

**EXHIBIT B**

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION

SHIRLEY SHERROD,  
3143 Cane Mill Drive  
Albany, Georgia

Plaintiff,

v.

ANDREW BREITBART,  
12160 La Casa Lane  
Brentwood, California

and

LARRY O'CONNOR,  
15301 Ashley Court  
Whittier, California

and

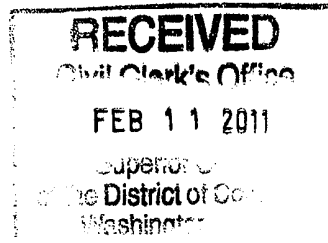
JOHN DOE,  
Georgia

Defendants.

Civil Action No.: 0001157-11

Complaint for Damages and Injunctive Relief

Jury Trial Demanded



COMPLAINT

1. This is an action brought by Shirley Sherrod, a former Presidential appointee and former Georgia State Director for Rural Development for the United States Department of Agriculture ("USDA") for defamation, false light and intentional infliction of emotional distress. Mrs. Sherrod was forced to resign from her job after Defendants ignited a media firestorm by publishing false and defamatory statements that Mrs. Sherrod "discriminates" against people due to their race in performing her official federal duties. Defendants drew false support for their claims from a speech given by Mrs. Sherrod that they edited, deceptively, to create the appearance that Mrs. Sherrod was admitting present-day racism. In fact, Mrs. Sherrod was

describing events that occurred *twenty-three years before* she held her federal position and, in fact, was encouraging people *not* to discriminate on the basis of race.

2. This action is brought against Andrew Breitbart, author and publisher of the blog post that contained the defamatory statements; Larry O'Connor, who posted on the internet the misleading edited video segment used in the blog post; and JOHN DOE, an individual whose identity has been concealed by the other Defendants and who, according to Defendant Breitbart, was involved in the deceptive editing of the video clip and encouraged its publication with the intent to defame Mrs. Sherrod.

3. Although the defamatory blog post authored by Defendant Breitbart purported to show "video proof" that Mrs. Sherrod exhibited "racism" in the performance of her USDA job responsibilities, the short two-minute thirty-six (2:36) second video clip that Defendants embedded in the blog post as alleged "proof" of this defamatory accusation was, in truth, an edited excerpt from a much longer speech by Mrs. Sherrod that demonstrated *exactly the opposite*. In sharp contrast to the deliberately false depiction that Defendants presented in the defamatory blog post, the unabridged speech describes how, in 1986, working for a non-profit group that helped poor farmers, Mrs. Sherrod provided concern and service to a white farmer who, without her help, would almost certainly have lost his farm in rural Georgia.

4. Specifically, Defendants defamed Mrs. Sherrod by editing and publishing an intentionally false and misleading clip of Mrs. Sherrod's speech *and* added the following statements as a narrative to the clip:

- "Mrs. Sherrod admits that in her federally appointed position, overseeing over a billion dollars ... She discriminates against people due to their race."
- Mrs. Sherrod's speech is "video evidence of racism coming from a federal appointee and NAACP award recipient."

- “[T]his federally appointed executive bureaucrat lays out in stark detail, that her federal duties are managed through the prism of race and class distinctions.”
- “In the first video, Sherrod describes how she racially discriminates against a white farmer.”
- Her speech is a “racist tale.”

To this day, Defendant Breitbart publishes these exact same defamatory statements on his website despite his admitted knowledge of the truth. Indeed, he has subsequently stated that he “could care less about Shirley Sherrod,” underscoring that Mrs. Sherrod’s reputation was, at the very least, expected and acceptable collateral damage to his agenda. <http://video.foxnews.com/v/4288023/racial-double-standard-in-white-house>.

5. As a direct result of the highly-charged internet media environment, where misleading video segments and defamatory accusations can “go viral” and spread to a global audience in a matter of seconds, the defamatory blog post about Mrs. Sherrod — and the deceptive video segments that accompanied it — did extensive and irreparable harm to Mrs. Sherrod and her reputation. News stations across the country immediately and repeatedly aired the deceptively-edited video and echoed the false claims of Defendants. The Defendants’ defamatory statements touched off a national media firestorm which led Mrs. Sherrod, under duress, to resign from her position as USDA Georgia State Director for Rural Development. In addition, as a direct result of the defamatory claims, Mrs. Sherrod has been subjected to hateful and harassing emails, telephone calls and internet commentary.

6. Mrs. Sherrod brings this action to vindicate her rights and restore her reputation. As a direct and proximate result of the Defendants’ conduct, Mrs. Sherrod has suffered enduring damage to her reputation, as well as emotional distress and financial damages from the loss of her employment at the USDA. Mrs. Sherrod has been further damaged by having her integrity, impartiality, and motivations questioned, making it difficult (if not impossible) for her to

continue her life's work assisting poor farmers in rural areas. Because of these and other injuries sustained as a result of Defendants' tortious conduct, Mrs. Sherrod is entitled to compensatory damages in an amount to be determined at trial. Given the willful, malicious, intentional and reckless nature of Defendants' conduct, Mrs. Sherrod is also entitled to punitive damages.

### **JURISDICTION**

7. This Court has jurisdiction over the subject matter of this complaint pursuant to D.C. Code §11-921.

8. This Court may exercise personal jurisdiction over each of the Defendants pursuant to D.C. Code § 13-423 because each of the Defendants caused tortious injury to Mrs. Sherrod in the District of Columbia, and because Defendants Breitbart and O'Connor regularly do business, solicit contacts, derive revenue and engage in a persistent course of conduct there. On information and belief, Defendant JOHN DOE also has sufficient contacts with the District of Columbia to support the exercise of personal jurisdiction. Moreover, the case is properly brought in this Court because significant events giving rise to Mrs. Sherrod's complaint — and significant damage to Mrs. Sherrod's reputation — occurred within the District of Columbia.

### **THE PARTIES**

9. Plaintiff Shirley Sherrod is a resident and citizen of Georgia. A longtime advocate for civil rights and rural farmers in Georgia, Mrs. Sherrod has dedicated her entire adult life to public service. In July 2009, the Obama Administration appointed Mrs. Sherrod to serve as the USDA Georgia State Director for Rural Development, a position she held from August 17, 2009 until she was forced to resign on July 19, 2010. Mrs. Sherrod was the principal subject and target of a deceptively-edited video excerpt and defamatory blog post produced and published by Defendants on Defendant Breitbart's widely-read BigGovernment.com website.

10. Defendant Andrew Breitbart is a resident and citizen of California. Defendant Breitbart is a well-known blogger, author, publisher and media figure who owns, operates and publishes several widely-read internet websites: Breitbart.com, Breitbart.tv, BigHollywood.com, BigGovernment.com, BigJournalism.com and BigPeace.com. Defendant Breitbart has written a regular column for *The Washington Times* and regularly appears on television and radio programs as a commentator. Defendant Breitbart also regularly appears at speaking events, conferences, conventions and rallies, including those held in the District of Columbia. Defendant Breitbart is the author of the defamatory blog post that is the subject of this lawsuit.

11. Defendant Larry O'Connor is a resident and citizen of California. Defendant O'Connor is a featured blogger at the BigHollywood.com, BigGovernment.com and BigJournalism.com websites operated by Defendant Breitbart. Defendant O'Connor also hosts "The Stage Right Show," an internet talk radio program that is available to listeners across the country, including listeners in the District of Columbia, via the internet every weeknight. Defendant O'Connor also appears at speaking events, conferences and conventions, including those held in the District of Columbia. Shortly before Defendant Breitbart published his defamatory blog post attacking Mrs. Sherrod, Defendant O'Connor posted the edited video clip of Mrs. Sherrod's speech to YouTube.com under the pseudonym "StageRightShow."

