

RETHINK • REINVEST • REINVENT



Jon Epstein

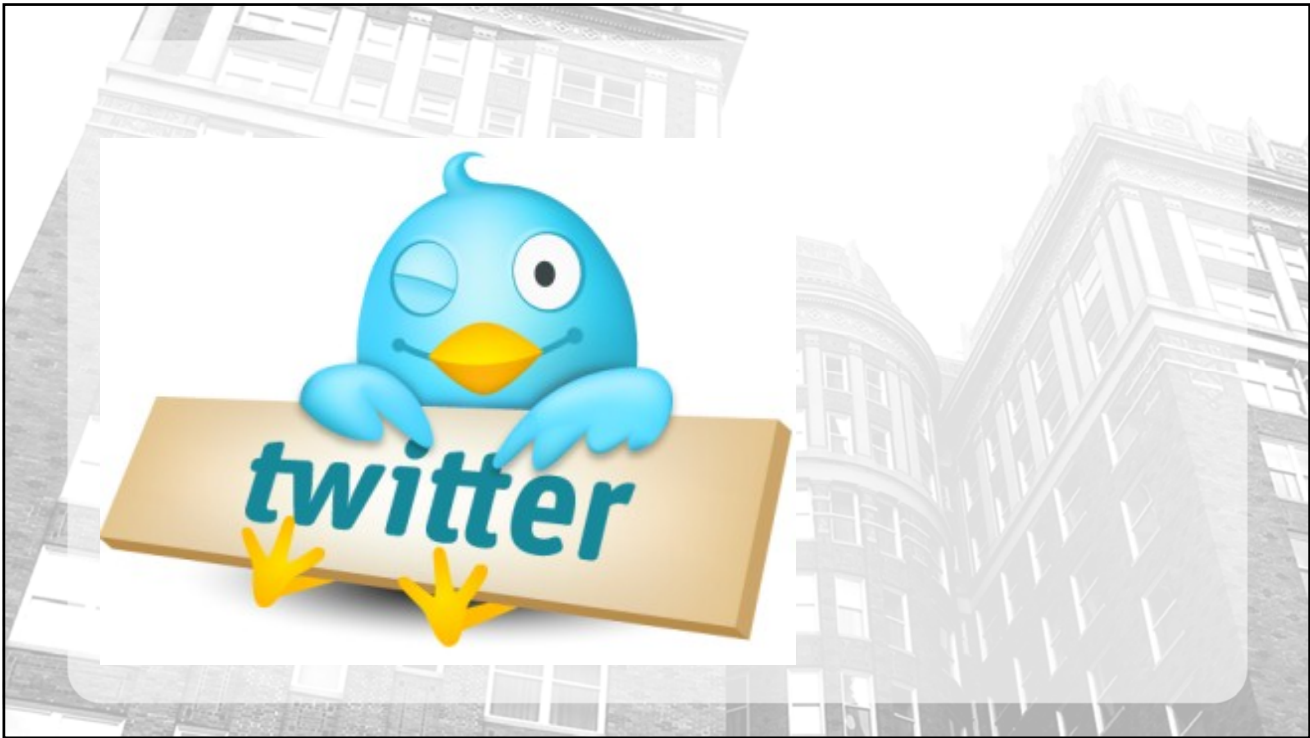
HALL
ESTILL
ATTORNEYS AT LAW

Social Media Panel
