



Conference
August 7-10
WASHINGTON, D.C.
#AEJMC23

Boundary Work, Specialized Accreditation for Journalism, and the Fair Labor Standards Act of 1938

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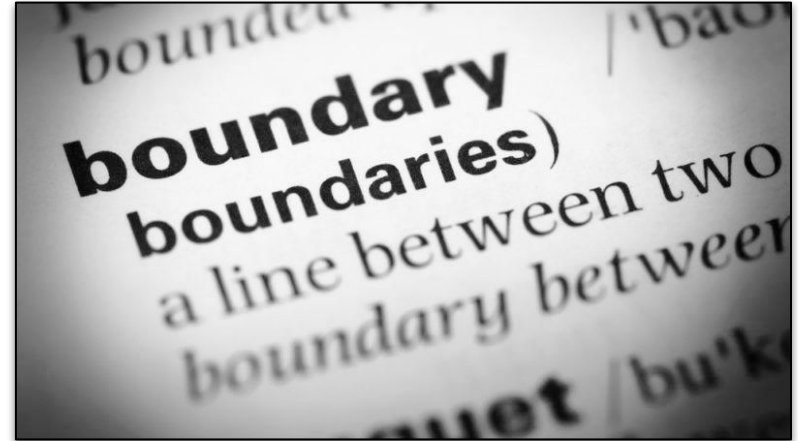
Agenda

- Boundary Work
- Educators and Editors
- Fair Labor Standards Act of 1938
- Sun Publishing Company v. Walling
- Conclusion

Boundary Work

Boundary Work

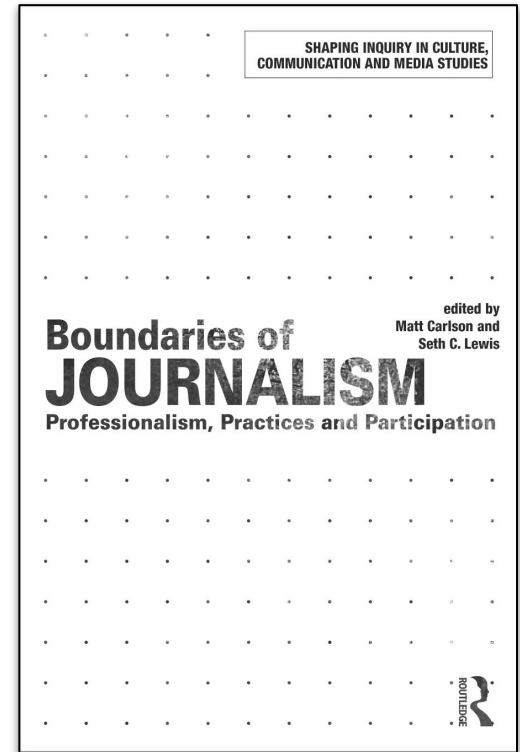
- A framework for understanding how **professional groups** use rhetoric to demarcate their areas of expertise in order to **win the approval and recognition** of public, political, and legal authorities



Thomas F. Gieryn, "Boundary-Work and the Demarcation of Science from Non-Science: Strains and Interests in Professional Ideologies of Scientists," *American Sociological Review* 48, no. 6 (1983): 781–795.

Social to Material Components

- “The social emphasizes those factors of human construction, culture, and rhetoric, or what I might call the **“soft” boundary work of talk that articulates boundaries.**”
- “The material emphasizes those factors that are more structural, architectural, and technical in nature, or the **“hard” boundary work of action that actualizes boundaries.**”
- Sun Publishing Company v. Walling



Seth C. Lewis, “Epilogue: Studying the Boundaries of Journalism: Where Do We Go from Here?”, in *Boundaries of Journalism: Professionalism, Practices and Participation*, eds. Matt Carlson and Seth C. Lewis (New York: Routledge, 2015).

