

# **ADVENTURES OF A SOCIOPATHIC PROFESSOR**

The True Story of How America's Teachers Finally Secured  
the Constitutional Right to Criticize Their Institutions

By David Demers  
16421 North 31st Avenue  
Phoenix, Arizona 85053  
david@luminars.org  
623-363-4668

## **Definitions**

### **Sociopath**

*A person who disregards or violates the rights and considerations of others without remorse.*

### **Academic Freedom**

*A scholar's freedom to express ideas without interference.*

### **Civil Liberties**

*Freedom from interference in one's pursuits, such as freedoms of expression, religion and assembly, and due process.*

### **The Enlightenment**

*A broad philosophy of thought that embraces freedom (over collectivism); reason (over dogma, superstition and traditionalism); civil liberties, including freedom of the speech, press, and religion; political equality; economic equity; progress; separation of church and state; democratic decision-making; decentralized power; due process; and governmental accountability.*

### **Workplace Mobbing**

*Physical or emotional abuse to force someone out of the workplace through intimidation, humiliation, discrediting, and isolation.*

### **Author's Note**

When I began my first full-time teaching job in the early 1990s, I assumed, like most professors, that I had the First Amendment right to criticize administrators' policies and decisions. After all, faculty manuals at virtually every public university in the United States guaranteed professors the right to shared governance, meaning we had a right to help manage our university.

Although federal courts have long held that private (off-the-job) speech and speech in the classroom and in scholarship at public universities deserve broad protection,<sup>1</sup> the courts had never ruled that the constitution protects professors and K-12 public school teachers for speech outside of the classroom.<sup>2</sup> In fact, during the last century, I conservatively estimate that at least one million teachers at public institutions have been fired or reprimanded for criticizing their superiors or for other controversial speech.<sup>3</sup> Among the recent list of victims are two engineering professors, one who tried to save his department from an internal merger<sup>4</sup> and another who condemned the hiring of too many part-time faculty.<sup>5</sup>

Many professors and teachers who speak their minds are often victims of “workplace mobbing” — an inglorious administrative phenomenon that essentially involves harassing the hell out of them until they quit. Many suffer from depression or post-traumatic stress disorder. Some commit suicide.<sup>6</sup>

But this unfortunately state of affairs diminished substantially in nine states in the

West in 2014.<sup>7</sup> That's when the Ninth U.S. Circuit Court of Appeals handed down a landmark decision in a little-known case called *Demers v. Austin*, which provided constitutional protection for on-the-job speech dealing with issues of public concern related to teaching or scholarship, both *inside* as well as *outside* of the classroom.<sup>8</sup> The engineering professors mentioned above likely would have won their cases had they been adjudicated after *Demers*. As of this writing, the other 41 states have no constitutional protection for on-the-job speech outside of the classroom.<sup>9</sup> One of my goals in writing this book is increase awareness about this problem and to get protection for teachers in those states.

The legal literature and Internet is replete with so-called “objective accounts” of the *Demers* ruling. Virtually all of these analyses, however, fail to understand the significance of the case: *Demers*, for the first time in history, extended constitutional protection to shared governance. Without shared governance, public educational institutions would be indistinguishable from the corporate form of organization — a social entity in which power is highly centralized and decision-making is top-down. To cede control of information and knowledge to centralized sources in public institutions is to invite the autocratic partisan fox into the democratic henhouse.<sup>10</sup>

My book departs from the objective form of reporting to provide a first-person sociological narrative of the *Demers* case and its history — a methodology advocated by the late sociologist C. Wright Mills. “The sociological imagination enables us to grasp history and biography and the relations between the two within society. ... No social study that does not come back to the problems of biography, of history and of their intersections

within a society has completed its intellectual journey.”<sup>11</sup> I must add, though, that a first-person narrative does not give an author a license to lie. Rather, its purpose is to give the reader insight into the story behind the story — into how social and cultural events shape the thinking, emotions and actions of the author who, in turn, makes decisions that can shape other social and cultural events.