JEpstein@HallEstill.com
May 22, 2010

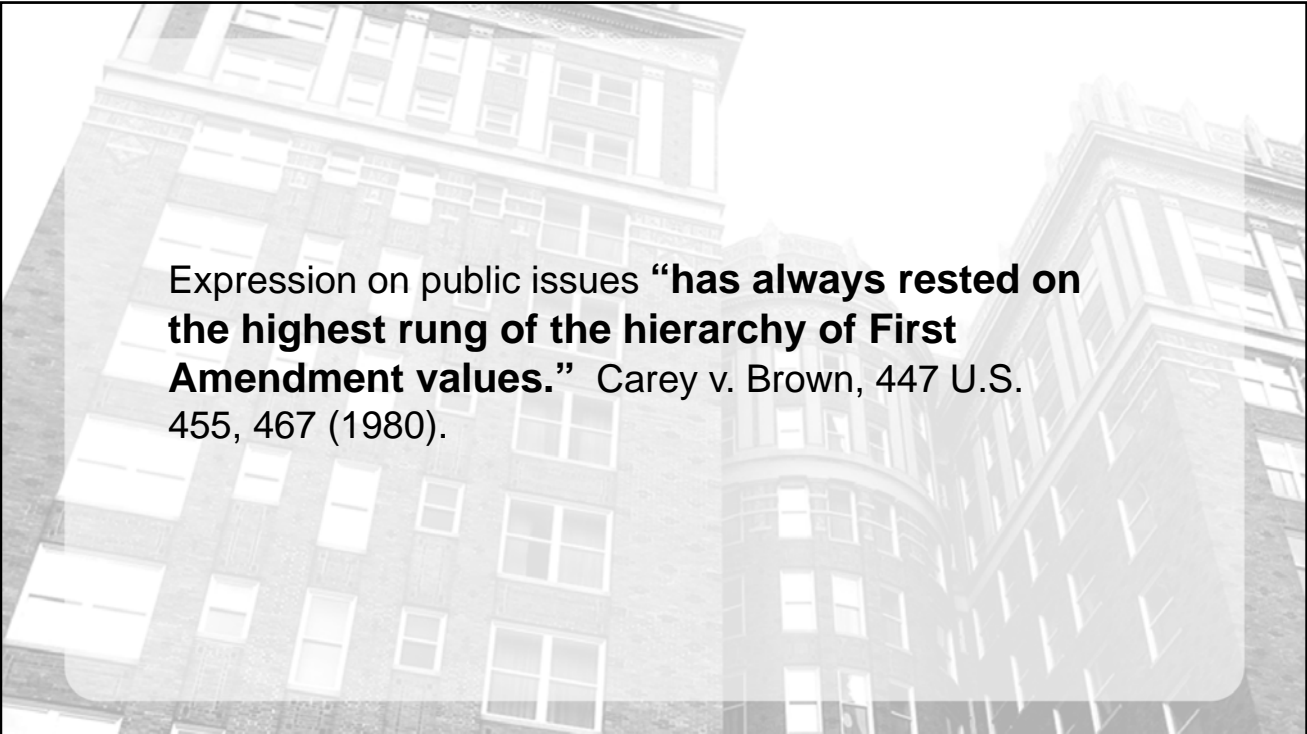
Oklahoma Brownfields
CONFERENCE 2012
MAY 22-23, 2012