12. Defendant JOHN DOE, on information and belief, is a resident and citizen of Georgia. According to a statement made by Defendant Breitbart in a televised interview, Defendant Breitbart received the video of Mrs. Sherrod's speech from "an individual in Georgia" in "early April" of 2010 whose identity he refused to reveal. <http://www.foxnews.com/story/0,2933,597324,00.html>. In a separate radio interview, Defendant

Breitbart stated that the video of Mrs. Sherrod's speech came from "a guy down in Georgia."  
<http://www.youtube.com/watch?v=hYqr8yPMIA0>.

### **FACTUAL BACKGROUND**

#### **Mrs. Sherrod Builds A Career and Good Reputation Helping Poor, Rural Farmers**

13. Mrs. Sherrod was born in Baker County, Georgia in 1947. Her father was a farmer, and Mrs. Sherrod grew up, with her five siblings, working on the family farm. She attended segregated schools in Georgia until college.

14. Mrs. Sherrod's father was murdered in March of 1965, when she was only seventeen years old. The suspect, a white farmer, escaped indictment by an all-white grand jury. In the wake of her father's death, Mrs. Sherrod vowed to remain in the South to help fight for justice and change.

15. Later in 1965, Mrs. Sherrod graduated high school and attended two years of college at Fort Valley College in Fort Valley, Georgia. Mrs. Sherrod finished college at Albany State University, where she received a degree in Sociology in 1970.

16. During her college years, Mrs. Sherrod began her involvement in the civil rights movement. Believing that building multiracial coalitions was essential to the fight for change, Mrs. Sherrod began her work with the Student Nonviolent Coordinating Committee (SNCC) in southwest Georgia. Despite her strong belief in the work of the SNCC, Mrs. Sherrod split from the group after its leader, Stokely Carmichael, publicly called for the group's expulsion of white members in 1966. Mrs. Sherrod expressed her disagreement with Mr. Carmichael's exclusionary position by leaving the group. In 1966, she co-founded her own organization, the Southwest Georgia Project for Community Education, a multiracial group that worked to support voter registration, integration, scholarships and early child care to those in need.

17. Mrs. Sherrod spent the next forty years centering her professional life on improving the lives of poor farmers in rural Georgia. From 1973 to 1985, she served at the New Communities Land Trust, where her work included managing a farmer's market, organizing farmers, helping to get representation for minority farmers on the county committees and providing opportunities for young and disadvantaged rural youth. In 1985, Mrs. Sherrod enrolled in a Masters Program at Antioch University Midwest. She received her Masters Degree in Rural Development from Antioch in 1989.

18. In 1985, Mrs. Sherrod became the Georgia Field Director of the Federation of Southern Cooperatives, an organization whose mission is to assist in land retention and development. The Federation of Southern Cooperatives operates in poor areas across the South to create cooperatives and credit unions as a collective strategy to create economic self-sufficiency. In her more than twenty-four years of service to that organization, Mrs. Sherrod assisted farmers in complying with state and federal regulations and dedicated herself to helping farmers in southwest Georgia keep their land.

19. As a result of her work helping poor farmers, Mrs. Sherrod earned and cultivated an excellent reputation in her community — and beyond — for fairness, lack of bias, decency, impartiality, evenhandedness and a dedication to public service.

#### **Mrs. Sherrod Accepts A Presidential Appointment To The USDA**

20. In July 2009, as a testament to her lifelong dedication to public service and her hard-earned reputation for helping rural farmers, Mrs. Sherrod received a call from an official in President Obama's Administration offering to appoint her to the position of Georgia State Director for Rural Development, a position within the United States Department of Agriculture. The Rural Development section of the USDA administers and manages over forty housing, business and community infrastructure and facility programs as established by Congress through



a network of 6,100 employees located in 500 national, state and local offices. These programs are designed to improve the economic stability of rural communities, businesses, residents, farmers and ranchers and improve the quality of life in rural America. The appointment to the position of State Director carries with it the highest government service level (GS-15) and a starting salary of \$111,000.

21. The position of Georgia State Director for Rural Development was attractive to Mrs. Sherrod because it provided a greater platform from which to continue her life's work helping rural farming communities. As Georgia State Director, Mrs. Sherrod would be able to make a significant and immediate impact on rural farming communities — and help the people who live in those rural communities — by coordinating federal funding for schools, police, medical facilities, water, sewers and utilities. Mrs. Sherrod accepted the appointment.

22. On August 17, 2009, Mrs. Sherrod began her tenure as Georgia State Director for Rural Development. Among her duties as Georgia State Director, Mrs. Sherrod was in charge of numerous programs spanning various areas of community development and the overall coordination of federal assistance in rural Georgia. Among other things, she supervised grants of business loans, homeownership loans, water and sewer loans and the construction and maintenance of multi-family rental units, health care clinics, fire stations and community buildings. She oversaw a staff of more than 120 people spread among the state office, six area offices, ten sub-offices and twenty-three rural development offices. Her job required judgment, respect and impartiality.

23. Mrs. Sherrod was supervised by — and reported directly to — senior officials at USDA headquarters in Washington, D.C. The week after assuming her duties, Mrs. Sherrod attended an orientation session in Washington, D.C., along with newly appointed State Directors

for Rural Development from other states around the country. Throughout her tenure as Georgia State Director for Rural Development, Mrs. Sherrod reported directly to Rural Development Deputy Undersecretaries Cheryl Cook and Victor Vasquez and, through these individuals, indirectly to United States Secretary of Agriculture Thomas Vilsack. Through written reports and telephone communications to USDA headquarters, Mrs. Sherrod remained in near-continuous communication with her supervisors in Washington.

24. With Mrs. Sherrod's federal position came more opportunities for public speaking. In November 2009, she was asked to give the Keynote Address at the National Community Land Trust Conference in Athens, Georgia. That same month, she was one of several panelists at the Food Commodity Contracting Opportunity for Rural America Southeast Regional Small Business Conference at Albany State University. In these and other speeches, Mrs. Sherrod emphasized the importance of looking beyond racial divisions to solve the economic challenges facing rural communities, farmers and small businesses.

#### **Mrs. Sherrod Speaks To The NAACP**

25. On March 27, 2010, the Georgia NAACP held its 20th Annual Freedom Fund Banquet in Douglas, Georgia. Mrs. Sherrod was one of several invited guests and was presented with the NAACP's award in recognition of her lifetime of public service. Mrs. Sherrod also was invited to speak at the banquet.

26. In preparing her remarks for the NAACP Freedom Fund Banquet, Mrs. Sherrod elected to use the same speech she had given several times before, including at a speaking engagement six months earlier at her alma mater, Albany State University. A principal theme of the speech was to emphasize the harsh reality that, in rural communities especially, economic hardships do not recognize racial boundaries. In delivering the speech to the NAACP Freedom

Fund Banquet, as she had done many times before, Mrs. Sherrod underscored the importance of providing assistance to those in need, regardless of race.

