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October 11, 2024

VIA E-MAIL & EXPRESS MAIL

Michael Maher
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**Re: CEASE AND DESIST DEMAND – IMMEDIATE RESPONSE
REQUIRED**

Dear Mr. Maher:

We serve as counsel for Jim Costa for Congress and Congressman Jim Costa. We write to you in response to statements in a campaign video entitled “10 Presidents,” that was posted on YouTube by you and your campaign committee, Maher for Congress (“Committee”). We demand that you immediately cease and desist from further circulating the video and making the knowingly false and misleading statements contained therein. The offending statements include the following:

- A. The title of the video states, “Costa’s 50 Years in Washington: Time for Real Change in the Valley.” (See “10 Presidents” Video on YouTube: <https://www.youtube.com/watch?v=zEi2YTlvc9w&t=8s> at Video Title.)
- B. The image on the “thumbnail” of the video states: “10 PRESIDENTS SINCE JIM COSTA WENT TO WASHINGTON.” The video narrator says: “10 Presidents have come and gone since Jim Costa went to Washington 50 years ago.” The narration is accompanied by text that says: “10 PRESIDENTS SINCE JIM COSTA FIRST WENT TO WASHINGTON.” (*See id.* at 1 sec. to 5 sec.)
- C. The narrator says: “After decades in Congress, all Costa has to show for it is two bills signed into law, one to rename a post office, the other is about a stamp.” The narration is accompanied by text that states: “AFTER DECADES IN CONGRESS COSTA AUTHORED 2 BILLS. COSTA’S BILLS RENAMED A POST OFFICE – SOMETHING ABOUT A STAMP.” (*See id.* at 6 sec. to 15 sec.)

The false and misleading nature of these statements is discussed in detail below. By publishing and circulating these statements, you and the Committee are seeking to damage Mr. Costa’s reputation by stating falsehoods about his work in Congress, and your continued publication of this video will subject you to further liability for these falsehoods.

A. THE VIDEO TITLE, “COSTA’S 50 YEARS IN WASHINGTON: TIME FOR REAL CHANGE IN THE VALLEY” IS FALSE AND MISLEADING.

Your campaign video’s title fabricates the length of Congressman Costa’s service as “50 years in Washington.” However, it is abundantly clear that he has not served for 50 years since he assumed Congressional office in 2005, which is about 19 years total. (See <https://www.congress.gov/member/jim-costa/C001059>.) Also, Mr. Costa served in the California State Senate from 1994 to 2002 and in the California State Assembly from 1978 to 1994. Thus, it is factually impossible for your “50 years in Washington” statement to be true – a fact of which you are no doubt aware.

B. THE NARRATOR’S STATEMENT THAT “10 PRESIDENTS HAVE COME AND GONE SINCE JIM COSTA WENT TO WASHINGTON 50 YEARS AGO” AND THE TEXT THAT SAYS: “10 PRESIDENTS SINCE JIM COSTA FIRST WENT TO WASHINGTON” ARE FALSE AND MISLEADING.

Your campaign video’s blatant misstatement that “10 Presidents have come and gone since Jim Costa went to Washington 50 years ago,” is simply untrue. The “come and gone” statement means that not counting Joe Biden (who is still serving), you are claiming that Mr. Costa began serving in Congress during the Lyndon Johnson administration. As you well know, Mr. Costa assumed office in 2005 during the tenure of George W. Bush; therefore, your statement is not only reckless, it is preposterous.

C. THE STATEMENT, “AFTER DECADES IN CONGRESS, ALL COSTA HAS TO SHOW FOR IT IS TWO BILLS SIGNED INTO LAW, ONE TO RENAME A POST OFFICE, THE OTHER IS ABOUT A STAMP” AND THE TEXT, “AFTER DECADES IN CONGRESS COSTA AUTHORED 2 BILLS. COSTA’S BILLS RENAMED A POST OFFICE – SOMETHING ABOUT A STAMP,” ARE FALSE AND MISLEADING

Since beginning his service in the House in 2005, Congressman Costa has sponsored (i.e., “authored”) 11 bills which have been signed into law (out of a total 98 total cosponsored bills). (See <https://costa.house.gov/legislative-record>.) The bills sponsored by Congressman Costa that were signed into law, include:

- 117th Congress (2022) | [Respect for Child Survivors Act](#). *Senate version of the bill enacted into Law.*
- 117th Congress (2022) | [Victims of Child Abuse Act Reauthorization Act of 2022](#). *Enacted into law via the [Respect for Child Survivors Act](#).*

