

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CABLE NEWS NETWORK, INC. and ABILIO  
JAMES ACOSTA,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; JOHN F. KELLY, in his official capacity as Chief of Staff to the President of the United States; WILLIAM SHINE, in his official capacity as Deputy Chief of Staff to the President of the United States; SARAH HUCKABEE SANDERS, in her official capacity as Press Secretary to the President of the United States; the UNITED STATES SECRET SERVICE; RANDOLPH ALLES, in his official capacity as Director of the United States Secret Service; and JOHN DOE, Secret Service Agent, in his official capacity,

Defendants.

Case No.

**DECLARATION OF SAM FEIST IN SUPPORT  
OF PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

I, Samuel Feist, hereby declare under penalty of perjury the following:

1. I am a Senior Vice President and the Washington Bureau Chief at Cable News Network, Inc. ("CNN"). I have personal knowledge of the content of this declaration, and I could and would competently testify to the truth of the matters stated herein.

**I. Background**

2. I am a graduate of Vanderbilt University and Georgetown University Law Center and am a member of the Bar of the District of Columbia. I have worked at CNN continuously

since 1991. I have served as the bureau chief of CNN's Washington bureau since 2011. As the Washington bureau chief, I oversee daily operations of the Washington bureau and lead all newsgathering and Washington-based programming. I also lead the production of CNN's campaign and election coverage, including debates, convention coverage, and election night.

3. In my role as Washington bureau chief, I oversee CNN's coverage of the White House and our White House correspondents, including our chief White House correspondent Abilio James Acosta, known as Jim Acosta. Acosta has served as CNN's chief White House correspondent since January 2018. Previously, Acosta served as CNN's senior White House correspondent from August 2013 to January 2018 and as a national political correspondent from February 2012 to August 2013. Acosta has reported for CNN since April 2007. Acosta has had a White House hard pass since 2013, and it has been regularly renewed. As the Washington bureau chief, I also have had a hard pass since 2011.

4. Acosta is an essential contributor to CNN's coverage of the White House and the President. He is exceptionally experienced in investigating and reporting rapidly developing political events as they unfold. He has deep relationships and long-established credibility with Washington politicians and officials of all political backgrounds. He is in the top tier of today's national journalists and his reputation with CNN's viewers is one of the network's valuable resources. Acosta has played a leading role in CNN's coverage of the Trump campaign and, since January 2017, of the Trump Administration.

## **II. The White House "Hard Pass"**

5. A White House "hard pass" is an essential credential for a White House correspondent. The "hard pass" permits a journalist to access the White House with minimal delay, which is a job requirement as the White House is the workplace for White House

correspondents. Obtaining a hard pass can take months and requires a background check performed by the Secret Service. Once obtained, the hard pass permits a journalist (with a gray hard pass) to enter White House grounds through the northwest entrance, the same entrance used by many White House employees (who have blue hard passes). The procedure for entry with a hard pass is expedited: the holder swipes his pass, enters a PIN, and after passing through a metal detector, gains access to the White House grounds. Every Secret Service agent is familiar with the hard pass on sight. Hard pass holders are presumed legitimate and are free to move around parts of the White House complex open to properly credentialed journalists with minimal interference.

6. Without a credentialed chief White House correspondent, any media outlet's ability to cover the White House and the Presidency would be severely damaged. For that reason, all major national media outlets ensure that their chief White House correspondents hold hard passes so that they are guaranteed intimate access to the center of American government. Any media outlet whose chief White House correspondent lacked a hard pass would be at a massive competitive disadvantage against the rest of the national media whose correspondents still hold hard passes. Today, CNN faces that very situation due to the revocation of its chief White House correspondent's hard pass.

7. A significant amount of newsgathering and dissemination occurs on White House grounds, which includes dedicated press quarters in accordance with the First Amendment protected tradition of open government. Immediately after a journalist enters through the northwest entrance are cameras lined up on the White House lawn, where live shots of journalists are frequently conducted. Journalists normally access the White House through the press room entrance, which is located between the executive mansion and the West Wing reception entrance.