Educators and Editors

American Association of Schools and Departments of Journalism

- Established 1917
- Recognize top programs
- Principles and Standards (1924)
- Eventually partnered with industry to create American Council on Education for Journalism, 1944-1945
- **“the “soft” boundary work of talk that articulates boundaries.”**
- Minutes to meetings published in *Journalism Bulletin*

Editor & Publisher for January 10, 1925

TEACHERS DRAW UP EDUCATIONAL STANDARDS FOR PRESS STUDENTS

**Declare Adequate Preparation Necessary for Journalism in
Outlining College Course of Study—Affirm
Power of Press**

**THE
JOURNALISM
BULLETIN**

**MINUTES OF THE AMERICAN ASSOCIATION OF SCHOOLS AND
DEPARTMENTS OF JOURNALISM
Columbus, Ohio, December 28, 1926**

“Teachers Draw Up Educational Standards for Press Students,” *Editor & Publisher*, January 10, 1925; “Minutes of the American Association of Schools and Departments of Journalism,” *The Journalism Bulletin*, January 1, 1927; Lewis, “Epilogue.”

American Society of Newspaper Editors

- Established 1922
- Limited to editors in cities of 100,000
- Canons of Journalism (1923)
- Eventually partnered with educators to create American Council on Education for Journalism, 1944-1945
- **“the “soft” boundary work of talk that articulates boundaries.”**
- Minutes to meetings published in *Problems of Journalism*

Editor & Publisher for April 28, 1923

HIGHER ETHICAL STANDARDS CALLED FOR BY EDITORS' SOCIETY

Washington Convention Considers “Canons of Journalism”—
Plans Co-operation with Schools—Favors Newspapers
Producing Own Features

(By Telegraph to EDITOR & PUBLISHER)

PROBLEMS OF JOURNALISM

April 27-28, 1923

*Proceedings
of the*

FIRST ANNUAL MEETING

AMERICAN SOCIETY OF NEWSPAPER EDITORS

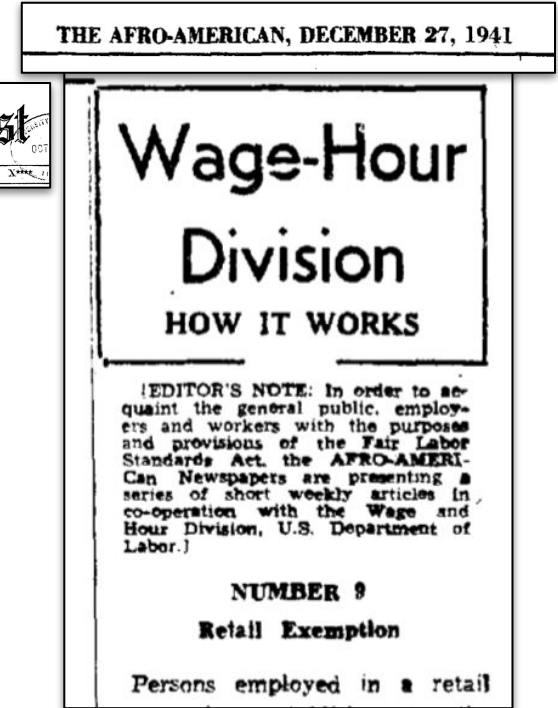
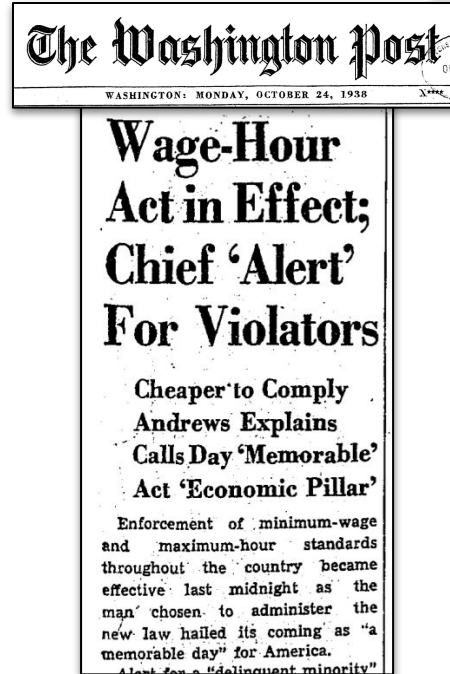
Washington, D. C.

“Higher Ethical Standards Called For By Editor’s Society,” *Editor & Publisher*, April 28, 1923; *Problems of Journalism: Proceedings of the First Annual Meeting, American Society of Newspaper Editors* (Washington, D.C.: The Society, 1923); Lewis, “Epilogue.”

