



# docket report

Spring 2023

## Hanging by a Thread

Once the centerpiece of modern secular society, free speech now is now under sustained attack. At stake is the view that the First Amendment prohibits government disfavoring certain points of view no matter how offensive. In recent years, this principle has given way to the idea that the government may suppress not just offensive speech, but any speech that members of a favored constituency find personally disagreeable or even just demoralizing.

By their nature, constitutional rights protect everyone. Allowing the government to pick and choose the points of view that are entitled to First Amendment protection means that the right to free speech is subject to political horse trading among interest groups. Bargaining over the language sensitivities of aggrieved groups becomes an all-consuming, government-created religion of its own, one that allows individual fragility to trump expression of all kinds.

Just how extreme the problem has become is clear in two cases CIR recently filed. Kate Riotte was fired in a matter of days, not because of any actual view she expressed, but because questions she asked suggested a skeptical attitude toward the employer's proposed equity policies. As Riotte discovered, the right to free expression now depends on demonstrated sympathy towards politically favored groups.

Or, take our case on behalf of Daniel Mattson, a music professor who was fired for a book he wrote some years ago explaining the role of his religious faith in his decision to turn away from homosexuality. Though Mattson never discussed his private life on campus, Western Michigan University bowed to LGBT activists, who decided his mere presence was unduly upsetting to gay students and faculty members. Like Riotte, Mattson ran up against special speech norms designed to insulate a favored group from the taint of disagreeable views Mattson never once uttered in their presence.

Employers that allow threats and intimidation to take over the workplace invite legal action based on well-established laws protecting employees from viewpoint discrimination. This issue of the *Docket Report* relates CIR's various efforts to restore a principled conception of free speech, one that protects the right of every individual to participate in public discussion, regardless of their point of view.

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—Terence J. Pell, President



*Kate Riotte (Photo by Yolanda Christine)*

## *Riotte v. Wadsworth Atheneum Museum*

*Cooperating Counsel: Dennis Carnelli (Neubert, Pepe & Monteith, PC)  
Ameer Benno (Benno & Associates PC)*

American business is awash with the idea of “allyship.” As explained in dozens of articles in business journals, the idea is that white employees must fight injustice by publicly advancing the interests of minority employees, rather than merely paying lip service to the value of diversity.

On the surface, fighting injustice in the workplace sounds like a good thing. In reality, allyship has little to do with actually helping minority individuals. Instead, would be allies must start by “owning” their privilege -- that is, admitting the illegitimacy of their success. Then, to counteract their privilege, white employees are expected to “listen more and speak less.” This means holding back their own opinions and not asking difficult questions about the favored treatment of minority employees.

Unfortunately, allyship runs head-on into laws that protect the free speech rights of employees. Take CIR’s new client, Kate Riotte. She worked at Hartford, Connecticut’s world-famous Wadsworth Atheneum

Museum of Art for six years before officials fired her solely because she asked practical questions about the museum’s proposed new equity policies.

In 2020, Wadsworth began encouraging employees to think in terms of allyship. At first, this meant things like seminars on “racial equity” and “implicit bias” designed to introduce employees to these concepts. But that was just the beginning. Museum heads followed up by establishing a Diversity, Equity, Accessibility, and Inclusion (“DEAI”) working group that would help infuse principles of racial equity and allyship into all aspects of museum life.

Riotte volunteered to join the working group. She soon realized, however, that the museum was considering highly divisive, possibly even illegal proposals. To name one example, the group was discussing the idea of hiring new employees based on their race.

When the chairs of the working group invited members to review a web page detailing Wadsworth’s DEAI

plan and encouraged the group to ask questions, Riotte asked for clarity about how the policy would work. She wanted more information to help her understand how racial equity was desirable or even attainable for an institution such as a museum. That one e-mail started a chain of events that ended in her termination.

Within a few days, two museum directors confronted Riotte. They were offended that she sent a critical e-mail to the chairs of the working group, one of whom was a “person of color.” They also warned her that she would not have a career in the museum industry unless she embraced allyship. Within the week, the directors called again -- this time to fire her.