In this book, I also examine workplace mobbing. Public universities and school systems are highly susceptible to this aberrant behavior, because tenured faculty have a right to due process and that makes it difficult to fire them.<sup>12</sup> I do not have any formal training in this field of study, but I do have a lot of participant-observation experience.

Finally, I will argue that the obsessive drive among university administrators to increase revenues is adversely affecting the university’s historic mission of teaching future generations about the importance of free speech, democracy and other ideals of the Age of Enlightenment. The growth of the technological sciences and business schools is coming at the cost of the humanities and social sciences — the two disciplines that historically have played the key role in protecting Enlightenment ideals.

\* \* \* \* \*

Pseudonyms are used to identify some individuals in this book. Their names are italicized on first reference. Real names are always used for public officials, public figures and litigants.

All individuals associated with controversies identified in this book were mailed or e-mailed a draft copy of this manuscript and were invited to provide criticisms and

comments. Two responded: Professors Noam Chomsky and Robert L. Craig. Their responses are presented verbatim at the end of this book.

### Endnotes

1. Private universities, like private employers in general, are not constitutionally prohibited from terminating professors for their speech, but most do offer contractual protection (through faculty manuals) for speech related to teaching and scholarship. Some also protect speech that criticizes or challenges university administrators.
2. The U.S. Supreme Court even ruled in 2006 that the First Amendment does not protect on-the-job speech for public employees, including speech that exposes corruption in government. See *Garcetti v. Ceballos*, 547 U.S. 410 (2006).
3. No precise estimates are available, because faculty are often reprimanded without formal notice. But if each of the 1,600 public universities and 98,000 public schools in the United States had only one case during each decade in the 20<sup>th</sup> century, the total number of cases would exceed one million. A list of prominent free speech cases in which professors were targeted for dismissal can be found under the “Academic Freedom” listing at Wikipedia <[https://en.wikipedia.org/wiki/Academic\\_freedom#The\\_Lane\\_Rebels](https://en.wikipedia.org/wiki/Academic_freedom#The_Lane_Rebels)>. Communication Professor Steve Martin of Ripon University in Wisconsin has compiled a list of 36 cases that, along with the two mentioned in this author’s note, made news in their communities. For every case that makes news, there no doubt is another 10 that never does. More details on Professor Martin’s study will be presented later in this book.
4. *Sadid v. Idaho State University*, 265 P.3d 1144 (Idaho, 2011). Habib Sadid was a professor of engineering at ISU.
5. *Hong v. Grant*, 403 Fed. Appx. 236 (9th Cir. 2010). Juan Hong was a professor of law at the University of California, Irvine.
6. Conservative sociology professor Mike Adams of the University of North Carolina in Wilmington committed suicide after he was forced to retire last month over a tweet. Adams had tweeted about the statewide crackdown on dining as he ate and drank with six guys at a six seat table top: “I almost felt like a free man who was not living in the slave state of North Carolina.” He added, “Massa (Governor) Cooper, let my people go!” Adams had published two books criticizing political correctness on campus. The university tried to fire him, but he sued and was granted tenure and back pay. More than 60,000 people signed a petition asking the university to fire him for his Covid-tweet. Source: Ian Miles Cheong, “Woke Media Celebrates Suicide of Professor Who Was Fired

for Controversial Tweet,” The Post Millennial (July 26, 2020), retrieved September 22, 2020, from <<https://thepostmillennial.com/woke-media-celebrates-suicide-professor-fired-controversial-tweet>>.

7. The states within the Ninth Circuit include Alaska, Arizona, California, Idaho, Hawaii, Nevada, Montana, Oregon, and Washington. Also included are the territories of Guam and Northern Mariana Islands.

8. *Demers v. Austin*, 746 F.3d 402 (9th Cir., Jan. 29, 2014).

9. Those states are governed by *Garcetti v. Ceballos*, 547 U.S. 410 (2006), which held that public employees have no constitutional protection for on-the-job speech uttered outside of the classroom or in scholarship. To date, faculty in those areas have only won federal court cases when their speech was determined to be private, not on-the-job. A detailed analysis of *Garcetti* is provided later in this book.

