

Results of the 1989 John W. Davis Competition

Finalists

Margaret Graf
Allison McKeel

Mark McPherson
Sissy Phelps

Semifinalists

Matt Anthony
Trina Bragdon

Karen Lee
Kyle Macione

Quarterfinalists

Grant Burns
Paul Driscoll
Ken Gordy
Melissa Lande

Mary Kay Martin
Chris McCool
Mary McGinty
Cary Moseley

Best Brief Nominees

Grant Burns
Kyle Macione

Matt Anthony
Mark McPherson

Cary Moseley
Sissy Phelps

Davis Moot Court Administrators

Beth Doyle

Steve Mayo

The members of the Moot Court Board would like to extend their appreciation to the following:

Dean Randall Bezanson
Scott Broyles
Joe Cochran
Scot DuVall
Rich Fulcher
Allan Ides
Denise Lunsford
Ann Massie
Darlene Moore
Brian Murchsion

Mary Natkin
Jim Phemister
George Reede
Carole Shorter
Ed Tiffey
Joe Ulrich
Gladys Yates
Brad Young
The Library Staff

FINALS

THE TENTH ANNUAL JOHN W. DAVIS MOOT COURT COMPETITION



Lewis Hall
November 10, 1989
4:00 p.m.

The Participants

Counsel for Petitioner
Margaret Graf, Mark McPherson

Counsel for Respondent
Allison McKeel, Sissy Phelps

The Court

JANE E. KIRTLEY, ESQ.
(The Reporters Committee For Freedom of the Press)

THE HONORABLE PIERRE N. LEVAL
(Southern District of New York)

THE HONORABLE GILBERT S. MERRITT
(U.S. Court of Appeals, Sixth Circuit)

The 1989 Moot Court Board

Paul Anders	Terence Flynn
David Anthony	Steve Mayo
Nanette Dory	Brian Robinson
Beth Doyle	Sheryl Shanor

Jim Phemister, Faculty Advisor

The 1989 National Moot Court Teams

Ron Ciotti	Melissa Giove
Chris Cornett	Doug Glenn
Otto Konrad	Steve Siegel

The 1990 International Moot Court Team

Darren Courtney	George Kohutiak
Mike Fondren	John McCann

Claude Worrell

STATEMENT OF THE CASE

The Gotham Daily News v. Bruce Wayne, Case No. 89-999

On January 10, 1989, *The Gotham Daily News* published an article entitled "Child Sex Scandal Rocks Grayson Administration." The article accused Bruce Wayne, retired Gotham Superior Court judge and current chairman of the governor's Task Force to Restore and Promote Family Values, of sexually molesting a twelve-year old girl. As a result, Wayne was forced to resign his position as chairman of the task force and his positions as director of three highly profitable corporations.

Wayne filed suit for defamation in the Gotham Superior Court and sought \$23,000 in lost wages. In its answer, pursuant to section 10-4 of the General Statutes of Gotham, the newspaper elected to convert Wayne's action for money damages into one for declaratory relief. Counsel for Wayne filed a timely motion to strike asserting that the newspaper had pleaded an insufficient defense in its answer. The trial court granted the motion, ruling that section 10-4 violated Wayne's rights under Art. I, sec. 12, of the Gotham state constitution (guaranteeing a remedy for reputational injury).

The newspaper also filed a motion to dismiss on the grounds that section 10-5 of the General Statutes of Gotham, which allows an award of money damages without a showing of fault, violates the First Amendment of the U.S. Constitution. The trial court denied the motion. The court rules that *New York Times v. Sullivan* and its progeny did not create a federal constitutional requirement that a plaintiff prove fault as a predicate to an award of monetary damages.

The case went to trial as an action for monetary damages since the Gotham Rules of Civil Procedure do not permit interlocutory appeals. The jury found the article contained false facts which defamed and injured Wayne's character and awarded him \$23,000 in damages. The newspaper does not contest the amount of damages on appeal. The Gotham Court of Appeals affirmed the trial court's decision.

The Gotham Supreme Court certified the following questions on appeal:

- I. Whether section 10-4 of the General Statutes of the State of Gotham which allows *The Gotham Daily News* to force Bruce Wayne into an action for declaratory judgment violates Art. I, sec. 12, of the Gotham state constitution or, in the alternative, whether it violates the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the U.S. Constitution?
- II. Whether section 10-5, which allows Bruce Wayne to recover monetary damages without proving fault on the part of *The Gotham Daily News*, violates the First Amendment of the U.S. Constitution?