CIR is representing Riotte in a lawsuit against Wadsworth Atheneum, alleging that the museum fired her solely for asking questions about an important issue of public concern, in violation of a Connecticut law that extends the free speech protections of the First Amendment to private employees.

# Riotte's Redress

Growing up in Connecticut, a short drive from Boston and New York, Kate Riotte was surrounded by museums. Her mother, herself a painter, made sure that Kate seized the opportunity to see great works of art. "That's how I grew up, I was just going to museums and galleries. And that

With that, her foot was in the door.

For the next six years, she worked tirelessly to prove herself in whatever role she was given, and officials took notice. By 2021, she was promoted to curatorial administrator, working directly under the museum director. She performed research assignments and helped

sibility, and Inclusion (DEAI) working group. But as she learned more about the proposed changes, she had reservations. "I was concerned since they did mention hiring practices, if they would be hiring people based off of race, which I know is illegal."

Riotte wrote the chairs of the DEAI working group asking why "advancing

supervisors called Riotte over Zoom. Over the course of half an hour, they alternately asked probing questions about why she sent her e-mail and accused her of harboring a political agenda. Like the working group chairs, they advised Riotte to study racial equity and allyship. Shortly after that, Michael Dudich, the Deputy Direc-

*"Why is equity essential for the growth of the Wadsworth? I would think that striving for equity would be detrimental to the organization. Do you have any information to help me understand this?"*

ignited my passion for art."

Over time, Riotte's passion developed into a love for the whole life of the museum. In 2010, she enrolled at Juniata College, one of twelve schools in the country that trains students for a museum career.

When an entry level position opened at Wadsworth, Riotte jumped at the opportunity. "I was pretty much right at the front desk. I would sell the tickets, give out maps, say this artwork is over here."

edit copy for exhibits. She also began having conversations with her boss about becoming an assistant curator, and one day, a curator herself.

Around the same time, the museum began establishing new policies centered on "racial equity" and "allyship." Employees were made to attend diversity seminars and discuss their "unconscious biases."

Riotte kept an open mind. She even joined the Diversity, Equity, Acces-

racial equity, [was] something seen as being attainable" by the Wadsworth. One of the chairs replied with a lengthy e-mail suggesting that she was "a proponent for the (sic) allowing the continuation of oppression." The other task force chair gave Riotte some literature on the museum's new approach and pressed her to study it. Riotte read all the material, but no one followed up with her.

A few days later, two

tor of Operations decided that she had to go.

Riotte saw up close how ruthlessly advocates of "racial equity" pursue their vision for the American workplace. Now she is fighting back

On March 8, 2023, CIR filed suit alleging the Wadsworth retaliated against Riotte in violation of Connecticut law that prohibits private employers from retaliating against employees for speech based on its point of view.

# Sound and Fury: Professor of Music

*Mattson v. Guyette, et al.*



*Trombonist Daniel Mattson*

**H**e never spoke about his faith on campus. He never discussed his religious views with his students.

But music professor Daniel Mattson was fired from Western Michigan University when an LGBT activist decided that it was harmful for students to be in the presence of someone who had written about his traditional Catholic views on gender and sexuality, off-campus and several years prior.

Mattson worked as an adjunct faculty member at the Western Michigan University School of Music since 1999. As a part of his work for WMU, he played trombone for the faculty ensemble, the *Western Brass Quintet*, and a joint student-faculty group, *Western Winds*.

In 2009, Mattson returned to Catholicism, after having spent most of his adulthood living as a gay man.

Following his conversion, he left his homosexual lifestyle and embraced traditional Catholic views on sexuality and gender.

Mattson chronicled his religious conversion in a series of blog articles and op-eds for conservative and Catholic publications, which culminated in the book, *Why I Don't Call Myself Gay*. Mattson's goal was to help Catholics like himself, who lived with same-sex attraction, live out the virtue of chastity, even when it runs counter to secular thinking.