10. The phrase “knowledge is power” is often attributed to the philosopher Francis Bacon (*Meditationes Sacrae*, 1597). In 1932, Arthur W. Page, vice president of public relations for AT&T, gave a lecture at the Lowell Institute in Boston and elaborated on the concept: “Knowledge is power and the control of knowledge is power. The control of communications and, therefore, of the knowledge of specific events, is a very important element in power. If that is in the hands of a few, autocracy is almost inevitable. If it is in the hands of the many, democracy is possible.” Source: Arthur W. Page, “Social Aspects of Communication Development,” lecture delivered at Lowell Institute, Boston (January 26, 1932), p. 9, retrieved September 9, 2020, from <<https://www.bellisario.psu.edu/page-center/other-resources/page-speeches>>.

11. C. Wright Mills, *The Sociological Imagination* (New York: Oxford University Press, 1959), p. 6

12. Four states have abolished tenure for public school teachers: Florida, Indiana, North Carolina, and Kansas. But union contracts with school systems often provide due process for teachers.

## 1

**GRUMPY JUDGES AND PROFESSORS**

*Seattle, Washington*

*Friday, November 7, 2012*

The morning of my appeals court hearing has arrived, and I feel like barfing.

I've got that god-awful acidic taste in my throat. I'm one step away from the painful involuntary stomach contractions and the surge of clumpy porridge that brings on the sensation of asphyxiation.

I'd rather break a finger or a toe; maybe even a wrist.

Normally I can handle a lot of stress.

But this morning isn't normal, because the hearing in Seattle before a three-judge panel of the Ninth Circuit Court of Appeals will determine whether the First Amendment protects a 7-Step Plan I created to improve the quality of the Edward R. Murrow College of Communications at Washington State University, where I teach. If the court denies protection, then professors and school teachers in nine Western states will have no constitutional protection for speech that criticizes administrators' policies and decisions.<sup>1</sup>

The hearing also will determine whether I, a tenured journalism professor and mass media sociologist in the Murrow College, will be forced out of my job and into bankruptcy. I have accumulated more than \$350,000 in legal fees, which is five times



greater than my annual salary. *How will I support my family if I lose?*

I am so stressed that I pop a beta blocker to block the flow of adrenaline and the emotional state commonly called “stage fright.” A colleague once told me that blood-pressure medications are more popular than sex among artists, musicians and actors. I find that hard to believe, because most of the performing artists I know are sex fiends, and a beta blocker is the enemy of a rock-hard boner. I know these things because I’m a social scientist with participant-observation experience.

I brush my teeth, shave and shower.

The beta blocker is working. I feel better. My heart rate is down. The butterflies are resting.

I’m more confident but not cocky enough to put on a multi-colored progressive tie that could offend the three elderly white male judges presiding over this hearing. I play it safe and don a conservative navy-and-red-striped tie and match it with a light blue Oxford shirt, tan slacks and a snappy dark blue sport coat.

Not too rich looking; not too poor.

J. C. Penney right.

It’s raining and 43 degrees as I make the short drive from my hotel in downtown Seattle to a parking garage near the William K. Nakamura Courthouse. Court opens at nine, seventy minutes from now. I’m meeting my attorney, Judith Endejan of Graham & Dunn, for breakfast at Tulio, an upscale Italian restaurant located on Fifth Avenue, adjacent to the courthouse. When Judy arrives, we naturally begin our conversation with complaints about the weather, because that’s what people in Seattle do all winter long.

Then we review her prepared notes.

“Is the organization of this presentation OK?” she asks, looking at me through radiant azure eyes that convey a gentle but surefooted manner. Judy is about my age, 59, though I think she’s smarter than me. I often feel that about other people, but it doesn’t bother me. What bothers me are smart people who fail to use their intelligence. Judy’s not one of them.

“You might want to reduce the background information a bit in case the judges cut you off,” I suggest. Although I’m no expert on how to argue a case before an appeals court, I have watched a lot of courtroom TV dramas.

“Good suggestion,” she says, adjusting her reading glasses. “Did we miss anything?”

“I don’t think so. Nice job, Judy.”