Inside, adjacent to the press briefing room, there is a “lower press office,” where White House press staff interact continuously with White House correspondents, and also work spaces for all major networks, called “booths.” This is where Acosta and other CNN White House correspondents perform their daily work. As it is for White House correspondents for other networks and print media, the White House is Acosta’s everyday workplace, and he typically writes and broadcasts directly from the White House. Acosta’s work is so closely tied to the White House that he may not even come to CNN’s Washington bureau for weeks at a time. Rather his workplace is the White House or on the road with the President when the President travels. Being physically present in the White House or with the President when he travels is a fundamental part of being a White House correspondent.

8. Hard pass holders can also easily access the “upper press office,” another key area of interaction between White House correspondents and White House staff. The upper press office is in the “West Wing” of the White House, steps away from the Oval Office, includes the offices of the Press Secretary (currently, Sarah Huckabee Sanders), and the Communications Director (currently Bill Shine.) This area is guarded by Secret Service officers, but easily accessible by hard pass holders because the Secret Service recognizes the credential.

9. Newsgathering at the White House is performed in a variety of ways, many of which are spontaneous and take place with little to no notice, and which therefore require instant access to the White House. There is a procedure for journalists without a hard-pass to access the White House through a White House-issued day pass. A day pass requires a journalist to request permission to enter the White House on a specific day, and the request must be made 24 hours in advance. A day pass is valid only for the specific date requested. Day passes are not typically

an effective way to credential a permanent member of any news organization's White House team.

10. In addition to scheduled briefings, in the upper press office, "gaggles" between journalists and the Press Secretary, Deputy Press Secretary, or other government officials or elected leaders are a common, daily occurrence, taking place with little to no notice. Journalists also frequently talk to the Press Secretary and Deputy Press Secretaries one-on-one, to ask questions both on and off the record without notice of appointment. There are also frequent off-camera, unscheduled, background briefings in the White House briefing room. Access to the material from these off-camera briefings is not possible unless a reporter is physically present in the White House briefing room. These and other types of spontaneous newsgathering are not feasible for a journalist with only access to a day pass.

11. The hard pass has proven, if anything, even more important in covering President Trump. There are frequent spontaneous press briefings and other open-press events that are held without notice whatsoever. Open-press events are open to all credentialed White House Correspondents. Reliance on daily passes to access to these spontaneous events is impracticable at best, impossible at worst, due to the spontaneous nature of these events.

12. A hard pass is also essential to the recognition of a journalists' legitimacy in the West Wing. It is such an essential credential that the application for membership in the White House Correspondents' Association, the premier professional organization for White House correspondents, asks whether the applicant has a White House hard pass.

13. A hard pass is also essential to a journalist's ability to gather news about the President away from the White House, when traveling with the President. Hard passes are recognized by the Secret Service and journalists with hard passes are given access to the

“bubble”<sup>1</sup> of the President without delay and without being questioned, while such access may be delayed or denied for other journalists. As someone who has covered the White House for two decades and has supervised many other journalists covering the White House, possession of a hard pass has a significant, positive impact on the amount of access a journalist can obtain to the President and his entourage in the field.

14. Hard passes are subject to periodic renewal and are generally renewed as long as they are being actively used. Hard passes may not be renewed if the journalist in question has not reported to the White House regularly because the White House wants to ensure for security reasons that there are a limited number of passes in circulation. It is virtually unheard of for a hard pass to be revoked, and the only instance of that happening of which I am aware occurred when a freelance reporter, Trude Feldman, was caught in the Press Secretary’s office, looking through papers on the Press Secretary’s desk. Even in that case, Ms. Feldman’s pass was suspended for 90 days, not revoked entirely, and the suspension had nothing to do with the content of her reporting. I am not aware of any CNN journalist who has ever had a hard pass suspended or revoked.<sup>2</sup>

### **III. The Revocation of Acosta’s Hard Pass and CNN’s Response**

15. I first learned that Acosta’s hard pass had been revoked at approximately 8 PM on November 7, 2018, when Olivier Knox, President of the White House Correspondents

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<sup>1</sup> The “bubble” is a term used by journalists to refer to the President and his entourage.