In the fall of 2021, an LGBT activist and professor at the school of music, discovered Mattson's writings. Even though Mattson strictly separated his religious writing from his work at the university, she decided that his views were "harmful" to LGBT students. A small group of activists stirred up controversy around Mattson's beliefs in order to force school officials to

cancel a scheduled event featuring Mattson as a guest artist.

It did not matter that Mattson had said all he desired to say with the publication of his book four years prior to the WMU activists discovering his writings. The mere fact that he ever wrote about his religious views on sexuality put a target on Mattson's back.

WMU provided no institutional support for Mattson or defense of his constitutional rights. In response to the protests, then-Director of the School of Music, Keith Kothman, sent a campus-wide e-mail condemning Mattson's beliefs and informing students that they would not need to attend his recital. Ordinarily, twenty students came to a guest recital. Only one attended Mattson's. Then, the school banned Mattson from all school activities and ultimately declined to renew his contract.

CIR filed suit under the First and Fourteenth Amendments, alleging that WMU violated Mattson's right to free speech and discriminated against him based on his religious beliefs. WMU's overt hostility to Mattson's Catholicism makes this case an extraordinary opportunity to set a clear precedent that protects the right of individuals to practice their religion through books and other writings, regardless what others think.

# Music and Man of Faith

**D**aniel Mattson is a world-class trombonist, a professor of music, and an orthodox Catholic. For more than ten years, none of his colleagues at Western Michigan University (WMU) saw any conflict in those identities. But in 2021, LGBT activists heard about Mattson's religious beliefs and decided that his presence at the university was threatening. In response to their complaints, the university fired Mattson. Now, he is suing WMU to ensure that no one's religion disqualifies them from fully participating in public life.

Mattson has worked for the past 25 years as a professional trombonist. In 1997, he began performing with the Grand Rapids Symphony Orchestra, and beginning in 1999, he took up an adjunct faculty position at WMU's school of music, where he played for the *Western Brass Quintet*, the school's faculty ensemble.

In 2009, Mattson returned to the Catholic Church after spending most of his adult-life in a homosexual lifestyle. He was brought to the Church through studying its teaching on human nature. In particular, he was attracted

to the writings of Thomas Merton, who taught that human beings can only experience true freedom by living in line with human nature, which persists across all cultures in two kinds, male and female. After years of being taught that freedom meant the freedom to satisfy one's desires, he compared hearing the Catholic message of freedom to Lazarus rising from the tomb at Jesus' call.

As he studied the lives of saints, including St. Augustine, St. Basil, St. Ignatius of Loyola, and others, Mattson found men delivered from patterns of sin and temptation who went on to live holy lives. In their lives, he had a model for how he could begin to pursue holy living even in the face of his temptations. He began to work to live a faithful life through prayer, pursuit of virtue, and the sacraments of the church.