27. To emphasize this critical point of her speech, Mrs. Sherrod told the audience a story about her experience helping two white farmers, Roger and Eloise Spooner, save their farm from foreclosure more than twenty years earlier when she was working at the Federation of Southern Cooperatives. In 1986, Mrs. Sherrod was approached by Roger Spooner, a white farmer from Seminole County, Georgia who was facing the prospect of losing his farm to foreclosure. As she had done for countless other rural farmers, Mrs. Sherrod took affirmative steps over a period of many months to help Mr. Spooner and his wife Eloise keep their farm. As an initial step, Mrs. Sherrod personally accompanied the Spooners to a knowledgeable attorney who she believed could help them but, once it became clear that the attorney was providing limited (and untimely) assistance, Mrs. Sherrod personally called numerous contacts around the state, located another attorney with the relevant experience and expertise and accompanied the Spooners to multiple meetings with that second attorney. Ultimately, through the combined efforts of Mrs. Sherrod, the Spooners and the counsel that Mrs. Sherrod located for them, Mr. and Mrs. Spooner were able to save their farm from foreclosure. The Spooners have publicly credited Mrs. Sherrod with helping them save their farm and Mrs. Sherrod's assistance to them has resulted in a lifelong friendship between the families.

28. In her speech at the NAACP Freedom Fund Banquet, Mrs. Sherrod explained that, although she initially wondered whether the Spooners needed her personal attention because she was "struggling with the fact that so many black people ha[s] lost their farm land," she quickly came to realize that economic circumstance — not race — was the critical factor in determining

whether people needed help and that, as described above, Mrs. Sherrod did in fact take affirmative (and successful) steps to help the Spooners save their farm.

29. Mrs. Sherrod's March 27, 2010 speech at the NAACP Freedom Fund Banquet was videotaped by the NAACP. In the weeks and months following the speech, Mrs. Sherrod's full speech was repeatedly broadcast on DCTV3, a leased access television channel dedicated to providing public, educational and government programming for the communities of Douglas and Coffee Counties.

**Defendants Defame And Disparage Mrs. Sherrod  
By Publishing A Deceptively-Edited Video Of Her Speech**


30. On July 19, 2010, Defendant Breitbart published an inflammatory and highly damaging blog post on his BigGovernment.com website entitled *Video Proof: The NAACP Awards Racism-2010*. Andrew Breitbart, *Video Proof: The NAACP Awards Racism-2010*, BigGovernment.com (July 19, 2010), <http://biggovernment.com/abreitbart/2010/07/19/video-proof-the-naacp-awards-racism2010/> (Exhibit 1). With his post and the "video proof" allegedly embedded within it, Defendant Breitbart apparently hoped to embarrass the NAACP and its members by demonstrating that the NAACP had condoned and rewarded "racism" and "bigotry" in its ranks by inviting Mrs. Sherrod to speak at its event and applauding her "racist tale" of interaction with the Spooners.

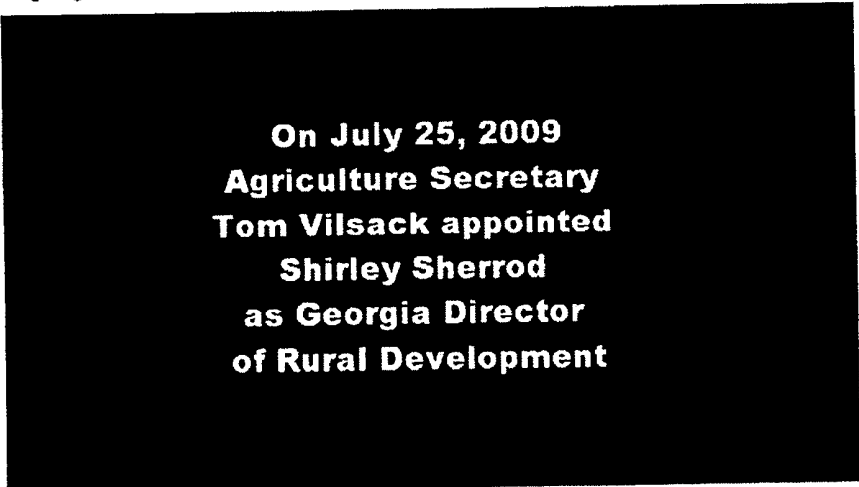
31. The "video proof" described in the inflammatory headline — and the centerpiece of the post itself — was a short, heavily-edited two-minute thirty-six second (2:36) segment of Mrs. Sherrod's March 27, 2010 speech at the NAACP Freedom Fund Banquet. StageRightShow, *NAACP Bigotry in their ranks* (July 18, 2010), [http://www.youtube.com/watch?v=t\\_xCeItxbQY](http://www.youtube.com/watch?v=t_xCeItxbQY). Defendants misleadingly and deceptively edited the content of the video segment — and annotated it with additional text to underscore their defamatory allegation — to falsely state,

directly contrary to the central premise and overall message of Mrs. Sherrod's speech to the NAACP, that Mrs. Sherrod had "racially discriminated" in carrying out her *federal job*.

32. The misleading video segment of Mrs. Sherrod's speech that Defendants embedded in the blog post included five introductory slides containing false statements of fact regarding Mrs. Sherrod — and hammered home the false and defamatory conclusion that Defendants wished their viewers to draw about Mrs. Sherrod. The first introductory slide states:

**NAACP Bigotry in their ranks**


StageRightShow 54 videos  Subscribe

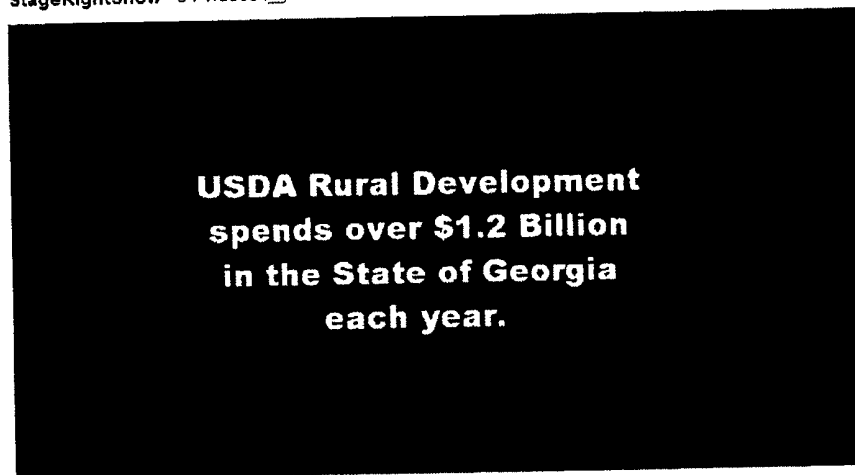


**On July 25, 2009  
Agriculture Secretary  
Tom Vilsack appointed  
Shirley Sherrod  
as Georgia Director  
of Rural Development**