“You nervous?” she asks.

“Of course.”

“And you?”

“No,” she declares.

But I suspect she’s a little nervous, too. After all, it’s not every day that an attorney has the privilege of appearing before the second-most powerful court system in the land. I can tell she’s excited. That calms me.

We walk half a block through the drizzle and enter the 10-story courthouse, which was built just before World War II. The floors are polished starburst-patterned terrazzo with shades of brown and beige. The walls are surfaced with turquoise, mustard and

salmon terracotta panels. Stepped coffers accent the ceilings. The architecture is art deco, a style that symbolically reflects an unwavering faith in social progress. My free-speech lawsuit is a form of social progress, too — a call for decentralization of political power, because it asserts faculty have the right to criticize administrators’ policies, a process commonly known as “shared governance.”

Judy and I ride the elevator to the second floor, and shortly after entering the courtroom, the defendants’ state-appointed assistant attorney general, Kathryn M. Battuello, greets us with a professional smile and handshake. I smile, too, but am disingenuous. It’s difficult for me to respect attorneys who portray me as a lazy professor<sup>2</sup> and who oppose free-speech rights, especially in the name of the state.

The legal brief she filed with the court maintains that I do not deserve First Amendment protection because my 7-Step Plan was penned in my role as a public employee, not as a citizen. The Plan recommended, among other things, that the College seek national accreditation for the print journalism and other mass media programs and remove the communication studies program from the College. To back up university’s argument, the brief cites a 2006 U.S. Supreme Court decision in which the 5-4 conservative majority held that public employees have no free-speech rights on the job, even when they find corruption among supervisors.<sup>3</sup>

Although Battuello’s legal strategy casts the university and her four WSU administrative defendants as free-speech villains, a federal district court judge in Spokane followed precedent in June 2011 and threw my case out of court. Today’s hearing will determine whether that judge’s decision was constitutional and whether I am entitled to

collect damages and attorney fees if I win.

Promptly at nine the three black-robed judges enter the courtroom from a door that blends into the wall behind their seats. Three or four other cases are scheduled before mine. Time drags, giving me another chance to perseverate on the wisdom of my decision to file the lawsuit three years ago.

“You’re crazy,” some colleagues and attorneys advised me at the time. “The university is too powerful. It will destroy you and your career.”

“Even if you win, you may not even be able to recover your legal costs. How are you going to support your daughter?”

“Who really cares about your case? Twenty years from now, no one will care.”

I console myself with advice offered by Izzy Stone, an investigative reporter and champion of civil liberties who uncovered corruption and abuse of power in American political and business institutions during the 1950s and 1960s: “The only kinds of fights worth fighting are those you are going to lose, because somebody has to fight them and lose and lose and lose until someday, somebody who believes as you do wins. ... You mustn’t feel like a martyr. You’ve got to enjoy it.”<sup>4</sup>

Very reassuring words except that, to be honest, I wasn’t having much fun. I’d rather win now than become a *de facto* member of the Joan of Arc club.

When my case is called,<sup>5</sup> Judy leads me to the left side of the inner court area, where I sit in one of the chairs in front of a railing that separates the inner court area from the gallery. Battuello sits at a table on the right side. None of her four administrative-defendant clients show up. This surprises me. I thought they would be deeply interested in

the issues being litigated, but maybe they gave their attorney carte blanche over the case.

The three judges avoid any eye contact with me. I wonder if they are ever haunted by the eyes of those they rule against.

Judy speaks first, because I am appealing the lower-court ruling.

She gets off to a great start.<sup>6</sup>

“This case is not about a petty personality conflict instigated by a lazy disgruntled professor, as the administration would have you believe. Rather, this case is about a professor with a deeply felt view that the First Amendment should protect a professor’s speech.” She adds that I deserve protection because I submitted the 7-Step Plan as a citizen, on my personal business stationery,<sup>7</sup> not in my role as a government employee. But our legal brief argues that my speech is protected even if I submitted it as an employee.

Several minutes later, the lead judge, William A. Fletcher, interrupts.

My heart skips a beat.