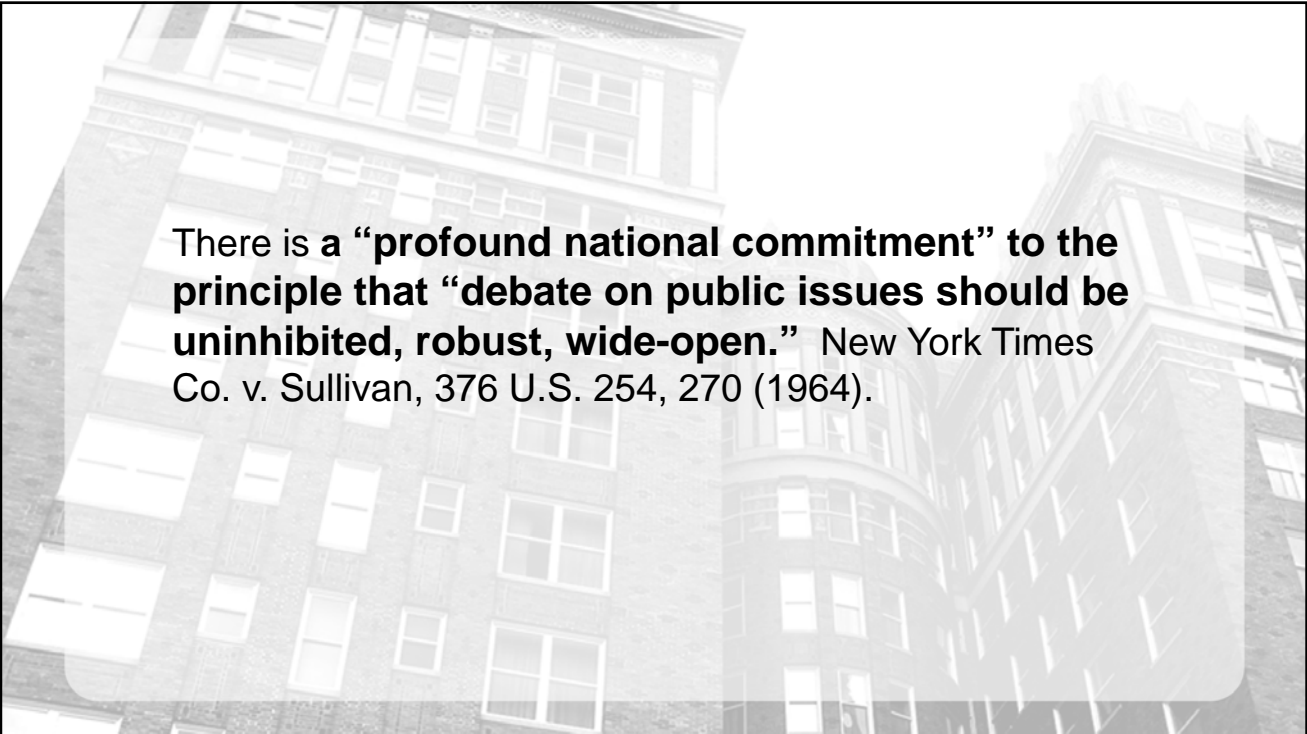




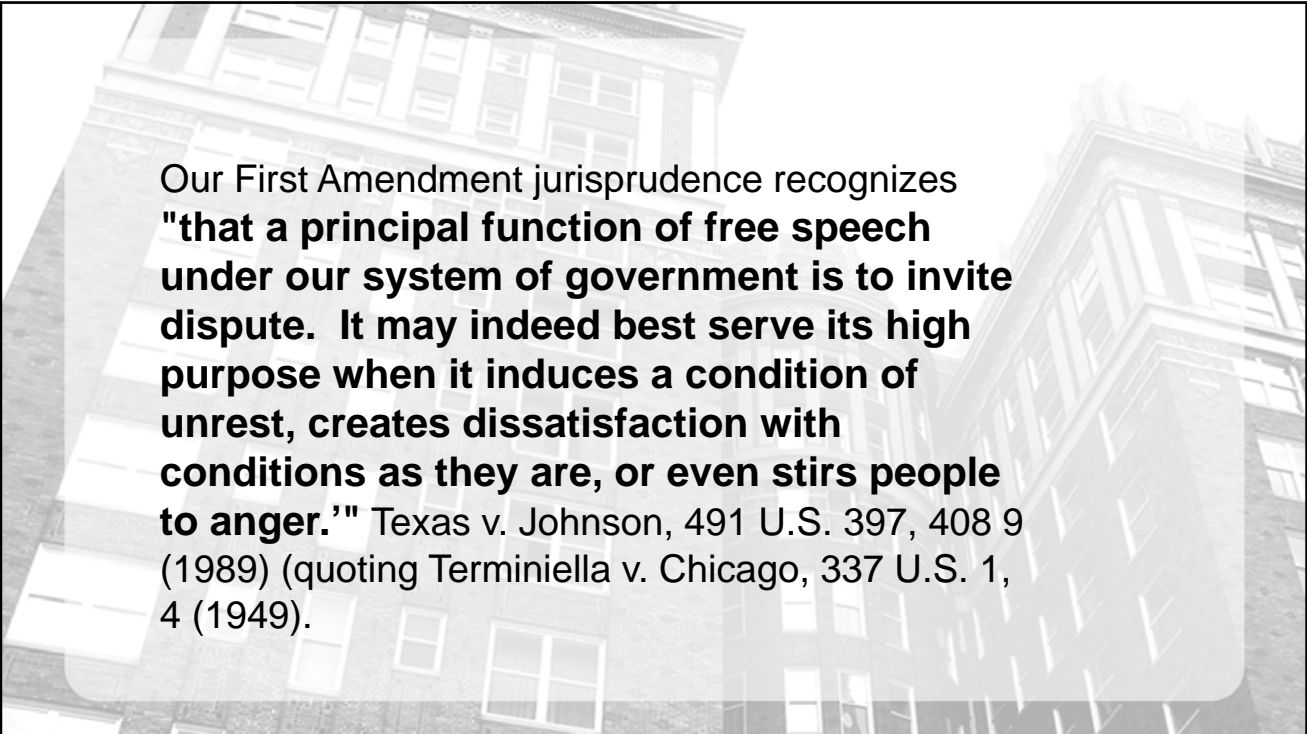
Defamation consists of unprivileged false and defamatory statements published to others due to the negligence or malice of the publisher and which damage the subject's reputation. While there are often legal defenses available to protect the free exchange of truthful comments, freedom of speech is not absolute.