33. The second introductory slide states:


**NAACP Bigotry in their ranks**

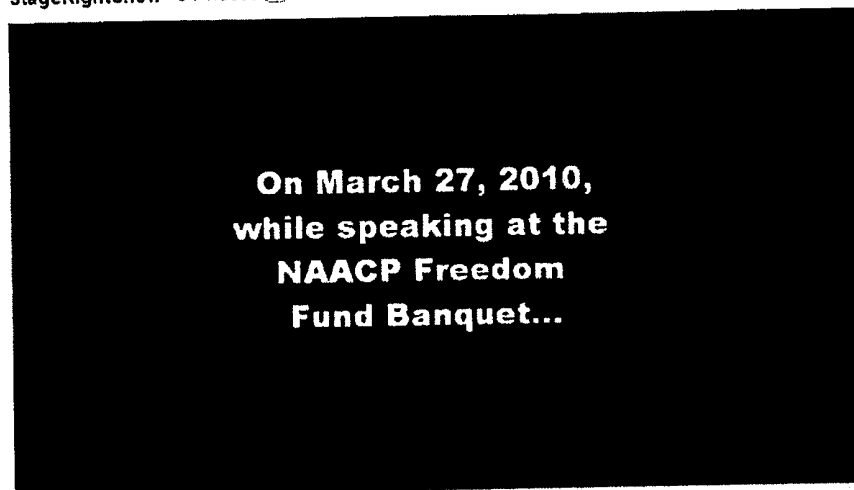
StageRightShow 54 videos  Subscribe



34. The third introductory slide states:


**NAACP Bigotry in their ranks**

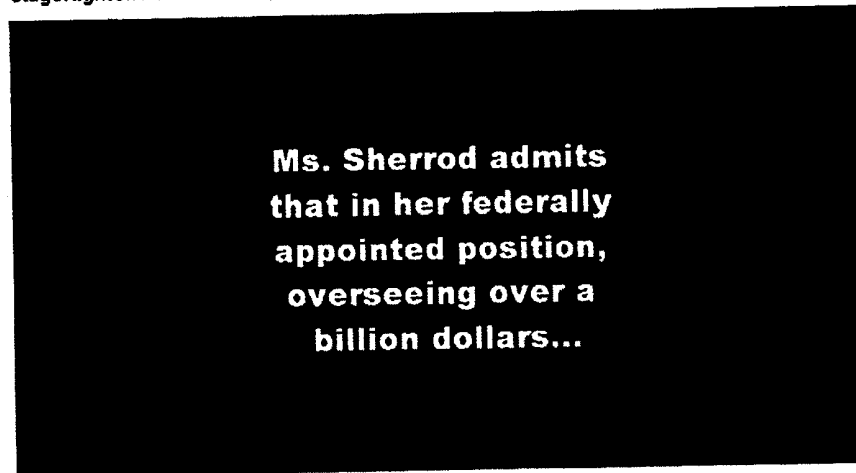
StageRightShow 54 videos  Subscribe



35. The fourth introductory slide states:


**NAACP Bigotry in their ranks**

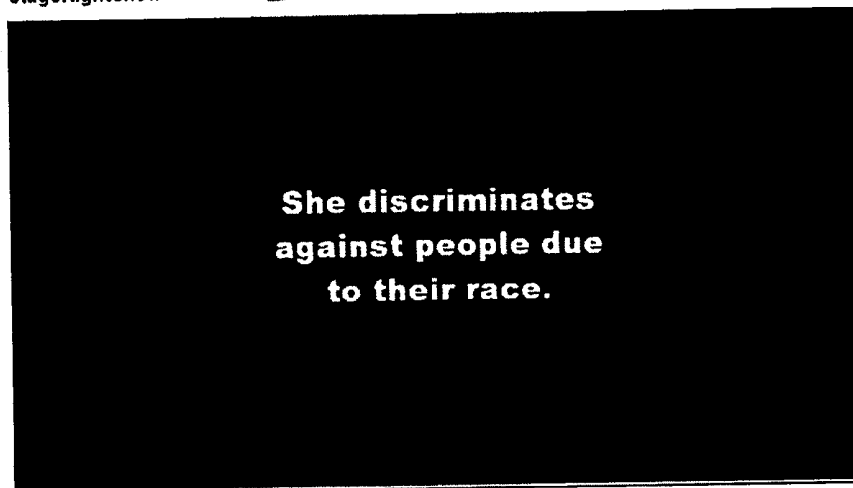
StageRightShow 54 videos  Subscribe



36. The fifth introductory slide states:

**NAACP Bigotry in their ranks**

StageRightShow 54 videos  Subscribe



37. These introductory slides — and the text that Defendants added to the video segment — defame and disparage Mrs. Sherrod by falsely stating that, in carrying out her duties as a federal government official, Mrs. Sherrod “discriminates against people due to their race.”

The introductory slides and text further defamed Mrs. Sherrod by presenting a preconceived conclusion that Defendants wished viewers to reach when viewing the segment.

38. None of these five introductory slides — or the defamatory text that appears on them — were present on the video of Mrs. Sherrod's speech prepared by the NAACP, or the video of the full speech that had been broadcast repeatedly on DCTV3 in Douglas and Coffee Counties. On information and belief, Defendants O'Connor and/or DOE, at the specific direction and with the full knowledge and consent of, Defendant Breitbart, added the introductory slides and defamatory text to the video clip embedded in the blog post. Defendant Breitbart then repeated, republished and adopted as his own the false and defamatory statements in the introductory slides when he embedded the video clip containing those introductory slides and text into his independently defamatory blog post — and published the slides and text to a worldwide internet audience on BigGovernment.com.

39. In addition to the false and defamatory statements directed specifically to Mrs. Sherrod, the introductory slides that the Defendants added to the video segment contained false statements of fact about the position that Mrs. Sherrod held at the time that she allegedly “discriminate[d] against people due to their race.” Despite the fact that Mrs. Sherrod's story regarding her dealings with the Spooners described events that had occurred in 1986 — twenty-three years before she was appointed to her federal position — the introductory text falsely states that Mrs. Sherrod “discriminates against people due to their race” in “her federally appointed position,” in the course of administering “over a billion dollars” of federal funds. Only later, after Defendants' deceptive editing of the video was publicly revealed, did Defendants add a “disclaimer” box to the introductory slides that stated: “While Ms. Sherrod made these remarks while she held a federally appointed position, the story she tells refers to actions she took before



she held that federal position.” The disclaimer did not appear on the video at the time it was initially embedded and published and at the time that the media firestorm ensued.

40. Defendants knowingly and intentionally edited the video of Mrs. Sherrod’s speech in a false, deceptive and misleading manner, with the specific intent of creating a video clip to support the conclusion that Mrs. Sherrod “discriminates against people due to their race” in the performance of her government job duties. In truth, Mrs. Sherrod’s story demonstrated exactly the opposite point. Specifically, Defendants knowingly and intentionally edited the video of Mrs. Sherrod’s speech to conceal Mrs. Sherrod’s true message and instead misleadingly presented only a short excerpt of the speech in which Mrs. Sherrod recounted her initial, internal struggle about helping a “white farmer.” Defendants’ selectively-edited video segment intentionally left out critical statements in the speech both before and after the portion that was presented.

41. Defendants knowingly and intentionally removed critical introductory statements by Mrs. Sherrod — spoken *just seconds before* her story about the Spooners — expressly identifying the point of the story and stating, without regard to race, that “the struggle is really about poor people.” NAACP Videos, *Shirley Sherrod: the FULL Video*, at 16:53-16:58 (July 20, 2010), [http://www.youtube.com/watch?v=E9NcCa\\_KjXk&feature=related](http://www.youtube.com/watch?v=E9NcCa_KjXk&feature=related). Instead of providing this essential introduction, Defendants deliberately edited the video to begin, misleadingly, with out-of-context statements that, when she was first confronted with the task of helping a “white farmer” save his farm, Mrs. Sherrod “didn’t give him the full force of what [she] could do” and instead took the white farmer “to one of his own.” *Id.* at 17:03-18:43. Defendants deliberately edited the video to present these statements in a false and misleading manner, without the

introductory statements immediately preceding them, thereby defaming Mrs. Sherrod and casting her in a false and damaging light.