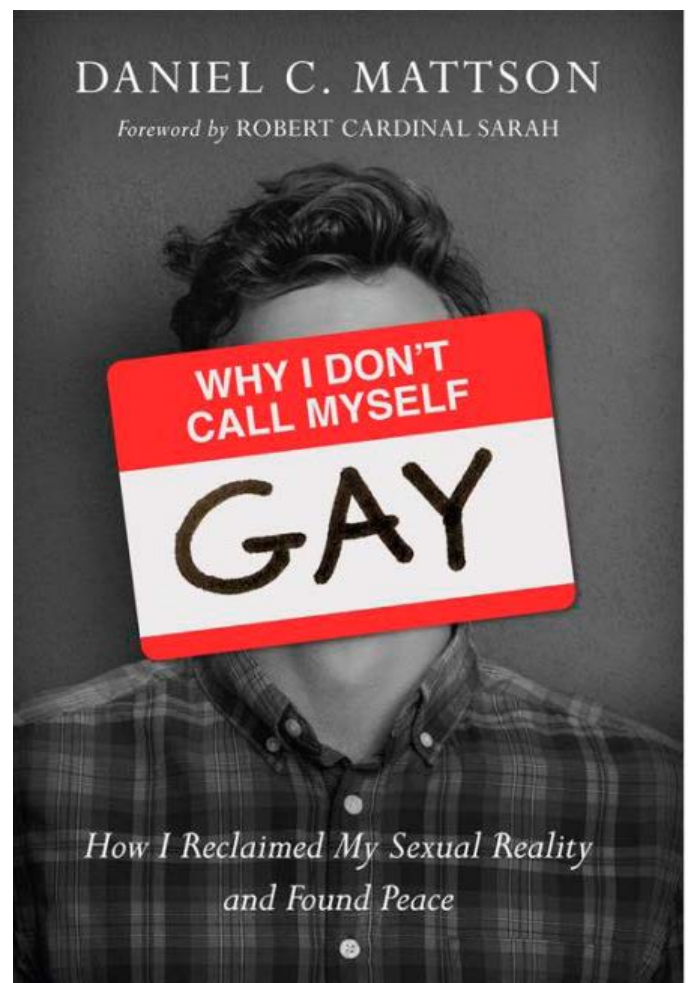
Over time, Mattson discovered that he had insights that would help him speak to same-sex-attracted men and women about their experience and assist in their self-understanding. He shared these insights in blog posts and articles, his work of spiritual autobiography, *Why I Don't Call Myself Gay*, and as

a participant in a documentary film, *Desire of the Everlasting Hills*. Mattson's work has been translated and published around the world, assisting those who experience same-sex attraction with a religious understanding of its nature.

All the while, Mattson kept his religious writing and private life separate from his work at WMU. He never talked about his religious beliefs with his students. Once, a student asked Mattson about his views after googling his name; Mattson confirmed his views, but politely

declined to discuss them further.

WMU officials believe that Mattson must choose between his life as a world-class artist who has talents to share with students and his life as a religious believer who must be kept at a safe distance, which in this instance, means losing his livelihood. Mattson rightly refuses to allow modern activists to disqualify him from teaching at a public university because they disagree with his off-campus religious convictions.



## Bringing in Reinforcements

# Meet Robert Renner



*Robert Renner, CIR's  
Deputy General Counsel*

CIR's docket is growing fast! Since March, we have filed two new cases, with more in the pipeline. To expand our efforts to protect free speech, secure religious liberty, and fight racial preferences at all levels of government, CIR brought on a new attorney, experienced in litigation and passionate for individual rights.

In 2022, CIR welcomed aboard J.

Robert Renner, a litigator with over thirty years experience, to serve as CIR's deputy general counsel. He graduated *magna cum laude* from Dartmouth College with a B.A. in history in 1986 and received his J.D. from the University of California Berkeley in 1990. Renner lives in California with his wife and fourteen-year-old daughter.

Renner began his career in California's Department of Justice as a deputy attorney general, where he worked for four years in criminal appellate litigation. Subsequently, he moved into private practice. For the next ten years, he worked in commercial litigation at Coudert Brothers LLP, where he represented copyright holders of some of the highest valued intellectual property at the time, including *Terminator 2*, *Rambo: First Blood*, and *Basic Instinct*. Most recently, Renner was a partner at Duane Morris LLP in Los Angeles, specializing in commercial litigation, insurance coverage, and product liability defense.

"I joined CIR because I wanted to use the skills I had developed as an attorney to serve the public interest – specifically, to defend fundamental, individual constitutional rights, such as free speech and the equal protection of the laws, and the rule of law generally," Renner said. "It had become clear to me that there was an urgent need for more lawyers in the conservative public interest

space, doing the type of work that CIR has been doing."

