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In Clash Over Trump Article, a Lawyer's Letter Goes Viral

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David McCraw is used to working behind the scenes at the country's largest metropolitan newspaper. Last week, he became part of the news.

McCraw, The New York Times' assistant general counsel, became a surprise social media sensation when his letter to a lawyer for Republican presidential candidate Donald Trump went viral on Thursday. Trump had threatened legal action after the Times published a story in which two women [accused Trump](#) of sexual misconduct.

McCraw's reaction? Bring it on.

"The essence of a libel claim, of course, is the protection of one's reputation," [McCraw wrote](#) to Trump lawyer Marc Kasowitz. But Trump brought any reputational harm upon himself when he bragged to Billy Bush about forcing himself on women, discussed ogling beauty pageant contestants, and referred to his own daughter as a "piece of ass," McCraw wrote.

The paper published a well-reported story about an issue of immense national importance, McCraw continued. He ended with a zinger: "If Mr. Trump disagrees, if he believes that American citizens had no right to hear what these women had to say and that the law of this country forces us and those who dare to criticize him to stand silent or be punished, we welcome the opportunity to have a court set him straight."

The response to the letter, which the Times published online, has been "bracing," McCraw said in an interview Friday. He received about 400 email messages, he said, on top of a flurry of phone calls that began minutes after the letter was published. The sources ranged from strangers to headhunters who once turned him down for jobs, McCraw said. Most were complimentary, but one writer said he should be disbarred, and others criticized his letter as unfair to Trump.

The letter topped the Times' most viewed and most emailed lists, with more than one million clicks on the paper's website alone, McCraw said. It remained the most shared Times story on Facebook over the weekend.

“I have heard from people who aren’t lawyers, who aren’t journalists, who are citizens of this country who understand very fundamentally the importance of a free press,” McCraw said. “In many, many cases, they show that people appreciate the basic value that we need to have a press that covers elections, covers them fully and covers them fairly.”

Dealing with demands for retraction is hardly unusual for McCraw, who says he personally vetted last week’s story before it was published. Sometimes his responses are heavy on case law, he said, while others focus more closely on the facts of a story. Rarely are his letters published on the paper’s website.

“This letter struck me as being a letter that had the capacity to be public, so I thought it was important to address in a common-sense way the larger issue of how libel works and why press freedom is important in this country,” McCraw said. After his letter was published, he noted, some lawyers praised his response for not sounding like “a lawyer letter”—a compliment he appreciates.

“I think if we are going to be effective as lawyers, we need to have to a wider audience than each other,” he said.

Protective instincts

Lawyers and journalists who have worked with McCraw during his 14-year tenure at the Times said they weren’t surprised by his full-throttled response.

“He really is the consummate media lawyer because he has the First Amendment built into his DNA,” said Gibson, Dunn & Crutcher’s Theodore Boutrous Jr., who has worked with McCraw on media law related matters for more than a decade. “He’s super protective of the journalists and their ability to gather and publish news.”

That reputation has gained McCraw plenty of fans among Times reporters. Several who had gathered for a meeting broke out into applause when they noticed McCraw walking by on Thursday, after his response to Trump had circulated. In an email on Friday, Times science writer John Schwartz was effusive. “I’m just hoping that the fact that we published his letter in full online means it will qualify for a Pulitzer,” he said.

Bill Keller, The New York Times’ former executive editor, said that McCraw knows how to keep reporters on the right side of the law without standing in the way of aggressive reporting. “His instinct was not to say, ‘Oh, you can’t do that,’ but to say, ‘Here’s a way you can do that,’” Keller wrote in an email.

McCraw has drawn attention for one of his letters before. Earlier this year, the National Football League complained that the Times had unfairly linked the NFL’s response to player concussions with the tobacco industry’s attempts to minimize the dangers of smoking. McCraw noted that the NFL had called the tobacco industry “perhaps most odious industry in American history,” and then pointed out that its lawyers at Paul, Weiss, Wharton, Rifkind & Garrison had counted Philip Morris as a client.

“If I’m lucky enough to work in this industry another 20 years, I’ll never craft such a delicious and devastating kicker,” Times sports editor Jason Stallman wrote in an email.

McCraw's role at the Times goes far beyond defending First Amendment principles. He was a key player in the paper's attempts to free David Rohde, a reporter who was kidnapped in Afghanistan in late 2008 and held for seven months before escaping, Keller said. McCraw wrote in a [Times Insider piece](#) in August, describing his typical day, that helping to protect the paper's foreign correspondents has become a critical part of his job.

But McCraw is most animated when it comes to discussing press freedoms.

"The Supreme Court has said, 'We want you to be free,'" McCraw said Friday. "The laws in this country are designed to encourage us to be fearless when we have the stories right, and that's what I want to help people do."

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