“I have trouble — speaking only for myself — treating that 7-Step Plan as cleanly private speech,” says Fletcher, who was appointed to the court by Bill Clinton in 1998. “[I]t originates when he is a member of a committee. It’s clearly undertaken in tight relationship to his job and the things that he cares about in his job. He is suggesting an important restructuring of two departments. I mean, I have trouble seeing that as purely private speech.”

Endejan disagrees — politely, of course. She argues that only one part of my 7-Step Plan — removing the communication studies program from the Murrow College —

was connected to my work on a college committee. The other six suggestions were unrelated to the committee's work and, therefore, are private speech.

“You know, I disagree with that,” Fletcher strikes back. “The 7-Step Plan ... is a thoughtful proposition for restructuring how journalism is taught, how the faculty is organized, how money is raised. All of that has to do with running of the institution in a very important way.”

My heart skips a couple more beats.

Battuello then presents the university's side of the case, asserting that my 7-Step Plan also does not deserve First Amendment protection because, among other things, it fails to address an issue of public concern. After all, she points out, I never accused the university of wrongdoing.

*Does anyone have a defibrillator?*

“Obviously he (Demers) is not accusing the university of stealing money,” Fletcher responds, knocking down her argument and restarting my heart. “We're not talking financial malfeasance. But it (7-Step Plan) is very clear that it (Murrow program) is managed in a way that it shouldn't be managed, and he has an important suggestion for improvement.”

I appreciate Fletcher's comments, of course. But they don't cheer me up much, because he implies at one point that even if the First Amendment protects my speech, I may not be able to recover damages from the university because of “qualified immunity” — a doctrine that shields government officials from monetary damages if they did not violate “clearly established” law. In simple language, if the courts or the legislature do not

clearly spell out what kinds of actions violate the Constitution, the offenders can't be punished.

“But if victims are denied compensation when offenders violate the Constitution, where's the fairness in that?” I want to add, but don't, because even plaintiffs like me don't have a free-speech right to speak during such hearings.

After the hearing, Judy and I ride the elevator to the first level and sit on a bench in the hallway. I stare at the terrazzo floor for several seconds before spilling my guts: “I'm 99 percent certain we will lose the case, because Fletcher clearly thought my 7-Step Plan was job-related speech.”

I was hoping Judy would dispute my prediction, but she doesn't. She simply says: “You never know until a court issues its ruling.” She is trying to cheer me up, of course. That's part of her \$345-an-hour job.

The drizzle feels colder as I lumber back to my seven-year-old Volvo XC-90 for the five-hour drive back to Spokane, where I live. On the way, Sirius radio plays Robert Johnson's 1937 blues tune, “Hellhound on My Trail.”<sup>8</sup>

*I got to keep movin' ... blues fallin' down like hail ...*

*Umm-mm-mm-mm, blues fallin' down like hail,*

*... And the day keeps on worrin' me;*

*there's a hellhound on my trail ...*

My hellhounds don't have glowing red eyes or mangled fur or even a foul smell.

But they, as administrators of a public university with a half-billion-dollar annual budget, are no less lethal. With the stroke of a pen or a tap on a keyboard, these administrative demons can take away raises, promotions, prestigious appointments, prized teaching assignments and careers.

I know these things, because this isn't the first time my passion for free-speech and civil liberties has gotten me into trouble.

- In the late 1970s, one of my editors, at the request of a county sheriff, deleted from a story I wrote a direct quote I obtained from a hockey coach who admitted he had molested the boys on the team.
- Two years later, another editor killed a story I was researching about cancer rates in Midland, Michigan, after representatives of Dow Chemical Company, the largest employer in town, complained.
- When I was a Ph.D. student in the late 1980s, the Minneapolis Police Department refused to give my journalism students access to routine reports about crimes committed by police officers, so I filed an open records lawsuit that wasn't settled until it reached the Minnesota Supreme Court.
- In the mid-1990s, the University of Wisconsin-River Falls tried to fire me for helping journalism students file an open records lawsuit to obtain access to student evaluations of faculty and for publishing stories about that and faculty salaries.
- And in the 2010s, four journalism deans familiar with my WSU free-speech



lawsuit refused to publicly condemn WSU's attempt to squelch faculty speech. One of those deans, who was a First Amendment scholar, also actively opposed on his own campus an effort to provide free-speech protection to all students and faculty.