Fair Labor Standards Act of 1938

Fair Labor Standards Act of 1938

- Signed into law by President Franklin D. Roosevelt on June 25, 1938
- Establish minimum wage
- Rules on overtime pay
- Child labor
- Wage and Hour Administration of the Department of Labor **responsible for interpreting and enforcing the Fair Labor Standards Act**



"Wage-Hour Act in Effect; Chief 'Alert' For Violators," *Washington Post*, October 24, 1938; "Wage-Hour Division How it Works," *The Afro-American*, December 27, 1941.

Section 13(a): The Managerial-Professional Exemption

Section 13(a): The Managerial-Professional Exemption

- Excluded any employee employed in a bona fide executive, administrative, or professional capacity
- Wage-Hour Administration defined **"professional"** employees as those whose work requires **educational training in a specially organized body of knowledge**
- Industries began to challenge the legislation or seek exemptions from the Wage and Hour Administration

THE WASHINGTON POST: FRIDAY, MARCH 3, 1939

Andrews Seeks White-Collar Exemptions

Would Amend Act
To Exclude Workers
On Fixed Salaries

Representing the Industry

- **Elisha Hanson** represented the newspaper industry in disputes with the government over the Fair Labor Standards Act
- In **October 1938**, Hanson wrote to the Wage and Hour Administration to seek a ruling on the status of newspapers under the Fair Labor Standards Act
- **“the “hard” boundary work of action that actualizes boundaries.”**



PUBLISHERS SEEK STATUS RULING ON WAGE-HOUR LAW

WASHINGTON, Oct. 30. (Exclusive)—A letter from Elisha Hanson, counsel for 12 newspaper publishers' associations, made public here yesterday, asked for a ruling at the earliest possible moment on the status of newspapers under the section of the wage-hour law which exempts "any employee engaged in any retail or service establishment, the greater part of whose selling or servicing is in intrastate commerce."

mandatory overtime requirements for the simple reason that if those provisions are held to apply to the newspaper publishing business, such application will make impossible for many, if not all daily newspapers, much of the service they now render. "The memorandum of Oct. 11 pointed out that if the overtime provisions be applied to the daily newspaper such application undoubtedly would greatly restrict the service of the press in gathering and dissemination of information to the citizens of this

Los Angeles Times (1923-Current File); Oct 31, 1938; ProQuest Historical Newspapers: Los Angeles Times pg. 9

Educators and Editors

- In July 1940, Wage and Hour Administration held hearing on how best to define certain categories of workers: “executive,” “administrative,” “professional”
- Educators from the AASDJ and editors from the ASNE joined Hanson at a hearing before the Wage and Hour Administration

THE NEW YORK TIMES, SATURDAY, JULY 27, 1940.

RATE JOURNALISM AS A PROFESSION

Publishers' Counsel and Deans
of Journalism Schools Urge
Wage-Hour Exemption

ACKERMAN SEES DANGER

Columbia Dean Calls Putting
Newspaper Men Under Act
'First Step' to Press Curb

THE WASHINGTON POST: SATURDAY, JULY 27, 1940

'Profession' Class Urged for Press

College Deans Testify
At Pay-Hour Hearing
On Defining Newsmen

Recognition of the professional status of newspaper workers was sought before the Wage-Hour Administration yesterday by counsel for the American Newspaper Publishers Association, and deans of three college schools of journalism.

They spoke at a hearing at the Hotel Willard which was one of a series to take testimony concerning proposed changes in the definitions of "executive," "administrative," and "professional" under the Federal Fair Labor Standards Act.

Spokesmen for the newspaper industry and advertising employees should be classed as professional because of the public service entailed by their work and its importance to the full functioning of a democracy.



Challenging the Fair Labor Standards Act of 1938

- Newspapers began to challenge the Fair Labor Standards Act
- Newspapers refused to share payroll information

**Press Curb
Seen in Law**
Counsel for Newspaper
Group Calls Wage-Hour
Act Direct Restraint

Los Angeles Times (1923-Current File); Oct 10, 1940;
ProQuest Historical Newspapers: Los Angeles Times
pg. 20

**Publishers Hold Wage-Hour
Law Abridgement of Press**
Daily Boston Globe (1928-1960); Oct 10, 1940;
pg. 8

**Newspaper's
Books Ruled
Open to Search**
Federal Court, on Appeal,
Decides 'Lowell Sun'
Must Show Wage Data

New York Herald Tribune (1926-1962); Nov 23, 1940;
ProQuest Historical Newspapers: New York Tribune / Herald Tribune
pg. 28