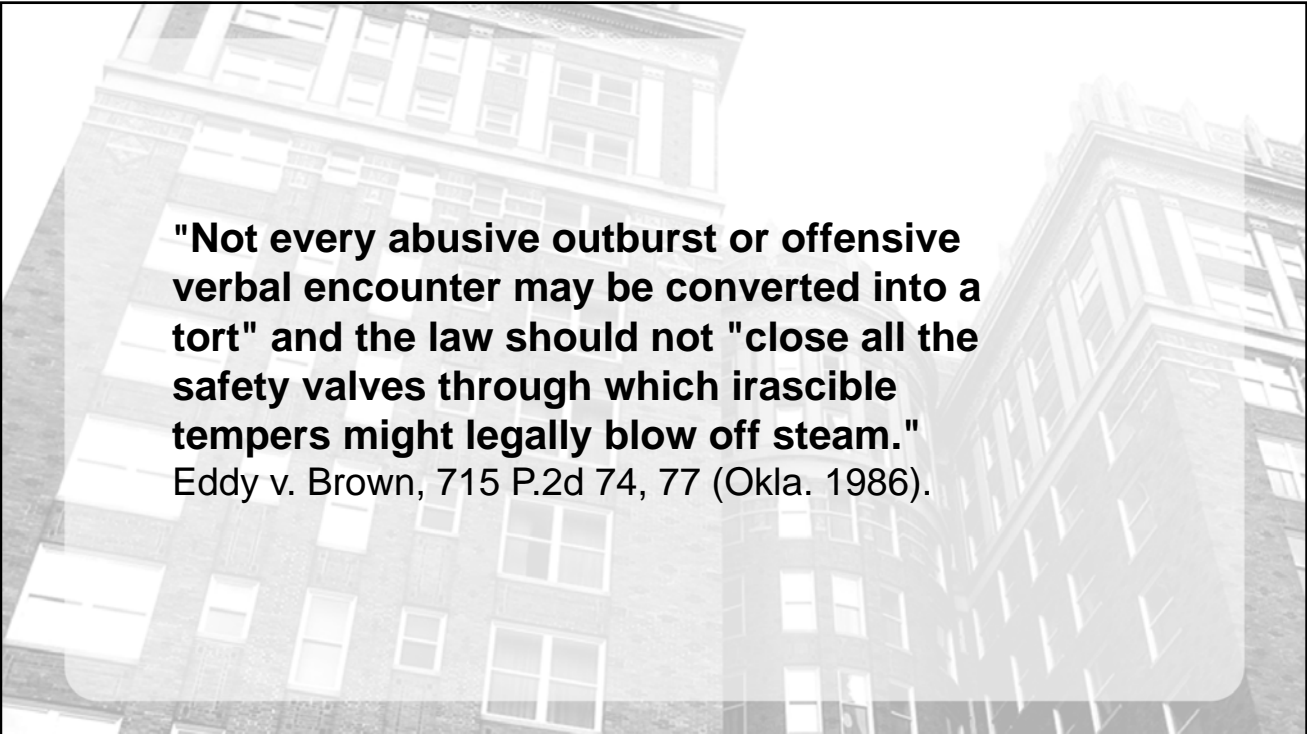
Expression on public issues **“has always rested on the highest rung of the hierarchy of First Amendment values.”** *Carey v. Brown*, 447 U.S. 455, 467 (1980).