42. Defendants also knowingly and intentionally removed many other critical statements from the video of Mrs. Sherrod's speech — some coming *just after* her story about the Spooners — that had made clear the central premise and main theme of her speech. Indeed, the edited video clip cuts Mrs. Sherrod's story off mid-sentence. Moreover, in a portion of Mrs. Sherrod's speech that came *after* the segment deceptively excerpted by Defendants, Mrs. Sherrod clearly stated the point of her story regarding the Spooners — and emphasized to the audience that the story was intended to reinforce her firm stance *against* the exercise of power in a racially discriminatory manner. Specifically, she told the NAACP audience: "Well, working with [Roger Spooner] made me see that it's really about those who have versus those who don't, you know. And they could be black and they could be white. They could be Hispanic. And it made me realize then that I needed to work to help poor people, those who don't have access the way others have." *Id.* at 21:00-21:25. Defendants knowingly, intentionally and recklessly omitted this critical statement from the video clip featured in the defamatory blog post.

43. Indeed, throughout the entirety of her forty-three minute speech to the NAACP, Mrs. Sherrod stressed the need for racial unity and repeatedly emphasized that poverty, not race, must be the critical factor for helping those in need. The following additional excerpts from Mrs. Sherrod's speech — all intentionally and recklessly omitted by Defendants in the misleading video segment embedded in the defamatory blog post — make the true message of Mrs. Sherrod's speech abundantly clear:

- "God will show you things and he'll put things in your path so that you realize that the struggle is really about poor people." *Id.* at 16:45-16:58.
- "What we have to do is get [racism] out of our heads. There is no difference between us." *Id.* at 23:24-23:31.

- “It’s sad that we don’t have a room full of white and blacks here tonight, because we have to overcome the divisions that we have. We have to get to the point where, as Toni Morrison said, race exists but it doesn’t matter.” *Id.* at 25:55-26:13.
- “Our communities are not going to thrive. Our children won’t have the communities that they need to be able to stay and live in and have a good life if we can’t figure this out, you all. White people, black people, Hispanic people, we all have to do our part to make our communities a safe place, a healthy place, a good environment.” *Id.* at 26:24-26:53.

44. Defendants intentionally and recklessly omitted these (and many other) critical statements from the short segment of the speech featured in the defamatory blog post, each of which makes clear that Mrs. Sherrod does not condone or practice racism, or any form of racial discrimination, in the exercise of her job responsibilities.

45. Through these and other deceptive editing techniques, Defendants deliberately edited the full video of Mrs. Sherrod’s forty-three minute speech down to a short, highly misleading two-and-a-half minute clip that Defendants knew, or should have known, would portray Mrs. Sherrod in a false and defamatory manner. Given the extensive and misleading nature of Defendants’ edits to the video, the addition of defamatory introductory slides and the inflammatory placement of the deceptive video segment amid defamatory text and headlines in the blog post, it is abundantly clear that Defendants’ defamation and disparagement of Mrs. Sherrod was done intentionally and with actual malice.

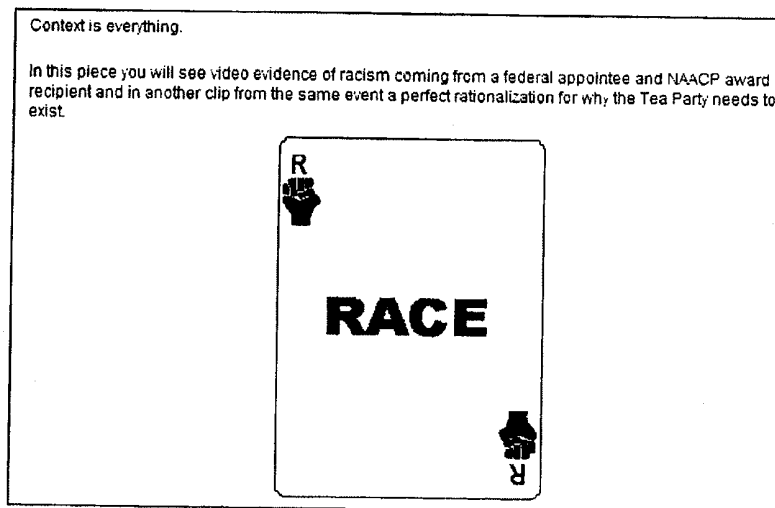
46. Defendants Breitbart and O’Connor actively induced, encouraged and aided and abetted Defendant JOHN DOE in obtaining the full video of Mrs. Sherrod’s speech, editing the video in a deceptive and intentionally misleading manner, adding inflammatory and factually inaccurate text to the introduction of the edited video segment, preparing the edited video segment for inclusion in the blog post and embedding the edited video in the defamatory post. Upon information and belief, Defendant JOHN DOE sent the video of Mrs. Sherrod’s speech to Defendants Breitbart and O’Connor with the knowledge and intention that it be used to mislead

the public about the content of Mrs. Sherrod's speech and to defame her reputation. On July 18, 2010, Defendant O'Connor published the deceptively-edited video on YouTube under his pseudonym, "StageRightShow." One day later, Defendant Breitbart published the same deceptively-edited video on the BigGovernment.com website.

**Defendant Breitbart Further Defames And Disparages  
Mrs. Sherrod In The Text Of The *Video Proof* Blog Post**

47. The defamation and disparagement of Mrs. Sherrod was not limited to the posting of the deceptively-edited video clip. Defendant Breitbart embedded the video clip in a 1,396 word blog post, published under his name and picture, entitled *Video Proof: The NAACP Awards Racism-2010*. The headline and text of Defendant Breitbart's blog post further defamed and disparaged Mrs. Sherrod by making additional false and defamatory allegations — and reinforcing the false statements and themes of the deceptively-edited video.

48. Ironically, Defendant Breitbart begins his defamatory blog post with the statement that "[c]ontext is everything." *Video Proof: The NAACP Awards Racism-2010*. Defendant Breitbart then states the defamatory conclusion he wishes his readers to reach from the remainder of the post: "In this piece you will see video evidence of racism coming from a federal appointee and NAACP award recipient ...." *Id.* He then celebrates his defamation by including a cartoon depiction of a "race card," featuring symbols of a "black power" hand gesture. The inflammatory preamble appears on the BigGovernment.com website as follows:



49. Next, Defendant Breitbart claims to be “in possession of a video” in which Mrs. Sherrod, whom he identifies with her then-current title of “USDA Georgia Director of Rural Development,” gives a “meandering speech” to an “all-black audience.” *Id.* Defendant Breitbart then falsely states that the video shows that Mrs. Sherrod “lays out in stark detail” how “her *federal duties are managed through the prism of race and class distinctions.*” *Id.*<sup>1</sup>

50. Defendant Breitbart further states that the video clip showed Mrs. Sherrod “describ[ing] how she *racially discriminates* against a white farmer” and telling a “*racist tale.*” *Id.*

