

The Press Release also said:

“I feel like I’ve been scammed,” Zahnd said, “and I fear Presiding Commissioner Fricker will try to hoodwink the voters in a bid to stay in power.” Zahnd said he was asking for a refund of his campaign contributions like he “would ask for a refund for a car that turned out to be a lemon.”

Zahnd also said he would “no longer attend Presiding Commissioner Fricker’s campaign events to be trotted out like a show pony when [Fricker] falsely claims to support law enforcement.”

2. In addition to Mr. Zahnd’s comments regarding Mr. Fricker’s and the County Commission’s unprecedented, unnecessary, and unexplainable defunding of Platte County law enforcement (“Defunding Police and Prosecutors”), the Press Release contained highly critical comments made by Platte County Sheriff Erik Holland. The County Commission, led by Mr. Fricker, inexplicably decided to defund the Sheriff’s Department and the Prosecuting Attorney’s Office in advance of the 2026 World Cup, which is expected to bring 650,000 visitors to Kansas City, the vast majority of whom will fly into Kansas City International Airport, located in the heart of Platte County.

3. The Press Release followed Prosecuting Attorney Zahnd’s and Sheriff Holland’s comments harshly criticizing Mr. Fricker for leading the way on Defunding Police and Prosecutors. Sheriff Holland and Prosecuting Attorney Zahnd leveled their criticism at Mr. Fricker and the other members of the Commission during an Administrative Session of the Commission held on January 5, 2026, the same day Mr. Zahnd sent the Press Release from his county-owned email account, ezahnd@co.platte.mo.us. The Administrative Session was a public meeting of the Commission, properly noticed pursuant to the Missouri Sunshine Law.

4. The second sentence of Section 115.646, RSMo, specifically provides a safe harbor from liability or culpability for “issuing press releases.”² In addition, the press release, titled “Sheriff, Prosecutor blast law enforcement budget cuts,” was unmistakably political speech

² Curiously, the Fricker Complaint does not reference the second sentence of Section 115.646, RSMo.

regarding the Platte County Commission’s Defunding Police and Prosecutors. The opening two paragraphs of the press release read:

Platte County Sheriff Erik Holland and Prosecuting Attorney Eric Zahnd took the stage at Monday’s County Commission meeting to sharply criticize the Commission’s budget cuts to Platte County law enforcement.

Zahnd concluded his 10 minutes of remarks saying, “Make no mistake . . . due to the lack of funding from this Commission, Platte County will become a more dangerous place to raise a family, own a business, and go to school or work. I will not stand silent as this Commission makes that fateful decision.”

The Press Release also included Sheriff Holland’s and Prosecuting Attorney Zahnd’s public comments to the Commission as attachments to the email sent from ezahnd@co.platte.mo.us.

5. Sheriff Holland’s and Prosecuting Attorney Zahnd’s comments during the Administrative Session—which were simply repeated in and attached to the Press Release email—are clearly political speech.

6. Political speech is at the core of the First Amendment, subject to its strongest protection. As the U.S. Supreme Court declared in *Mills v. Alabama*, 384 U.S. 214, 218 (1966), “[w]hatever differences may exist about interpretations of the First Amendment, **there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs**” (emphasis added).

7. However much it may get under his skin and make him feel uncomfortable, there is no question that government officials like Mr. Fricker are subject to criticism. Indeed, such criticism is at the very heart of the First Amendment. In the landmark decision *New York Times v. Sullivan*, the Supreme Court held that speech critical of government officials represents the central meaning of the First Amendment. The Court held that speech critical of government officials represents “the central meaning” of the First Amendment. *New York Times v. Sullivan*, 376 U.S. 254, 273 (1964). The Court explained that the First Amendment protects a “profound national commitment that debate on public issues should be **robust, uninhibited, and wide-open**

and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials. *Id.* at 276 (emphasis added).

8. Furthermore, political speech is not protected merely during a political campaign. In *McIntyre v. Ohio Elections Commission*, 514 U.S 344, 347 (1995), the Court held that “*handing out leaflets in the advocacy of a politically controversial viewpoint [] is the essence of First Amendment expression*” (emphasis added). One could just as easily say that “sending out an email in the advocacy of funding law enforcement and criticizing Mr. Fricker for Defunding the Police and Prosecutors is the essence of First Amendment expression.”

9. This Commission has repeatedly found that a public official may use government property to express in writing the same sentiments he or she is entitled to express when making a public appearance. Indeed, the Commission has summarily rejected frivolous complaints filed in contravention of the First Amendment’s protection of political speech under exactly that circumstance. *See, e.g.*, MEC No. 20-0096-I, Sheriff Paul Vescovo.

10. The Fricker Complaint is different from MEC Case No. 22-0075-I in which the Missouri Ethics Commission reprimanded Platte County Associate Commissioner Joe Vanover and other, now-retired Platte County Commissioners after it found probable cause to believe they had violated Section 115.646, RSMo, by posting an event titled “Scott Fricker for Presiding Commissioner Event” on the Platte County Commission’s online calendar.³ In that case, Associate Commissioner Vanover and the other Commissioners admitted that “[b]y posting an event titled ‘Scott Fricker for Presiding Commissioner Event’ on the Platte County Commission’s online calendar, there is probable cause to believe public funds were expended and there is probable cause to believe that such a posting can be considered a statement in

³ Ironically, Prosecuting Attorney Zahnd represented Associate Commissioner Vanover and the other, now-retired Commissioners in that case.

support of a candidate for election. The Commission hereby issues this Letter of Reprimand to you.”

11. Unlike that case, which resulted in a reprimand of Associate Commissioner Vanover and other, now-retired Platte County Commissioners, Mr. Zahnd’s statement is not a statement in support of a candidate for election. Instead, as described above, it is a “*robust, uninhibited, [] wide-open*” and arguably “*vehement, caustic*” and perhaps for Mr. Fricker, “*unpleasantly sharp attack*“ due to Mr. Fricker’s decision to Defund Police and Prosecutors. See *New York Times v. Sullivan, supra*, at 274.

12. Simply put, Prosecuting Attorney Zahnd’s and Sheriff Holland’s comments are core political speech, deserving of the same protection this Commission has readily afforded dozens of other government officials.

13. Because the Fricker Complaint entirely ignores the fundamental provisions of the First Amendment in its ham-handed attempt to vindictively damage Prosecuting Attorney Zahnd’s reputation for speaking out against his ill-conceived plan Defunding Police and Prosecutors ahead of the 2026 World Cup, the complaint is frivolous under Missouri law, and Prosecuting Attorney Zahnd is entitled to “actual and compensatory damages” to be personally paid to Prosecuting Attorney Zahnd by Mr. Fricker. Section 115.642, RSMo.

WHEREFORE, Platte County Prosecuting Attorney Eric Zahnd respectfully requests the Missouri Ethics Commission to: (1) find that Scott Fricker’s complaint is frivolous as defined by Section 115.642, RSMo; (2) permit Prosecuting Attorney Eric Zahnd to pursue “actual and compensatory damages” from Mr. Fricker for attempting to vindictively damage Prosecuting Attorney Zahnd’s reputation in retaliation against Prosecuting Attorney Zahnd for speaking out against Mr. Fricker’s unprecedented, unnecessary, and unexplainable defunding of the Platte

County Sheriff's Department and Prosecuting Attorney's Office; and (3) grant such other relief as just.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I certify that this Motion was delivered via email to Mr. Fricker's official Platte County email address from my official Platte County email address on February 25, 2026.