<sup>2</sup> See Martha Bryant, “West Wing Story: The Characters of the White House Press Corps,” *Newsweek* (May 15, 2001) (“According to security, Feldman was caught one night (the White House press area closes at 8:30 p.m. rifling through a press aide’s desk drawers a few months ago. Some staffers wanted to revoke her pass; instead the White House suspended it for 90 days.”), available at <https://www.newsweek.com/west-wing-story-characters-white-house-press-corps-152523>.

Association contacted me by phone. He notified me that moments before, Press Secretary Sarah Sanders had released a statement that Acosta's pass had been revoked.

16. This revocation was done with no notice to either Acosta or the network, and with no opportunity to be heard.

17. Over more than two decades of experience as a Washington journalist, I have attended dozens of White House press briefings and press conferences and been involved in the coverage of hundreds more. I have watched the video of the November 7, 2018 press conference, and I believe Acosta's questions were wholly appropriate questions within professional norms, and within the norms of the White House press corps. When the President chose to avoid Jim Acosta's question by attacking Jim personally and by asking Acosta to sit down, Jim continued to stand. An effective correspondent cannot simply sit down when the President or other public official avoids a question through interruptions and personal attacks.

18. The revocation of Acosta's hard pass has had immediate consequences both for him professionally and for CNN as a news organization. CNN has requested, and was denied, a day pass for Acosta, so he has been denied the access to the White House and staff that is necessary for him to perform his job, frustrating CNN's efforts to fulfill its own mission to deliver the news.

19. Acosta was the correspondent previously slated to attend the President's trip to France this past weekend. I have described above the importance of a hard pass even to covering the President in remote locations. Acosta was also denied a White House credential for the President's most important event in France, a visit to an American military cemetery on the 100<sup>th</sup> Anniversary of the end of World War One on November 11<sup>th</sup>. When the White House denied Acosta's credential for the trip, the French Government then issued him a credential for the visit.

See Ex. 52.<sup>3</sup> It was not without irony to me that a U.S. White House correspondent who is an American Citizen was denied access to a ceremony by his own government but was granted access by the government of France. However, when Acosta arrived at the cemetery, despite having a press credential from the French government to cover the event, he was denied access by the U.S. Secret Service. Other credentialed journalists from around the world were permitted entry for this “open press” event but Jim Acosta was singled out by the U.S. government and denied access. Here, Jim’s ability to cover a public event of historic international importance was completely blocked by the White House. Blocking Jim Acosta from the event also denied CNN the ability for CNN’s chief White House correspondent to report from the cemetery and offer our viewers coverage of that important and newsworthy event.

20. Following the revocation of Acosta’s hard pass, President Trump has continued to criticize CNN and our reporters. During a November 9, 2018 news conference on the White House lawn, CNN White House Correspondent Abby Phillip asked President Trump whether he wanted newly-appointed Acting Attorney General Matthew Whitaker to “rein in Robert Mueller.” President Trump replied: “What a stupid question that is. What a stupid question. But I watch you a lot, you ask a lot of stupid questions.” Ex. 51.

21. As I described above, without a credentialed chief White House correspondent, any media outlet’s ability to cover the White House and the Presidency is severely damaged. Today, CNN faces that very situation due to the revocation of its chief White House correspondent’s hard pass. Moreover, Acosta has been denied day passes as well as other credentials necessary to cover the President fully.

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<sup>3</sup> References to “Ex. \_\_\_” are to the Exhibits to the Declaration of Theodore J. Boutrous, Jr., dated November 13, 2018.



22. I have reached out to White House officials including the Press Secretary, Sarah Huckabee Sanders, and the Director of Communications, Bill Shine, on the evening of November 7 and again on November 8, to ask when they would reinstate Acosta's hard pass, but I have received no answer. CNN's leadership has also reached out to the White House Chief of Staff and acting White House Counsel to request the reinstatement of Acosta's hard pass, and while receipt of the letter was acknowledged by the acting White House Counsel, neither the Chief of Staff nor the Counsel responded to CNN's request. Ex. 45. I understand that the White House Correspondents' Association has also been in contact with White House officials regarding the revocation of Acosta's hard pass.

23. As of today, the White House has not agreed to return Acosta's hard pass. I understand that White House officials have communicated that they currently do not plan ever to return his hard pass.

24. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12th day of November 2018 in Washington, D.C.

  
Samuel Feist