



Trolls on Social Media: Can I Block Them?

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Why are we here?

- Official social media sites are a “public forum”

What is a public forum?

- **Government property where speech can be delivered**
 - Traditional public forum
 - Limited/designated public forum
 - Non-public forum



How was this applied in California?

- Persons identified themselves as public officials
- Invoked their governmental status to encourage engagement
- Inform the public about events and news concerning the public entity

Lindke v. Freed

- U.S. Supreme Court weighs in



James Freed

- **James Freed is City Manager of Port Huron, Michigan**
 - Picture of himself with a city lapel pin, identifies his title
 - Linked to city's website
 - Uses his email address



James Freed

- **James Freed is City Manager of Port Huron, Michigan**
 - Solicited feedback from the public
 - Posted a link of a survey about housing and encouraged people to complete it



James Freed

- **James Freed is City Manager of Port Huron, Michigan**
 - Talks about his job
 - Reconstruction of the City's boat launch
 - Streamlining leaf pick-up
 - Stabilizing water intake from the local river



James Freed

- **Responded to questions**
 - Both personal and professional
 - Can City's residents be allowed to have chickens?
- **Covid 19**
 - Personal and Professional information

Kevin Lindke

- **Concerned citizen**

- Pandemic responses were “abysmal” and “the City deserves better”
- Commented on picture of City Manager taking out from restaurant



Lawsuit

- First Amendment Claim
- Right to Comment because it was a public forum

Public Officials Have Rights

- Freed did not relinquish his First Amendment rights when he became city manager



Rule

- A public official's social-media activity constitutes state action only if the official:
 - Possessed actual authority to speak on the State's behalf, and
 - Purported to exercise that authority when he spoke on social media

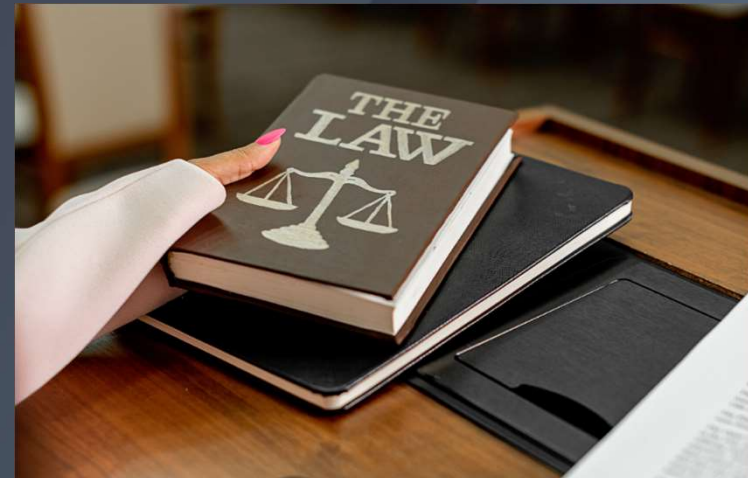


Possessed of State Authority

- Statute
- Ordinance
- Regulation
- Custom or usage

Statute, Ordinance & Regulations

- **Must be in writing**
 - Must be specific



Custom or Usage

- **Persistent practices**
 - Doesn't have to be on social media

Must be the Cause of the Violation

- Limited authority results in limited liability

Rule

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 - Possessed actual authority to speak on the State's behalf, and
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Purported to exercise that authority

- Exercising responsibility - not merely reporting on it

Labels Make a Difference

- **Official:**

- City Manager of Port Huron
- Mayor of Beverly Hills

- **Personal:**

- Personal page of James Freed
- Personal page of Joe Smith, Mayor of Beverly Hills

Council Member Takeaways

- **Indicate that the social media page is not official**
 - Personal
 - Link to official page
- **If posting about news, be honest**
 - City Manager form of government
- **City should adopt “official” City pages**

City Manager Takeaways

- **Official City Sites**

- Clearly possess authority
- Don't use your social media to exercise authority

Results of Lindke v. Freed

**SUPREME COURT
OF THE UNITED STATES**

IN THE SUPREME COURT OF THE UNITED STATES

KEVIN LINDKE,)
Petitioner,)
v.) No. 22-611
JAMES R. FREED,)
Respondent.)

Pages: 1 through 86
Place: Washington, D.C.
Date: October 31, 2023

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Thank you!

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