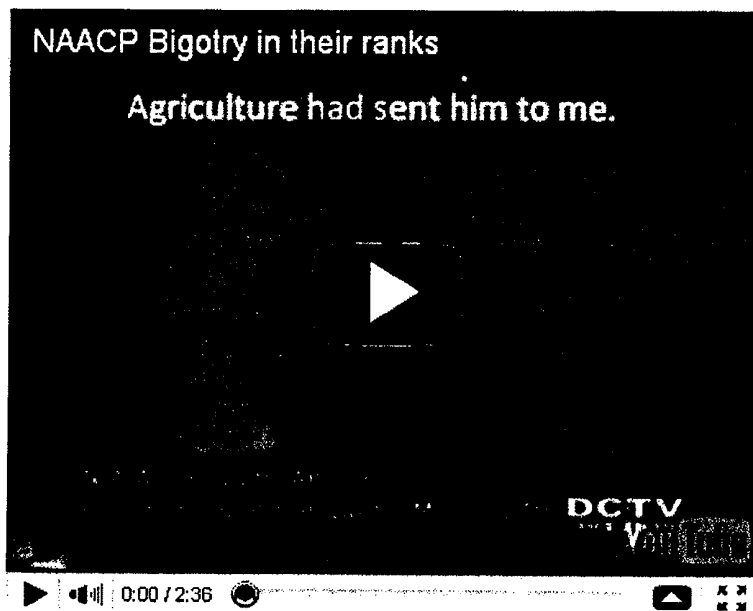
51. Although the text of the blog post does, in one stray reference, concede that Mrs. Sherrod gave some help to the farmer, even this statement is portrayed in a deliberately misleading and incomplete manner. The blog post mentions only the first part of Mrs. Sherrod’s assistance — that Mrs. Sherrod initially referred the farmer to a white lawyer, noting sarcastically that Mrs. Sherrod had “decide[d] that he should get help from ‘one of his own

---

<sup>1</sup> Emphasis added unless otherwise noted.

kind,” taking yet another quote out of context from Mrs. Sherrod’s speech. *Id.* Defendant Breitbart knowingly and intentionally excluded the remaining part of Mrs. Sherrod’s story where she explains the extraordinary additional steps she took to help the Spooners after learning that the first lawyer was not providing adequate or timely assistance.

52. To drive his point home, Mr. Breitbart then embedded into the blog post the selectively-edited video clip described above, prefaced by additional false and defamatory introductory statements: “Mrs. Sherrod admits that in her federally appointed position, overseeing over a billion dollars ... [s]he discriminates against people due to their race.” *NAACP Bigotry in their ranks.*



53. Defendant Breitbart ends his post by drawing a comparison between the “real video evidence” and the “mainstream media’s straight faced reportage of the NAACP’s baseless accusations [of racism].” *Video Proof: The NAACP Awards Racism-2010.*

54. Nowhere in his post did Defendant Breitbart explain the true content of Mrs. Sherrod’s speech or how Mrs. Sherrod took extraordinary steps to help the Spooners and prevent

them from losing their farm. Instead, Mr. Breitbart sensationalized and exaggerated the misleading content of the edited video clip with false and defamatory statements to convince his readers that Mrs. Sherrod had exercised — and continued to exercise — her federal job duties in a racist manner.

55. Indeed, Defendant Breitbart falsely stated that Mrs. Sherrod's racially discriminatory conduct in the exercise of her job duties is ongoing. The blog post falsely states in the present tense that Mrs. Sherrod's "federal duties *are managed* through the prism of race and class distinctions." *Id.* This, despite the readily discernable facts that:

- Mrs. Sherrod did not hold a federal position at the time the events in her story unfolded;
- Mrs. Sherrod was talking about events that occurred 23 years earlier; and, most importantly,
- Mrs. Sherrod was actually saying that one should *not* offer or withhold help on the basis of racial distinctions.

Defendant Breitbart describes Mrs. Sherrod's story a "racist tale" when, in fact, it is exactly the opposite: a parable *against* racism.

56. Defendants worked together to obtain the full video of Mrs. Sherrod's speech, edit the video in a deceptive and intentionally misleading manner, add inflammatory and factually inaccurate text to the introduction of the edited video segment, prepare the edited video segment for inclusion in the defamatory blog post and embed the video segment in the blog post.

57. Defendant JOHN DOE contacted Defendant Breitbart with the express purpose of enlisting Defendant Breitbart's help in accusing Mrs. Sherrod of exercising her federal position in a racist manner and publicizing these defamatory allegations. On information and belief, as a resident of Georgia, Defendant JOHN DOE had access to and had seen the local television broadcast that aired the full version of Mrs. Sherrod's speech. Indeed, Defendant Breitbart has

stated that Defendant JOHN DOE attempted to send the full content of the speech to him as early as April 2010. <http://www.foxnews.com/story/0,2933,597324,00.html>.

58. Defendant Breitbart also has admitted in a radio interview that he directed Defendant JOHN DOE to “cut the pertinent information” from the full speech. <http://www.youtube.com/watch?v=hYqr8yPMIA0>. Both individuals acted with full awareness that the edited clip published on Defendant Breitbart’s blog was false and defamatory. On information and belief, Defendant JOHN DOE published his own version of the edited video clip on YouTube as early as July 15, 2010.

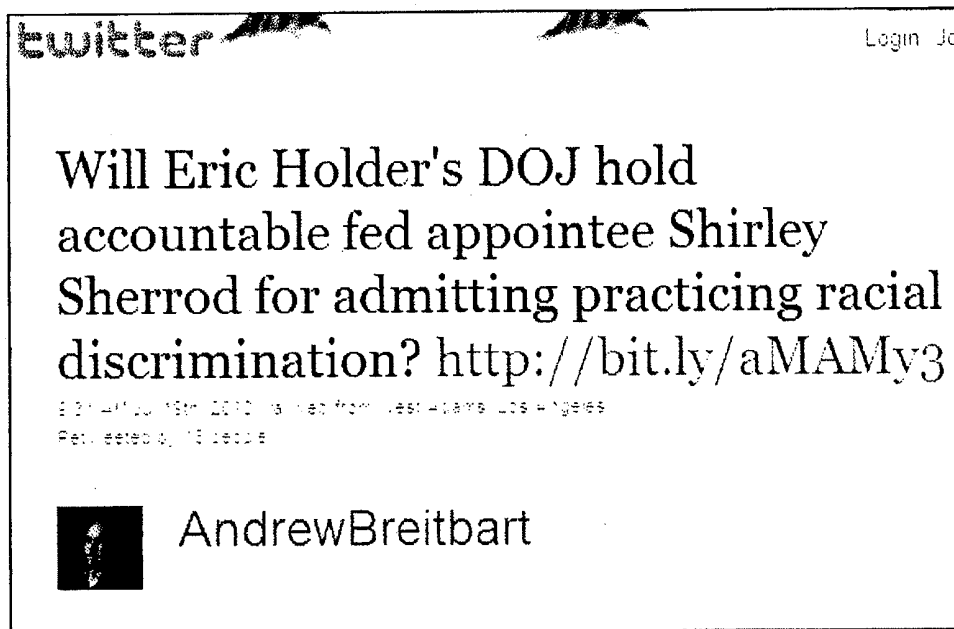
59. As a frequent contributor to three of Defendant Breitbart’s websites and Editor-in-Chief of Breitbart.TV, Defendant O’Connor was a close associate to Defendant Breitbart. The day immediately prior to the publication of Defendant Breitbart’s blog post, Defendant O’Connor separately posted the edited video clip to YouTube.com under the name “StageRightShow.” Defendant O’Connor’s posting of the defamatory video on YouTube is a stand-alone defamation of Mrs. Sherrod and provided Defendant Breitbart with the necessary digital ammunition for his defamatory blog post. The YouTube clip posted by Defendant O’Connor and the video clip on Defendant Breitbart’s post are exactly the same. Indeed, Defendant Breitbart’s blog post embeds and directly links to the video clip that Defendant O’Connor posted on YouTube.