Special to THE NEW YORK TIMES.
New York Times (1923-Current file); Sep 7, 1940;
pg. 10

**NEWSPAPERS FIGHT
PAYROLL ACCESS**
Two Easton Dailies Challenge
Wage-Hour Chief's Federal
Suits to Inspect Records

“Press Curb Seen in Law,” *Los Angeles Times*, October 10, 1940; “Publishers Hold Wage-Hour Law Abridgement of Press,” *Boston Globe*, October 10, 1940; “Newspaper’s Books Ruled Open to Search,” *New York Herald Tribune*, November 23, 1940; “Newspapers Fight Payroll Access,” *New York Times*, September 7, 1940.

Sun Publishing Company
v. Walling

Sun Publishing Company

- In September 1942, Hanson represented the Sun Publishing Company before the United States District Court for the Western District of Tennessee in **Walling v. Sun Publishing Company**
- Repeated violations of minimum wage and overtime provisions
- Judge rejects Hanson claims



“Sun Company Enjoined By Federal Court,” *Jackson Sun*, September 29, 1942; 47 F. Supp. 180 (W.D. Tenn. 1942).

Hanson and the Sun Publishing Company

- Albert A. Stone, vice president, general manager, *Jackson (Tenn.) Sun*, left, **Elisha Hanson**, ANPA general counsel, middle, C.E. Pigford, owner, *Jackson Sun*, right, chat before entering the American Newspaper Publishers Association general session, April 24, 1943



Sixth Circuit Court of Appeals

- In December 1943, Hanson represented the Sun Publishing Company before the Sixth Circuit Court of Appeals in **Sun Publishing Company v. Walling**
- Hanson pointed to the AASDJ as evidence of the professional nature of journalism education

THE NEW YORK TIMES, WEDNESDAY, DECEMBER 1, 1943.

PAPER SUES TO HALT WAGES-HOUR LAW

Jackson, Tenn., Sun Contends
That Application Violates
First, Fifth Amendments

CINCINNATI, Nov. 30 (AP)—The Sixth Circuit Court of Appeals had before it today the contention of a Tennessee newspaper publisher that the constitutional guarantee of freedom of the press itself is a bar to application of the Wage-Hour Law to the newspaper industry.

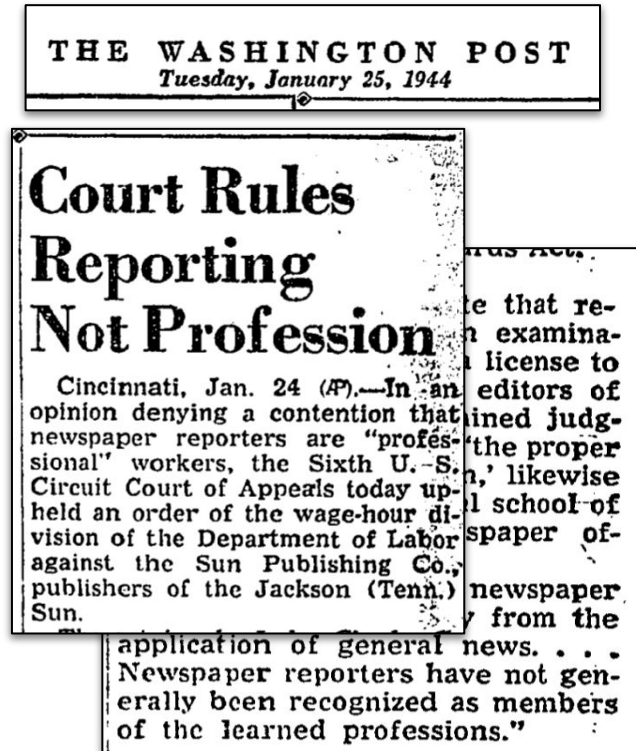
First and Fifth Amendments.

Calling attention to the action as the first of its kind against the Fair Labor Standards Act, Mr. Hanson cited thirty-two university schools of journalism as recognition of newspaper work as a "profession," and said that newspapers employ professional workers such as reporters, rewrite men, cartoonists and feature-writers, "all performing work essentially professional in nature, irrespective of the salary drawn."