I have many more stories of university administrators and newspaper editors violating free-speech rights and civil libertarian ideals, but my point is this: If university administrators, journalism faculty and journalists fail to defend our basic freedoms, then how can society expect other organizations and citizens to defend them?

America was the first nation in the world to create a federal constitutional republic — one that embraced not only free speech but democracy, due process, right to fair trial, political equality, rule of law, and freedom of religion, assembly and the press. But is America abandoning these ideals? Are they no longer relevant in a free-market system that critics say is increasingly emphasizes wealth and technology as the only primary symbols of success?<sup>9</sup>

Or are my experiences simply aberrations — outliers, unrepresentative of the whole of experiences involving civil liberties on or off campus? Is it even possible that I am the problem? After all, that's how many administrators and colleagues saw it. They called me lots of names, including troublemaker, rabble rouser, rebel, agitator, a professor with a hidden agenda, and, my favorite, sociopath.

Me?

A sociopath?

Okay, I confess that when I was about seven years old I threw stones at a small window in the back of a semi-trailer parked in a field. I had no guilt or remorse — until a sheriff deputy yelled out, “We’ve got your bike.”

I knew then that I had committed some crime, so I put my hands up and turned myself in. The deputy was eight-feet tall, or so he seemed to me. He threatened to throw me in jail but decided he’d rather talk to my parents.

“They are working,” I said, asserting a half-truth. My mother was at home.

Lucky for me, he let me go. “I’ll be keeping my eye on you, Dave. Now be careful on your ride home.”

I learned an important lesson that day. Never throw stones at trucks unless my bike is right at my side.

But in hindsight perhaps the real lesson I should have learned was “never throw stones at powerful institutions.” No one understood this proposition more than Voltaire, the 18<sup>th</sup> century French philosopher who spent much of his life on the run from the French authorities. He extolled the virtues of free speech but also warned of the folly of thinking that science and progress can eliminate injustice and wickedness. His timeless novel, *Candide*, chronicles the adventures of a young man whose optimism and idealism are swept away by the harsh realities of the real world.<sup>10</sup> At the end of the book, Candide concludes that the best course of action is to “tend one’s own garden” — to stop trying to make the world a better place because humans are too flawed.

I may not have been a sociopath, but was I a Candide?

Should I have just kept my mouth shut when I perceived an injustice?

These questions and others swirl around my stress-weary mind as my SUV meanders through the Cascade Mountains east of Seattle, across the mighty Columbia River, and through central Washington's high and dry rolling plains just west of Spokane. When I arrive home, my wife, Theresa, and 12-year-old daughter, Lee Ann, tame my angst with hugs and kisses.

"I missed you, Dada," Lee Ann says.

"I missed you more, honey," I respond, giving her a big hug.

These simple words remind me again that family and relationships are the real wealth in life. This is my garden.

Yet even familial wealth is not independent of the political, economic and social institutions that rule this land. Voltaire's book does not acknowledge this. When the government or corporations fire workers or deny opportunities or assistance to disadvantaged groups, familial relationships are often harmed and sometimes destroyed. In an interdependent world, we all depend upon each other to achieve our goals.

That evening, after tucking my daughter into bed, I head to my office in the basement to write and distribute via e-mail a news release to several hundred colleagues and news organizations across the country. For the past six years I've been distributing updates on the free-speech battle at WSU. Although local newspapers in Moscow and Lewiston, Idaho, and the *Chronicle of Higher Education* covered the story intermittently,<sup>11</sup> the two newspapers that should have had the most interest — the *Spokane Spokesman-Review* and the WSU campus student newspaper, the *Daily Evergreen* — have devoted little space to the lawsuit, despite its obvious man-bites-dog

newsworthiness: *a journalism professor suing a journalism program for violations of the First Amendment.*

My objective in writing the news release is to soften what I perceive to be the coming disaster. In the world of politics, losing often leads to de-legitimation of good principles and ideas — at least in the minds of outsiders or the public. And de-legitimation, in turn, makes it more difficult to overcome injustices. Don't take my word for it, just ask any civil rights leader.