**Defendant Breitbart Publicizes His Defamatory Blog Post  
(And Further Defames And Disparages Mrs. Sherrod) On Twitter**

60. On July 19, 2010, the same day that he published the deceptively-edited video segment and defamatory blog post, Defendant Breitbart publicized and compounded his defamation of Mrs. Sherrod by publishing a Twitter message, or “tweet,” making clear that Mrs. Sherrod was indeed the intended target of the Defendants’ malicious acts. At 9:31 am on July



19, 2010, Defendant Breitbart “tweeted” the following message: “Will Eric Holder’s DOJ hold accountable fed appointee Shirley Sherrod for admitting *practicing racial discrimination*?” Andrew Breitbart, *Will Eric Holder’s DOJ hold accountable fed appointee Shirley Sherrod for admitting practicing racial discrimination?*, Twitter (July 19, 2010), <http://twitter.com/AndrewBreitbart/status/18928307285>.



61. Defendant Breitbart’s Twitter message contains undeniable falsehoods: Mrs. Sherrod never admitted “practicing racial discrimination” and certainly never admitted doing so in her position as a “fed[eral] appointee.” Moreover, by inciting Attorney General Holder to “hold accountable” Mrs. Sherrod, Defendant Breitbart clearly insinuated that she had done something worthy of prosecution or retribution by the federal government. Defendant Breitbart’s Twitter message directly illustrates his intent to accuse Mrs. Sherrod of unlawful activity and to provoke and instigate financial and reputational damage to Mrs. Sherrod.

### Defendants Acted With Actual Malice

62. Angered by the NAACP's claims of racism against the Tea Party, Defendant Breitbart used Mrs. Sherrod to further his own agenda of counter-attacking the NAACP with claims of racism. In doing so, he and his associates acted with actual malice, reckless intent and gross indifference to the false and misleading nature of the edited clip posted on his blog and the effects that the posting would have on Mrs. Sherrod.

63. On its face, it is blatantly obvious that the clip posted to Defendant Breitbart's website is an excerpt from a longer speech. In fact, by stating that he asked Defendant JOHN DOE to "cut the pertinent information," Defendant Breitbart has admitted that he *knew* the clip was edited from a longer speech at the moment he published it. <http://www.youtube.com/watch?v=hYqr8yPMIA0>. Indeed, amidst his post-publication excuses, Defendant Breitbart acknowledged in a July 2010 interview with Newsweek that he "should have waited for the full video ...." <http://www.newsweek.com/blogs/the-gaggle/2010/07/30/breitbart-i-d-like-to-speak-with-sherrod-in-private.html>.

64. Despite Defendant Breitbart's knowledge of the full content of the video, or — at the very least — knowledge that he only had a fraction of the story and that the clip was heavily edited, he knowingly and intentionally published it with full awareness that he was publicly branding Mrs. Sherrod as someone who "discriminates" against people due to their race. Defendant Breitbart's concession that he "should have waited for the full video to get to me" underscores his acknowledgement that his conduct was wrongful and harmful towards Mrs. Sherrod. *Id.*

65. Defendant Breitbart's own comments reveal that he and his associates acted with full awareness of the falsity of their statements. In his own public statements, Defendant Breitbart admitted that he had seen more of the tape than he posted on his website. In a July 20,

2010 interview with CNN's John King, Defendant Breitbart stated that "the more video that we've seen, that we *haven't even offered*, there's even more racism on these tapes. This is deeply problematic." <http://www.youtube.com/watch?v=DxcBIEV8bmI>. Defendant Breitbart later said falsely in the same interview that "there's *more racist sentiment in the video.*" *Id.*

66. Indeed, in a later post to his BigGovernment.com website, Defendant Breitbart has admitted that he had been in possession of the tape of Mrs. Sherrod's speech as early as July 15, 2010 — meaning that for at least four days, he either knew the full content of Mrs. Sherrod's speech and published the misleadingly-edited and defamatory video clips anyway, or had ample time to investigate the veracity of the clips and made a conscious decision not to do so. Defendant Breitbart made this clear by describing the threat he made to NAACP President Ben Jealous on July 15, 2010: "On Thursday, July 15th, I warned NAACP president Ben Jealous to stop the race-baiting. I directed my ire at Jealous on the Scott Hennen radio show: 'I have tapes, a tape, of racism, and it's an NAACP dinner. You want to play with fire? I have evidence of racism, and it's coming from the NAACP.'" <http://biggovernment.com/abreitbart/2010/12/06/me-mrs-sherrod-and-the-pigford-ii-black-farmers-settlement/>. Defendant Breitbart's reckless decision to threaten the NAACP with the video — instead of using his communication with the NAACP to determine the accuracy and completeness of the video — provides additional evidence of his malice.

67. In addition to his own statements and admissions, external facts leave little doubt as to the knowledge and defamatory intent of Defendant Breitbart and his associates. It is plainly obvious from even the edited version of the tape that Mrs. Sherrod was describing events in the distant past. To give just one example, in the video clip, Mrs. Sherrod mentions that when Mr. Spooner came to her for help, "Chapter 12 bankruptcy had just been enacted for the family

farm.” *NAACP Bigotry in their ranks*. A quick web search easily reveals that Chapter 12 was added to the Bankruptcy Code in 1986. Thus, Mrs. Sherrod could not have been describing actions taken in the course of her federal duties, which did not begin until 2009.

68. Defendants also recklessly disregarded numerous readily-available sources that would have quickly demonstrated the false and defamatory nature of the selectively-edited videos — and the defamatory blog post in which they planned to use them. Defendants made no effort to contact Mrs. Sherrod to verify the accuracy of the video clips or whether they accurately reflected her views and conduct, made no effort to contact the NAACP to obtain a copy of the full, unedited tape, made no effort to contact the local television stations in Georgia to obtain a copy of the full, unedited tape, and made no effort to obtain the full speech from other sources.

69. To this date neither Defendant Breitbart nor the other Defendants have ever issued an apology to Mrs. Sherrod. Tellingly, Defendant Breitbart has left the defamatory blog post on the internet, amounting to daily republication, despite now knowing the full context of Mrs. Sherrod’s story. Defendant Breitbart’s only concession was to post a small “correction” on the blog post to address the fact that Mrs. Sherrod’s story “refers to actions she took before she held that federal position.” *Video Proof: The NAACP Awards Racism-2010*. Defendants have not removed or withdrawn the blog post or video clip, and their daily republication has caused ongoing and serious harm to Mrs. Sherrod.