In his role, he will take the lead on a handful of existing cases and develop new challenges to advance an agenda of individual rights. To date, he has taken on a key role in our ongoing free speech case in which we are representing Dr. Norman Wang, a professor at the University of Pittsburgh School of Medicine who was punished for writing an academic article criticizing the use of affirmative action in admissions to medical school and in graduate medical education (*Wang v. University of Pittsburgh*). Renner is leading the charge as we move forward into the discovery phase of this high-profile free speech challenge.

And he has taken on a significant role preparing our challenge in *Mattson v. Guyette*, a First Amendment lawsuit on behalf of an adjunct music professor, Daniel Mattson, who was fired from Western Michigan University solely for publicly expressing his religious beliefs about sexuality and gender identity -- off-campus, on his own time.

Renner's skills and experience make him a valuable addition to our litigation team. His contributions are empowering CIR to press forward with a whole spate of high-impact cases that will intensify our fight to restore, secure, and strengthen individual rights where they are most under threat today.

## IN MEMORIAM

# Charles Eckert: The First One Off the Helicopter

**L**ongtime CIR supporter Charles V. Eckert III, attorney, businessman, philanthropist, and champion of individual rights left a generous bequest to our organization last year, which will help us continue the fight for individual rights into the future.

Chuck was born on September 9, 1935 in Santa Barbara, California. He attended the University of California Santa Barbara where he earned his BA in Political Science, graduating with highest honors. He went on to study law at UC Berkeley. In 1961, Chuck returned to Goleta in Santa Barbara County and opened his law practice and subsequent real estate business.

In conversations and regular e-mails, Chuck emphasized the dangers that big government progressivism posed to individual liberty. He recounted his efforts to encourage local Goleta political leaders to stop trying to satisfy this or that constituency and instead focus on a core set of beliefs about government's proper -- and limited -- role.

Chuck had a prescient sense of the legal problems we are facing today, recognizing how, if left unchecked, progressive activists

would use what they call "equity" to undermine traditional American liberties. Noting the first signs of the activist culture taking over American campuses, he once jokingly referred to the time as a "temper tantrum era," even as he recognized the seriousness of the challenge it posed.

By giving generously to organizations like CIR and FIRE at an early stage, he helped launch the rise of conservative public interest law that continues today. In his view, two ingredients were central to that success: first, he believed in selectively litigating only a handful of cases that could set lasting precedents. Second, he urged us to pursue attorneys' fee awards in our cases, believing that the more costly the loss, the more likely it was that our opponents would change their practices.

Chuck once quoted a line from the movie *We Were Soldiers*, "I'll be the first one off the helicopter; I'll leave no man behind; I'll be the last one back on the helicopter." That summed up his notion of leadership. And he brought that wholehearted commitment to all of his endeavors in a life of active social, political, and legal engagement.

CIR is deeply grateful that Chuck counted our organization an ally in the



*Charles V. Eckert III 1935 - 2022*

fight to strengthen the American tradition of individual liberty and personal responsibility. We will miss him.

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# A Testament to Individual Rights

**T**he Center for Individual Rights has defended free speech and opposed racial preferences since 1989 as part of an ongoing effort to defend the Constitution and to restore government to its traditional limits.

To advance the cause of freedom, limited government, and the rule of law, we rely on your support.

Through a well-planned will, you can make a number of provisions that can reduce estate taxes — and help CIR. Many gifts by will are made by people who first provide for their loved ones and then choose to leave the remainder of their assets to charitable interests that have been an important part of their lives. Many people simply designate a percentage of their estate to go to one or more charitable organizations of their choice. Some name specific property or a specific dollar amount. Still others name one or more charities as final beneficiaries to receive whatever remains in the estate after other heirs are provided for.

For CIR's supporters, a planned gift is the perfect way to ensure every dollar is spent according to your wishes. Your consideration of a planned gift gives the Center for Individual Rights the guaranteed resources to continue fighting—and winning—a carefully chosen, strategic handful of legal campaigns to defend the Constitution and to restore government to its traditional limits.

For further information, please contact Zane Lucow at (202) 833-8400 ext. 122 or [lucow@cir-usa.org](mailto:lucow@cir-usa.org).



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