Sixth Circuit Court of Appeals Ruling

- In January 1944, judge rejected Hanson's argument in *Sun Pub. Co. v. Walling*
- “Common knowledge that **few newspaper employees are graduates of specialized schools of journalism**, and there are editors of long experience and trained judgment who [...] believe that the only practical school of journalism is the newspaper office.”

“Court Rules Reporting Not Profession,” *Washington Post*, January 25, 1944.



Hanson and the *Sun* Regroup

- **February 23, 1944**
- United States Circuit Court of Appeals issues stay of mandate while Hanson and the *Sun* ask the Supreme Court to review
- Hanson communicated with the ASNE, the AASDJ, and the National Council on Professional Education for Journalism while waiting for a decision

THE CINCINNATI ENQUIRER, Wednesday, February 23, 1944

STAY ISSUED
— — —
In Newspaper Fight
— — —
**Against Charge Of Labor
Law Violations.**
— — —
**Tennessee Company Winner In
Appeal For Right To Go To
Supreme Court.**
The United States Circuit Court

“Stay Issued in Newspaper Fight,” *Cincinnati Enquirer*, February 23, 1944.

Supreme Court Denies Request

- April 24, 1944
- Petition to United States Supreme Court in *Sun Pub. Co. v. Walling* denied

DECISIONS DENYING CERTIORARI, FROM APRIL 11, 1944, THROUGH JUNE 12, 1944.

No. 807. SUN PUBLISHING Co. v. WALLING, ADMINISTRATOR. April 24, 1944. Petition for writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit denied. *Messrs. Elisha Hanson and C. E. Pigford and Miss Letitia Armistead* for petitioner. *Solicitor General Fahy, Messrs. Robert L. Stern, Douglas B. Maggs, Peter Seitz, and Miss Bessie Margolin* for respondent. Reported below: 140 F. 2d 445.

American Council on Education for Journalism (ACEJ)

- The National Council on Professional Education for Journalism created the **American Council on Education for Journalism (ACEJ)** from 1944–1945
- Key stakeholders pointed to *Sun Pub. Co. v. Walling* as tipping point

THE NEW YORK TIMES, SUNDAY, APRIL 29, 1945.

JOURNALISM PLANS TO RATE ITS SCHOOLS

Accrediting Committee of 7 Educators and Newspaper Men Likely to Be Set Up

MANY COURSES BELOW PAR

Inspecting and Classifying of Institutions Is Expected to Take Two Years

BY BENJAMIN FINE

THE QUILL

A Magazine for Writers, Editors and Publishers

Founded 1912

Accreditation—A Forward Step

ACCREDITING of journalism schools is another promising step in the progress toward a professional level for editorial workers that has been advocated by Sigma Delta Chi since it was founded. The first thirty-four institutions to meet standards set up by the American Council on Education for Journalism—standards established, it should be remembered, by both working journalists and teachers—are announced in this issue of THE QUILL.

1944 ASNE Conference

- **Richard Carter** of the Roanoke *World-News* commented on *Sun Pub. Co. v. Walling* at the **April 21, 1944** ASNE Conference
- Carter represented ASNE and was chair of the National Council on Professional Education for Journalism

“We simply cannot go very far without this alliance between the press and the schools [...] We have called a meeting of this group in New York Sunday night [...] At that meeting, Elisha Hanson will discuss this recent decision which Mr. Heiskell was mentioning about the Sixth Court of Appeals, I believe, in the case of the Jackson, [Tennessee] Sun.” [1/3]

– Richard Carter

1944 ASNE Conference

- **Richard Carter** of the Roanoke *World-News* commented on *Sun Pub. Co. v. Walling* at the **April 21, 1944** ASNE Conference

*"I admit I did react rather violently. I was not concerned so much the judge's decision or his obiter dictum or whether they were actually a part of the opinion. He said that journalism was not a profession. That is not particularly new, **but he went a little further than that and said that education was of no value in newspaper work. That is what it amounts to.** [Laughter]*

[2/3]

– **Richard Carter**

1944 ASNE Conference

- **Richard Carter** of the Roanoke *World-News* commented on *Sun Pub. Co. v. Walling* at the **April 21, 1944** ASNE Conference

