

# CLIENT ALERTS

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## *Sullivan* Stands: Wynn Fails in Efforts to Overturn Actual Malice Standard

### Client Alert

3.25.2025

Journalists, writers, and content creators have long relied on *New York Times v. Sullivan* as the strengthening of the First Amendment protections for the freedom of speech and the press by setting a higher standard for public figures to prove defamation claims. This heightened requirement, a need to demonstrate actual malice, has been challenged in recent years as significant public figures have suggested that this threshold is simply too high. In the latest effort in front of the Supreme Court, *Sullivan*'s existing standard appears to have prevailed.

On March 24, 2025, the Supreme Court denied Wynn's Petition for a Writ of Certiorari in the case of *Steve Wynn v. The Associated Press*. Wynn's petition arose following the dismissal of a defamation suit against the Associated Press and one of its journalists by the Nevada Supreme Court. The case involved an article reporting on a press conference held by the Las Vegas Police in February 2018 regarding sexual assault allegations made by two women. Wynn denied the allegations and asserted that the AP reported in an incomplete and unfair manner with the allegations being false and "clearly fanciful or delusional."

The Nevada Supreme Court held in a unanimous ruling that Wynn was a public figure who failed to show clear and convincing evidence to reasonably infer that the article was published with actual malice under the *Sullivan* standard. Following that rejection, Wynn petitioned the U.S. Supreme Court to overturn the sixty-year-old landmark case. Specifically, Wynn argued that "Sullivan is not equipped to handle the world as it is today—media is no longer controlled by companies that employ legions of factcheckers before publishing an article. Instead, everyone in the world has the ability to publish any statement with a few keystrokes. And in this age of clickbait journalism,

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even those members of the legacy media have resorted to libelous headlines and false reports to generate views.” The Supreme Court ultimately declined to address Wynn’s challenge.

This denial follows the similar denial of a petition in *Blankenship v. NBC Universal* in 2023 that sought to unravel *Sullivan*’s actual malice standard. At this time, it appears that Justice Thomas’ position questioning the heightened standard remains one that has not been accepted by enough Justices to bring before the Court. Butzel continues to monitor First Amendment speech clause and press clause cases and supports clients in the areas of defamation and media access. Please contact your Butzel attorney for more information.

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