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WLF to California: Political Speech Isn't Pollution, It's Protected (*Babylon Bee v. Bonta*)

“California wants to take down disfavored political speech and use social media platforms to do the dirty work.”

— Zac Morgan, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Ninth Circuit to uphold a lower court decision striking down a California statute aimed at chilling AI-edited political speech. WLF was joined on the brief by the Manhattan Institute and Americans for Prosperity Foundation.

The case arises from a state law that forces large social media platforms to delete or label political speech about candidates or elections officials if the content was “digitally . . . modified.” Although the law is ostensibly aimed at so-called deepfakes, the law itself notes that its reach goes well beyond that category—to the point where the famous “Dukakis in the tank” ad might have been outlawed under California’s regime. The law itself compares digitally edited speech to pollution.

As WLF’s amicus brief explains, political speech, even if distasteful or opposed to those in power, isn’t pollution—it’s protected. When a state asks a social media platform to delete or edit the speech of others, it runs into section 230 of the Communications Decency Act, which preempts such efforts to hijack online publishing. And even without section 230 immunity, the law violates the First Amendment.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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