“You can see what a spot I was in. I did not know whether to dissolve the Council or come out with a statement that might put us all in jail, so I called this meeting for New York Sunday night.” [3/3]

– **Richard Carter**

1944 National Council on Professional Education for Journalism

- Minutes of the **April 23, 1944** meeting in New York referenced by Carter at the 1944 ASNE conference appeared in *Journalism Quarterly* later that summer
- **Linwood I. Noyes** (President, American Newspaper Publishers Association) and **Elisha Hanson** (General Counsel, American Newspaper Publishers Association) urge editors and educators to build strong accreditation program

alternate). Others present at invitation of the Council: **Linwood I. Noyes**, president, ANPA; **Elisha Hanson**, general counsel, ANPA; **Cranston Williams**,

There was informal discussion of the **Jackson (Tenn.) Sun** case, with **Mr. Hanson** and others participating.

Mr. Hanson urged the Council and **AASDJ** to build a strong program

around the accrediting and rating of schools, the setting and maintenance of standards and the certification of graduates. He cited the work of the American

1945 AASDJ Conference

- **Fred Siebert** of the University of Illinois, told journalism educators that the industry had been the impetus behind the new push toward an accreditation program at the **January 26, 1945 AASDJ** conference

- Siebert was president of the AASDJ

“The impetus for a re-evaluation of our accrediting system and our standards has come from the professional organizations of newspaper editors and publishers. These organizations have indicated an interest in our problems and have offered help.” [1/1]

– Fred Siebert

1946 ASNE Conference

- **Dwight Marvin** of the *Troy Record*, commented on *Sun Pub. Co. v. Walling* at the **April 18, 1946 ASNE Conference**
- Marvin became chair of the ACEJ in 1948

“In 1929 the newspaper profession and the schools of journalism decided to get together [...] It was nothing more than a gesture for many years. These men have been getting together right along, and they feel, since that backwoods federal judge said that we were not professional men, that something must be done.” [1/1]

– **Dwight Marvin**

1948 ASNE Conference

- **Dwight Marvin** of the *Troy Record*, commented on *Sun Pub. Co. v. Walling* at the **April 16, 1948 ASNE Conference**
- Marvin became chair of the ACEJ in 1948

“They did not do very much until suddenly we had the Jackson Sun statement in 1944. In January a judge down there made the statement, a dictum in a decision which he made, that “Newspapers reporters have not generally been recognized as members of the learned professions.” As many of us believed that newspaper work was a profession, naturally we did not like the dictum.” [1/3]

– Dwight Marvin

1948 ASNE Conference

- **Dwight Marvin** of the *Troy Record*, commented on *Sun Pub. Co. v. Walling* at the **April 16, 1948 ASNE Conference**

*“It was a slam, one might say, on the newspaper calling, not because a reporter necessarily is a professional, but because the implication was that none of us were professionals. **When we realized that the Jackson judge thought we were tradesmen, immediately something had to be done.**” [2/3]*

– Dwight Marvin

1948 ASNE Conference

- **Dwight Marvin** of the *Troy Record*, commented on *Sun Pub. Co. v. Walling* at the **April 16, 1948 ASNE Conference**
- **Linwood I. Noyes** (President, American Newspaper Publishers Association) and **Elisha Hanson** (Counsel, American Newspaper Publishers Association)

*“Men like **Elisha Hanson**, men like **Lin Noyes**, were very anxious to have this done, and they really did a wonderful job in backing the organization. If we did not do this, we felt that under the **Jackson dictum** we would be in exactly the same position as the bootblack or the barber or the peddler; **we would simply be tradesmen.**” [3/3]*

– Dwight Marvin

Conclusion

Conclusion

- Boundary Work
- Educators and Editors
- Fair Labor Standards Act of 1938
- Sun Publishing Company v. Walling

Social components	Soft power, rhetoric, articulating social boundaries <i>Example:</i> Editors, educators, publishers, invoke their practices, stock of knowledge, values and work organization in hearings before the Wage and Hour Administration, the United States District Court for the Western District of Tennessee (Memphis), the United States Court of Appeals for the Sixth Circuit (Cincinnati, Ohio)
Material components	Hard power, resources, actualizing social boundaries <i>Example:</i> The United States Court of Appeals for the Sixth Circuit rejects claims made by journalists and journalism educators that journalists are professionals, exempt from FLSA regulations