



## NEWS RELEASE

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### ***University Daily Kansan* editors file First Amendment lawsuit challenging retaliatory funding cut**

In a civil complaint filed Friday, the *University Daily Kansan* student newspaper and two of its student editors ask a U.S. district court to restore a 50 percent cut in student activity fee funding that was imposed to punish the newspaper for an editorial criticizing the campus election system.

The *Kansan* and editors Vicky Diaz-Camacho and Katie Klushko, represented by attorney Patrick J. Doran of Kansas City, argue that the \$45,000 reduction violated the First Amendment because it was imposed in retaliation for an editorial viewpoint that university representatives disfavored.

"This lawsuit was a last resort. The *Kansan* exhausted every avenue before we reached this point with the University," Diaz-Camacho said. "Our First Amendment rights enable us to report on our student body and student government. The *University Daily Kansan* is the watchdog for the community, and our constitutional freedoms are at the crux of what we do and help provide transparency to our readers. But those rights were infringed upon by the University and Student Senate."

The complaint asserts that the newspaper's ability to provide complete, unbiased coverage to the public is inhibited by knowing that the newspaper's funding has been made contingent on avoiding criticism of University policies:

In addition to its practical impact on the ability of the *Kansan* and its staff to effectively gather, report and distribute news, the budget cut carries a significant chilling effect because it ties the *Kansan's* receipt of adequate funding to the expression of viewpoints which meet the approval of the Student Senate. As a result of the budget reduction, Plaintiffs are chilled in their expression of First Amendment-protected speech, and are less likely than they would otherwise have been to express viewpoints critical of the Student Senate or to make independent editorial judgments about the newsworthiness of Student Senate events.

The controversy began with a strongly worded May 2014 editorial in the *Daily Kansan* calling for reforms in the student election system, after a botched election that resulted in the disqualification of the leading vote-getters. During the budget cycle that followed, members of the Student Senate repeatedly interjected their displeasure with the editorial, and with the newspaper's coverage of student government in general, into the discussion of the *Kansan's* request for renewed grant support.

As a direct result of that displeasure, the Student Senate voted in April 2015 to impose a drastic percent reduction in the newspaper's long-established subsidy from \$2 per member of the student body to \$1 per student, a greatly disproportionate cut as compared with any comparable student organization. A member of the Senate's finance committee openly acknowledged that the reduction was a response to perceived "problematic" coverage, including the May 2014 editorial. The president of the Student Senate characterized the funding cut as an opportunity for the newspaper's editors to "fix their content" to meet the approval of the budget committee in future funding cycles. University Chancellor Bernadette Gray-Little ratified the Student Senate's retaliation by signing off on the budget without changes in May 2015 despite being well aware of the retaliatory nature of the reduction.

The *Kansan* and its volunteer legal counsel have attempted ever since the April 2015 vote to negotiate with leaders of the Student Senate and with KU administrators, including meetings with Chancellor Gray-Little and Vice Provost Tammara Durham, to seek reversal of the unlawful reduction and to craft a funding mechanism that removes the opportunity for viewpoint-based retaliation in the future. However, the University has refused to restore any of the lost funding, which has resulted in the *Kansan* eliminating 13 paid student positions on both the editorial and advertising staffs and leaving its News Adviser position vacant.

Federal courts, including the U.S. Supreme Court, have been highly protective of the free-speech rights of college students, and have struck down as unconstitutional government restraints on student speech based on its content or viewpoint, including indirect restraints such as the denial of funding to student publications. For example, the Supreme Court decided in a 1995 case, *Rosenberger v. Rector and Visitors of the University of Virginia*, that a public university may not withhold financial support from a student news publication based on the viewpoint espoused by its editors.

"Our Complaint alleges that the defendants were aware of the First Amendment issues when *Kansan* editors met with university administrators, but the defendants approved the retaliatory fee cut anyway," said Doran, the student editors' attorney. "We allege that this creates a chilled environment for the *Kansan* journalists, and this is especially true in light of the *Kansan's* upcoming annual fee review, since one Fee Review Committee member recently told the news editor that the *Kansan* had 'bit the hand that fed' it."

"If there is one universally undisputed principle of First Amendment law, it is that government decision-makers can never use their authority to punish speakers who express a viewpoint critical of the government," said Frank D. LoMonte, executive director of the Student Press Law Center, which assisted the student journalists in finding volunteer legal counsel and preparing the complaint. "It is disappointing that the University forced this step by refusing to entertain reasonable reforms to the funding process to insulate the *Kansan* against retaliation. We're proud of the editors for standing up forcefully to protect not just their own interests, but the interest of their audience in editorially independent coverage."