- 117th Congress (2022) | [Biodiesel, Renewable Diesel, and Alternative Fuels Extension Act of 2021](#). Enacted into law via the [Inflation Reduction Act](#).
- 117th Congress (2022) | [To modify the project for flood control, Redbank and Fancher Creeks, California](#), to allow a non-Federal interest to establish conservation pools, and for other purposes. Costa secured \$200,000 for the project via the [Consolidated Appropriations Act of 2022](#).
- 117th Congress (2021) | [Multinational Species Conservation Funds Semipostal Stamp Reauthorization Act](#).
- 117th Congress (2021) | [Special Guerrilla Unit Veterans Service Recognition Expansion Act of 2021](#). Enacted into law via the [National Defense Authorization Act \(NDAA\) of 2022](#).
- 117th Congress (2021) | [High Speed Rail Corridor Development Act of 2021](#). Provisions from this bill were included in the [Infrastructure Investment and Jobs Act](#).
- 115th Congress (2018) | [Hmong Veterans' Service Recognition Act](#). Enacted via the [Consolidated Appropriations Act of 2018](#).
- 112th Congress (2013) | To [designate](#) the facility of the United States Postal Service located at 19 East Merced Street in Fowler, California, as the "[Cecil E. Bolt Post Office](#)".
- 110th Congress (2010) | [American Investment in Safe, Reliable High-Speed Rail Act](#). Enacted via [H.R. 2095 - Railroad Safety Enhancement Act of 2008](#)
- 110th Congress (2010) | [To authorize the Administrator of the Environmental Protection Agency](#) to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes. Enacted via [S. 2146](#).

While some of the bills Congressman Costa introduced were merged into other enacted bills, you are no doubt aware that this is how Congress works. In making these false statements, you are either cynically ignoring this fact or not sufficiently aware of how Congress functions.

In addition, Congressman Costa has cosponsored (i.e., "co-authored") 199 bills that were signed into law. (See <https://costa.house.gov/legislative-record>.) These bills include:

- *Joshua Omgig Veterans Suicide Prevention Act*
- *Breast Cancer and Environmental Research Act*
- *Railroad Safety Enhancement Act*
- *Family Smoking Prevention and Tobacco Control Act*
- *Veterinary Medicine Mobility Act*
- *Emmett Till Antilynching Act*

- *Ocean Shipping Reform Act*
- *Respect for Marriage Act*
- *Honoring our PACT Act*
- *Access to Baby Formula Act*

The record is clear that Congressman Costa has sponsored and cosponsored a wide range of bills that have been enacted into law since he began serving in Congress. Your gross mischaracterization of Congressman Costa's legislative record is ill-informed, misleading, defamatory, and must cease.

YOU MUST IMMEDIATELY CEASE MAKING FALSE, MISLEADING, AND DEFAMATORY STATEMENTS AND TAKE DOWN THE VIDEO

While the First Amendment affords protection for political speech, it does not protect defamatory speech. (*See New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).) This is true even in cases where the plaintiff may be considered a "public figure." In such cases, a defendant may be liable for a "defamatory statement [made] with actual malice, *i.e.*, with 'knowledge that it was false or with reckless disregard of whether it was false or not.'" (*See Masson v. New Yorker Magazine*, 501 U.S. 496, 510 (1991) (*citing New York Times Co. v. Sullivan*, 376 U.S. at 279-280; *see also St. Amant v. Thompson*, 390 U.S. 727, 731 (1968).) Courts have conclusively stated, "[i]f a false and defamatory statement is published with knowledge of falsity or a reckless disregard for the truth, the public figure may prevail." (*See Harte-Hanks Communications v. Connaughton*, 491 U.S. 657, 688 (1989).)

While it is virtually impossible for you and your Committee to have posted this video without knowledge that these statements are objectively false, should you and your Committee choose to continue posting this "10 Presidents" video, you will do with full knowledge of their falsity or with reckless disregard for the truth, thereby subjecting you to liability. Therefore, if you do not immediately take down the "10 Presidents" video from YouTube and every other media platform, and cease circulating the above-mentioned false statements, my clients will have no choice but to explore every legal remedy available against you, the Committee, and its principals, including pursuing legal action seeking monetary damages as well as attorney's fees.

We await your prompt response.

Very truly yours,



George M. Yin

Attachments

cc: Media Outlets in California's 21st Congressional District