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TOP 100 — 2020

LITIGATION

Theodore J. Boutrous Jr.

Boutrous, the global co-chair of Gibson Dunn's litigation group and a courtroom luminary, has a resume crammed with big cases. The Trump era has moved his docket toward an emphasis on media litigation. Recent clients have included psychologist and author Mary L. Trump, the president's niece; MS-NBC news program host Rachel Maddow; members of the White House press corps; the press freedom advocacy nonprofit Pen America and the newspaper publisher McClatchy Co.

"There wasn't a lot of media law activity until Trump rolled in," Boutrous said. "His lawsuits and libel cases have been a catalyst for others to sue, and he keeps taking actions that themselves warrant lawsuits."

During the 2016 campaign, Trump threatened to sue his sexual assault accusers, provoking Boutrous to tweet a promise that he'd take on any free speech case brought by Trump, pro bono. "Mary Trump saw the tweet and reached out to me two years ago," Boutrous said in mid-August. "She was then acting as a New York Times source and she was concerned that Trump would go on a source hunt." That connection led to his representation of Mary Trump when the president's younger brother Robert S. Trump obtained a temporary restraining order to block publication of her book "Too Much and Never Enough: How My Family Created the World's Most Dangerous Man."

Trump v. Trump, 22020-51585 (S. Ct. of N.Y., Dutchess Co., filed June 26, 2020).

Boutrous struck back to oppose the TRO, pointing out the book was already a bestseller and arguing, "Plaintiff is pursuing this unlawful prior restraint on core political speech because the President and his family do not want the American people to hear Mary Trump's story." On July 13 the judge vacated the restraining order. "It really is a great book," Boutrous said. "Prior restraint battles happen so quickly. Prior restraint is the most dramatic of First Amendment fights. You get such immediate gratification—and the book comes out."

Boutrous is defending the Sacramento-based McClatchy in a \$150 million defamation suit by Representative Devin Nunes, a Central Valley Republican, over the Fresno Bee's report on a lawsuit regarding alleged sexual harassment at a party Nunes did not attend at a charity function involving a winery Nunes partly owns. Nunes alleged a conspiracy to defame him. *Nunes v. McClatchy*, CL 19-629 (Albermarle Va. Cir. Ct., filed April 8, 2019).

"He's a California congressman suing in Virginia," Boutrous said. "He's forum shopping. There's no basis for this claim. He keeps losing these frivolous suits, but he uses them for fundraising." Boutrous' motion to dismiss is pending; the case is on hold due to the coronavirus.

The pandemic has cut Boutrous' arduous



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travel schedule. "The judicial system from an appellate and a motions standpoint has been functioning," he said. "There'll be a lot more of these remote arguments. They work."

— John Roemer