



Fox News, CNN Hired Ex-Trump Aides Bound by NDAs. That's 'Journalistic Malpractice,' Experts Say.

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“If you’re not allowed legally to disparage the president or his family or anything they have to do with, any company they have or asset they have, why can we believe anything you say?”

That was the incisive question MSNBC anchor Katy Tur asked former Trump campaign spokesman Marc Lotter on Wednesday, referring to the blanket non-disclosure agreement all Trump campaign and West Wing staffers are reportedly required to sign.

Leaked versions of that document contain a non-disparagement clause in which the signee agrees not to “demean or disparage publicly” President Trump, his family, their company, or any of the family’s assets.

As Tur suggested, that obligation diminishes the value in having ex-Trump staffers provide commentary for cable-news programs. After all, they are contractually bound to say nothing remotely negative about Trump or his family, even if they wanted to.

And Team Trump has shown a willingness to try to enforce that comically harsh agreement. On Tuesday, they filed an arbitration action against ex-aide Omarosa Manigault-Newman for releasing recordings of her conversations with the president. And earlier this year, Trump threatened to sue former top strategist Steve Bannon for telling *Fire & Fury* author Michael Wolff that the president “won’t make it” beyond one term.

And yet, not only do former Trump staffers—bound by a draconian NDA—routinely appear as pundits across cable and broadcast news networks, but at least five ex-Trump staffers are paid by the networks:

- Jason Miller, a senior communications adviser for the 2016 campaign, is a paid CNN political contributor.
- Marc Short, who served in 2016 as vice-presidential candidate Mike Pence’s senior communications adviser before becoming White House director of legislative affairs, is a paid CNN political commentator.
- Tom Bossert, the president’s first homeland-security adviser, is ABC News’ homeland security analyst.

- Trump’s deputy campaign manager David Bossie is a paid Fox News contributor.
- Sebastian Gorka, who briefly worked as a Trump campaign consultant and then served as a White House strategist, is also a paid Fox News contributor.

Of course, TV news outlets routinely air commentary from people who are professionally partisan or obligated to not speak ill of certain people, businesses, or politics. But that obligation is easily disclosed in identifying the commentator as a spokesperson, attorney, or chief executive officer.

By contrast, the contractual duty of ex-Trump aides—both paid and unpaid—to avoid bad-mouthing their former boss and his family is almost never disclosed during their appearances.

And that’s dangerously unethical, according to media experts.

“If someone is bound by an NDA and that’s not disclosed, that’s journalistic malpractice,” Steven Roberts, a professor of media ethics at George Washington University, told The Daily Beast. “If you don’t disclose that someone is contractually obligated, that’s a huge ethical problem and a huge ethical mistake.”

The professor continued: “You’re deceiving your audience if you don’t disclose that. It’s a significant ethical breach because media ethics start with the principles of transparency: never confuse or deceive your audience.”

That sort of confusion has never been more clear than in the aforementioned Tur interview with Lotter. When confronted with the NDA-related question, “Why should we trust anything you say when you’re legally bound to say good things about the person you’re coming on to talk about?” the ex-Pence spokesman delivered a word-salad response that belied his usefulness as an independent commentator:

“Well, it’s my understanding, and I’m not a lawyer, so I, uh, so I, uh, feel free to correct me by scholars in that area. But it’s my understanding that if there was something that rose to a criminal level that I could communicate that with the proper authorities, those are not discovered under a nondisclosure agreement or if you are summoned to appear. There’s a difference between talking to investigators, talking to, uh, in those kind of settings, rather than going out and getting seven figures or more for a tell-all book where the allegations change by the hour. And that’s what we’re looking at right here.”

Similarly, after giving a forceful on-air denial that Trump would have ever said the “n-word,” as alleged by Omarosa, former Trump campaign spokeswoman Katrina Pierson awkwardly admitted that she, too, signed the president’s stringent NDA.

“So if you had heard him say the ‘n-word,’ you wouldn’t tell me about it anyway,” CNN anchor Erin Burnett correctly assessed. Pierson was left to claim that viewers should simply take her at her now-compromised word—contractual obligations be damned.

A hard-line ban on ex-Trump aides being employed by cable-news outlets, however, would be impractical, given just how many people have come in and out of the Trump orbit, and how few TV-ready talkers there are who can play the role of ardent Trump supporter.

And so, offers Julian Sanchez, a tech-focused senior fellow at the Cato Institute: “Anyone who’s booked on TV to discuss Trump after having worked for him should be asked if they’re bound

by a non-disparagement clause. If they are, or won't say, that needs to be the chyron on screen for the duration of the appearance."