government’s business. Period.

And setting aside the First Amendment, just for a moment, with all of the observably false reporting over the past two years in regard to alleged Russian collusion, the Mueller Report, and almost everything else Trump-related, is this really the story that needs investigating?

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