

# MUNICIPAL OFFICIALS: MIND YOUR SOCIAL MEDIA!

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When can a municipal official violate a resident's free speech? By blocking their comments on a social media page (*i.e.*, Facebook), used at least in-part to carry out public duties. The false sense of freedom to control visitors or commentators to ***your own personal*** Facebook page—solely controlled by you—has been eradicated by a recent Virginia Federal Court case.

Last week, Judge James Cacheris, District Judge for the Eastern District of Virginia, held that the Chair of the Loudoun County Board of Supervisors violated a constituent's First Amendment rights by blocking him from her Facebook page, for a mere twelve hours. Notably, defendant-Chairwoman Randall argued that her Facebook page, named "Chair Phyllis J. Randall," was her personal website that she almost exclusively controlled. However, in a very detailed, forty-four page opinion, Judge Cacheris highlighted several facts weighing in favor of concluding that Defendant Randall's Facebook page was not personal, but rather was operating "under color of state law." Specifically, the Court pointed out that Chairwoman Randall categorized the page as "Government Official," and provided contact information to her County Office location and email address. The Court also noted that several of the Chairwoman's posts invited her constituents to participate in events that she commissioned in her capacity as Chair of the Board of Supervisors. Finally, the Court explained that "the impetus for Defendant's creation of the 'Chair Phyllis J. Randall' Facebook page was, self-evidently, Defendant's election to public office. She created the page in collaboration with her Chief of Staff...and did so for the purpose of addressing her new constituents." *Davison v. Loudoun County Board of Supervisors*, 16-CV-932 (E.D. Va. July 25, 2017). Thus, the Court held that Chairwoman Randall was acting under color of state law, in maintaining her "Chair Phyllis J. Randall" Facebook page, and most significantly, in banning her constituent, Plaintiff Brian C. Davison, from posting comments on her page, albeit for a mere twelve hours.

This decision sends a striking message to municipal officials to understand that by maintaining a social media presence for even a limited public purpose—even under the guise of a personal page—you may be creating a public forum that carries with it your obligation to respect potential commentators' constitutional right to free speech.



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A link to the decision discussed above is available here.