Although my news release cannot stop an adverse appeals court ruling, it might blunt de-legitimation and prepare other free-speech advocates for future battles, as Stone would have agreed.

#### J-PROFESSOR PREDICTS U.S. APPEALS COURT

#### WILL DENY FACULTY RIGHT TO CRITICIZE ADMINISTRATORS

A journalism professor who filed a free-speech lawsuit against four administrators at Washington State University is predicting the Ninth Circuit Court of Appeals will rule that university professors, as employees, do not have the right to criticize administrators and their policies.

“If I am right, it means the balance of power at universities in Washington state and eight other Western states will be radically altered,” said David Demers, an associate professor of communication in The Edward R. Murrow College of Communication at WSU. “The decision

will undermine shared governance, a centuries-old principle in which professors share power with administrators when it comes to making decisions that affect university budgets and programs. ... ”

The Appeals Court panel didn't say when it would hand down its decision in my case. Judy estimates three months to two years. I wish for three months. It took 10.

By then, I was teaching a mass media law class in the Walter Cronkite School of Journalism and Mass Communication at Arizona State University. Judy calls me 20 minutes before class.

“Dave,” she says in a tone of voice that fails to give away the outcome. “I’ve got good news and bad.”

My heart skips a beat.

### **Chapter 1 Endnotes**

1. Virtually all public universities have faculty manuals that purport to protect professors when they criticize administrators and their policies; however, these contract-based protections rarely stop administrators from firing or reprimanding faculty. The courts are reluctant to get involved in internecine disputes.
2. The university also attempted to build a case of incompetence to terminate me. At the time of the lawsuit, I had published seven academic books through five different publishers, three academic edited books, 20 refereed journal articles and monographs, seven book chapters, and more than 50 professional articles.
3. *Garcetti v. Ceballos*, 547 U.S. 410 (2006). The decision in this case is controversial because it denies free speech protection to whistleblowers. In fact, the defendant in the case was an assistant district attorney who discovered that police has fabricated facts to obtain a search warrant. More details on this case and others will be provided in later chapters.

4. Quote retrieved from <[https://www.azquotes.com/author/14178-I\\_F\\_Stone](https://www.azquotes.com/author/14178-I_F_Stone)>.
5. *Demers v. Austin*, 746 F.3d 402 (9th Cir., Jan. 29, 2014). This ruling replaced the original ruling of the panel, which was handed down on September 4, 2013. The major difference between the rulings is that the final one cited the 7-Step Plan in more depth. The panel apparently was trying to show university administrators that the content of the Plan dealt with issues related to “teaching and scholarship,” speech that it declared is protected by the First Amendment.
6. The hearing was tape recorded. A copy of the recording can be obtained from the website for the Ninth Circuit Court <<https://www.ca9.uscourts.gov/opinions>>.
7. I founded Marquette Books, a book publishing company, in 2001. It has published more than 150 academic and trade books since then.
8. For a brief history of the song and its historical significance, see Ted Gioia, *Delta Blues* (New York: Norton Paperback, 2009 ed., originally published in 2008), pp. 181–182.
9. Jacques Ellul, *The Technological Society* (New York: Vintage Books, 1964; translated from the French by John Wilkinson). Ellul argues that technology and the drive for efficiency is causing people to lose sight of the things that are truly important in life: family, freedom, and morality.
10. Voltaire, *Candide*, 2<sup>nd</sup> ed. (New York: W. W. Norton, 1991; trans. Robert M. Adams; originally published 1759).
11. Peter Schmidt, “Legal Dispute Pits Washington State U.’s Journalism School Against Free-Speech Groups,” *The Chronicle of Higher Education* (March 1, 2012), retrieved September 2, 2020, from <<http://chronicle.com/article/Legal-Dispute-Pits-Washington/130979>>.