Is Donald Duck Really A Duck? Or Simply A Cartoon? Governing Headshrinkers' Pie Holes.

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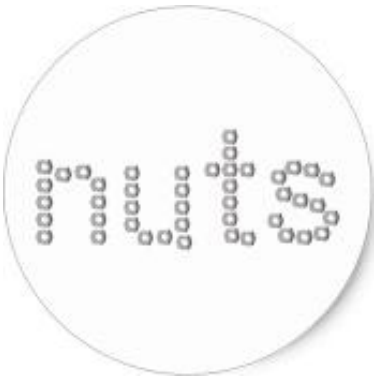

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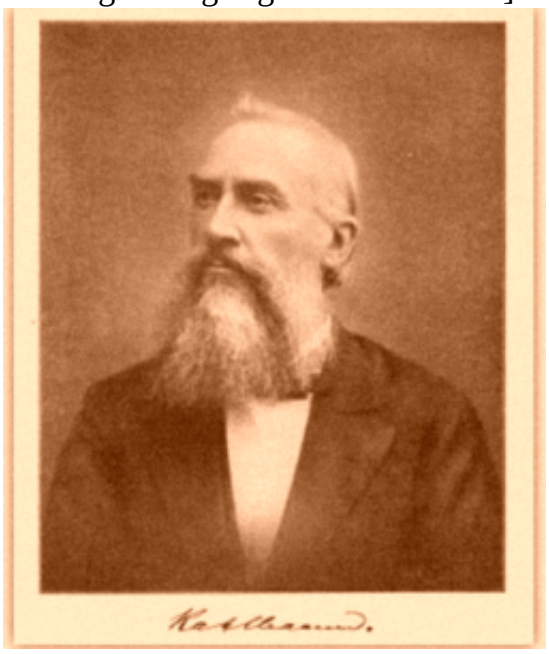

"Oh, how I wish I could tell the world that Grove Cleveland has two chipmunks in his cheeks. That's two per side, by the way![/caption]

Michael J. Matheron, June 4, 2017

Our media, indeed, the *world's* media, speculate regularly about President Trump's mental state relative to the norm for billionaires-turned-Presidents. That, of course, is the difficulty inherent in *analyzing* him about much of anything – he's an orange swan, a once-in-American-history event. Mental health doyens, psychiatrists and psychologists, are at a bigger disadvantage; their governing bodies, particularly psychiatrists, prohibit spitball analysis of individuals without

having conducted in-person consultation(s) and without that individual's clear consent. As well, everyday law prohibits these non-consensual disclosures via defamation law, as celebrity news proves almost daily. Some people simply hire goons to trash your office.

We untrained pikers outside the heady world of head-shrinking believe that politicos like Louie Gohmert, Andrew Wiener, the entire Freedom Caucus, and the DNCC are just plain nuts. We *know* they are. We can gab about it to our hearts' content among friends and compatriots (but take care, even us pikers may find process servers lined up at our doorsteps). Exceptions do exist. So-called “public figures” - celebrities, for example – who openly seek publicity have some difficulties suing for defamation (slander/libel) given their implied consent to some invasions of their privacy, but don't forget the recent case, funded by the execrable Peter Thiel, that awarded Hulk Hogan millions in damages, enough to make the popular website Gawker gawked at as it collapsed into ashes.

The specific extension to psychiatrists of the protection from offhand and publicly circulated mental health analysis of a presidential candidate resulted in the American Psychiatric Association's “Goldwater rule”:

On occasion psychiatrists are asked for an opinion about an individual who is in the light of public attention or who has disclosed information about himself/herself through public media. In such circumstances, a psychiatrist may share with the public his or her expertise about psychiatric issues in general. However, it is unethical for a psychiatrist to o?er a professional opinion unless he or she has conducted an examination and has been granted proper authorization for such a statement.

The rule emerged in 1973 in response to the barrage of opining about Senator Barry Goldwater's mental derangements during his spectacularly unsuccessful 1964 presidential run. This unsought and unwanted opinion-making was particularly fierce in *Fact* magazine's 1964 article, *The Unconscious of a Conservative: A Special Issue on the Mind of Barry Goldwater*, wherein “1,189 Psychiatrists Say Goldwater Is Unfit To Be President.” This loose-lips-sink-ships article led to *Goldwater v. Ginzburg*, a federal defamation lawsuit. The court, in 1969, awarded Goldwater $75,000 in punitive damages, thus loudly reaffirming medical privacy. Appeals failed, but a legal principle arose from the ashes. It came to pass that during the trial, 1,189 politicians opined that psychiatrists are unfit for anything but fence posts.

Psychologists too, like psychiatrists, must keep their powder dry, although the American Psychological Association does not enforce a Goldwater rule, *per se*. Its Ethical Principles of Psychologists and Code of Conduct, Section 5: Advertising and Other Public Statements, Sec. 5.04 covers the field but not as forcefully, psychologist being wallflowerish earn a Goldwater Lite:

> Media Presentations When psychologists provide public advice or comment via

> print, Internet or other electronic transmission, they take precautions to ensure that statements (1) are based on their professional knowledge, training or experience in accord with appropriate psychological literature and practice; (2) are otherwise consistent with this Ethics Code; and (3) do not indicate that a professional relationship has been established with the recipient. (See also Standard 2.04, Bases for Scientific and Professional Judgments.)

Nonetheless, arguably the pluses of both the Goldwater Rule and Goldwater Lite outweigh the minuses. Observations made and diagnoses reached from head-shrinking are sensibly confined to those made in a course of in-person shrinking, not those deduced from afar as was the case with Senator Goldwater. The rule does provide some relief for the psychiatrist: the knowing consent of the shrinkee lets him/her off the leash. In fact, for psychologists, their Goldwater Lite rule does not mention consent. As mentioned above, outside the governing bodies' rules, tort law itself provides coverage. As with *Goldwater v. Ginzburg*, defamation suits may follow when a talkative shrinker regales a reporter about a shrinkee's "funniest paranoid delusions." That verbal diarrhea could rightfully lead to punishing lawsuits that cause the psychologist's own complicated mental derangement.

Too, short of a legal judgment, breaching client confidentially compromises the shrinker's license to practice psychiatry or psychology. A license lost can begin a diaspora for the unfortunate that finds our formerly well-paid shrink hard at work as a probationary first mate on a shrimp boat in Labrador.

Moving on to our President, has a psychiatrist or psychologist simply and respectfully *asked* our President whether he was nuts? That would be a good start. In any event, this is a Catch 22. If President Trump answered "yes," it'd be taken as proof positive he was relatively insane; if "no," to many journalists, it would prove that he's trying to *hide* his under-performing sanity as guardedly as he hides his tax returns. A lose-lose situation. Ironically, that *would* surely drive Mr. Trump 'round the twist, or so the reportage would go . . . As it is now D. Trump's preposterous behavior remains the bailiwick of pesky civilians like myself and somewhat more pesky reporters. So today's Goldwater Rule violators who opine with great hubris about Trump deserve nothing but derisive snickering for simply observing the obvious.