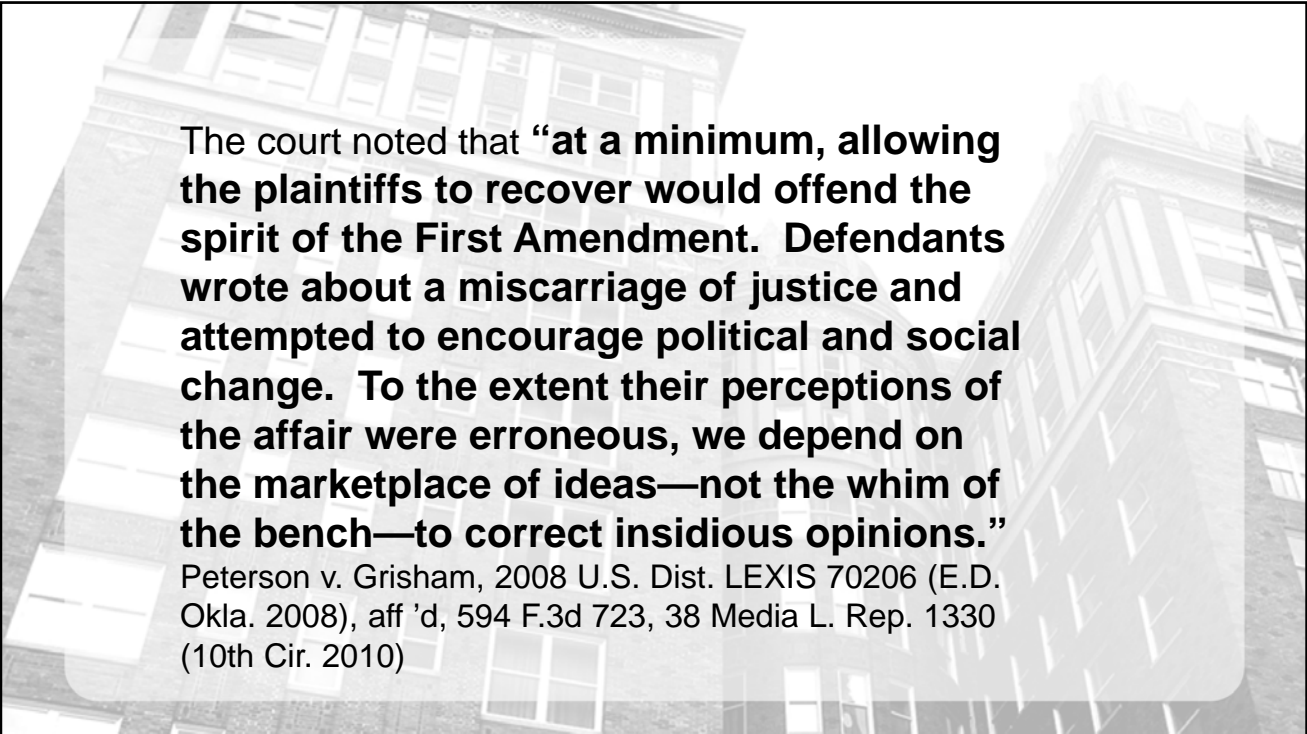
There is a **“profound national commitment” to the principle that “debate on public issues should be uninhibited, robust, wide-open.”** *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).



Our First Amendment jurisprudence recognizes **"that a principal function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."** Texas v. Johnson, 491 U.S. 397, 408 9 (1989) (quoting Terminiella v. Chicago, 337 U.S. 1, 4 (1949).



"Not every abusive outburst or offensive verbal encounter may be converted into a tort" and the law should not "close all the safety valves through which irascible tempers might legally blow off steam." Eddy v. Brown, 715 P.2d 74, 77 (Okla. 1986).



The court noted that **“at a minimum, allowing the plaintiffs to recover would offend the spirit of the First Amendment. Defendants wrote about a miscarriage of justice and attempted to encourage political and social change. To the extent their perceptions of the affair were erroneous, we depend on the marketplace of ideas—not the whim of the bench—to correct insidious opinions.”**

Peterson v. Grisham, 2008 U.S. Dist. LEXIS 70206 (E.D. Okla. 2008), aff 'd, 594 F.3d 723, 38 Media L. Rep. 1330 (10th Cir. 2010)