**Defendants’ Defamatory Statements Are Repeated And Republished  
In Other Media Outlets, Compounding The Harm To Mrs. Sherrod**

70. Defendants’ publication of the deceptively-edited video segment and the blog post set off a media firestorm. Prompted and encouraged by Defendant Breitbart, national and local media outlets across the country republished and amplified the false and defamatory statements. For example:

- On July 19, FoxNews.com reported: “Days after the NAACP clashed with Tea Party members over allegations of racism, a video has surfaced showing an Agriculture Department official regaling an NAACP audience with a story about how she withheld help to a white farmer facing bankruptcy.” <http://www.foxnews.com/politics/2010/07/19/clip-shows-usda-official-admitting-withheld-help-white-farmer/>.
- On July 19, 2010, in a Gateway Pundit post titled, *More Racism at NAACP: Radical Obama Official Admits That She Openly Discriminates Against Whites*, Jim Hoft posted Breitbart’s video clip and wrote: Sherrod “admits in a speech at the NAACP that she discriminated against farmers because they were white.” <http://gatewaypundit.rightnetwork.com/2010/07/more-racism-at-naacp-radical-obama-official-admits-to-leftist-group-that-she-openly-discriminates-against-whites-video/>.
- On July 19, 2010, the Drudge Report linked to a CBS New York City affiliate’s story on Mrs. Sherrod with the headline, *SHOCK: Video Suggests Racism At NAACP Event*. [http://www.drudgereportarchives.com/data/2010/07/19/20100719\\_212852.htm](http://www.drudgereportarchives.com/data/2010/07/19/20100719_212852.htm).
- On July 19, 2010, CNN reporter Joe Johns reported on Mrs. Sherrod’s resignation, stating that Mrs. Sherrod “has resigned after a YouTube video surfaced showing her describing to an NAACP audience how she withheld help to a white farmer,” and airing a portion of her comments taken from the Breitbart clip. <http://transcripts.cnn.com/TRANSCRIPTS/1007/19/acd.01.html>.
- On July 20, 2010, MSNBC’s Morning Joe aired the edited Sherrod clip and reported that Secretary Vilsack accepted Mrs. Sherrod’s resignation. Co-host Joe Scarborough then said that “a narrative is going to emerge ... certainly on the right with this tape that’s just come out — and you’ll be hearing this the next couple of days. I think its relevance relates back to the New Black Panthers tapes that have been out there.” <http://mediamatters.org/mmtv/201007200046>.

71. Defendant Breitbart himself conducted at least three interviews on July 20, 2010:

- In an interview with CNN’s John King, Defendant Breitbart said Mrs. Sherrod “...expresses a discriminatory attitude towards white people” and the audience is “...applauding her overt racism she is representing.” <http://www.youtube.com/watch?v=DxcBIEV8bml>.
- In an interview on 971 FM Talk, Defendant Breitbart said Mrs. Sherrod was “speaking in a racist language and the audience is accepting it, and laughing at it, and applauding it, and that is deeply offensive and it’s ten times more evidence, matter of fact, it’s a billion times more evidence than the main stream media has been able to compile over a year and a half of trying to falsely frame the tea party as racist.” He continued, “Can you imagine CNN right now going wall-to-wall with the Shirley Sherrod story? If Shirley Sherrod were white? And Shirley Sherrod had said those racial things, trying to find exculpatory evidence saying well maybe later

in the tape, later in the tape, what? She's talking in racist terms, she refers to whites as the other and everybody in the audience nods in laughter, she was speaking in present tense, she was not talking about I used to, she was skeptical of white people, throughout the entire thing, the full video will show that she sees things through a racial prism and that is what the NAACP has been about it." <http://www.youtube.com/watch?v=AM7WqVrcBew&p=3EC2C5A88A2F76B0&playnext=1&index=11>.

- In a third interview on Fox News with Hannity, Mr. Breitbart said: "...I'm agnostic on the issue [of her being fired] ... I could care less about Shirley Sherrod." <http://video.foxnews.com/v/4288023/racial-double-standard-in-white-house>.

### **Mrs. Sherrod Is Forced to Resign**

72. On Monday, July 19, 2010, shortly after the publication of Defendants' defamatory blog post Mrs. Sherrod's phone started ringing off the hook with calls from the media asking for her reaction to the post. Mrs. Sherrod immediately notified the media department at the USDA and was told that "someone from D.C. would be calling" her back with specific instructions.

73. Meanwhile, at USDA headquarters, the agency's response to the Breitbart post was frantic and harsh. Shortly after learning of the blog post and video clip, USDA Communications Director Chris Mather advised colleagues "THIS IS HORRIBLE." <http://articles.latimes.com/2010/oct/07/nation/la-na-sherrod-usda-20101008>. Other USDA officials described Secretary Vilsack as "absolutely sick and mad" about the situation. *Id.* Internal USDA emails indicate that upon learning of the selectively-edited clip, Secretary Vilsack stated that it was the worst thing that had happened during his tenure at the agency.

74. The same day, at approximately 3:38 pm, while attending a meeting in west Georgia, Mrs. Sherrod received a phone call from Cheryl Cook in Washington. Ms. Cook, Deputy Under Secretary for Rural Development, told Mrs. Sherrod that she has been placed on administrative leave and advised her to go home. Mrs. Sherrod began the long, seven-hour drive to Athens, Georgia to return her government property to the office before continuing home to Albany, Georgia.

75. At approximately 4:42 pm, while driving, Mrs. Sherrod received a second call from Ms. Cook asking where Mrs. Sherrod was.

76. At approximately 5:56 pm, while still driving, Mrs. Sherrod received a third telephone call from Ms. Cook. Ms. Cook told Mrs. Sherrod that the White House wanted her resignation.

77. At approximately 6:35 pm, while still driving, Mrs. Sherrod received a fourth telephone call from Ms. Cook. Ms. Cook told Mrs. Sherrod that they could not wait any longer for her resignation and instructed her to pull over to the side of the road to email her resignation from her blackberry. Mrs. Sherrod, under duress, did as she was requested and sent her resignation at 6:55 pm.

78. On the morning of Tuesday, July 20, 2010, Mrs. Sherrod awoke to several media trucks parked outside of her home and repeated requests from reporters to enter her house. Her phones were ringing so often that it had to be taken off the hook.

79. Later that day, Secretary Vilsack defended the decision to demand the resignation of Mrs. Sherrod because her ability to do her job was compromised: “[S]tate rural development directors make many decisions and are often called to use their discretion. The controversy surrounding her comments would create situations where her decisions, rightly or wrongly, would be called into question making it difficult for her to bring jobs to Georgia.” <http://content.usatoday.com/communities/theoval/post/2010/07/obama-white-house-dragged-into-ag-departmentnaacp-flap/1>; *see also* <http://www.youtube.com/watch?v=FZfGDEqhVqM>.

#### **The Full Video Surfaces**

80. On Tuesday, July 20, 2010, at approximately 7:45 pm, the NAACP released the full video of Mrs. Sherrod’s speech at the Freedom Fund Banquet. The NAACP quickly recognized and stated that Defendant Breitbart’s deceptively-edited video “didn’t tell the full story” and was

“selectively edited to cast her in a negative light.”

[http://www.naacp.org/news/entry/video\\_sherrod](http://www.naacp.org/news/entry/video_sherrod).

81. The local TV station in Albany, Georgia also began airing the similar speech Mrs. Sherrod had given at Albany State.

82. Realizing that Defendant Breitbart’s edited video and defamatory statements had deceived them, senior White House and other administration officials began to apologize to Mrs. Sherrod for their earlier rush to judgment. On July 21, 2010 Press Secretary Robert Gibbs apologized to Mrs. Sherrod during a White House press briefing. Later that day, Secretary Vilsack held a press conference that included an apology to Mrs. Sherrod. On July 22, 2010, President Obama apologized to Mrs. Sherrod.

83. Many national media figures and other leaders also followed with apologies. For example, a leading talk show host, Bill O’Reilly, apologized, stating “So I owe Mrs. Sherrod an apology for not doing my homework, for not putting her remarks into the proper context.” <http://www.foxnews.com/on-air/oreilly/transcript/who-shirley-sherrod-and-why-was-she-unjustly-fired-obama-administration>.

**Defendant Breitbart Defiantly Refuses To Apologize To Mrs. Sherrod,  
Retract The Defamatory Blog Post, Or Remove It From His Website**

84. Despite widespread recognition that Breitbart’s blog post, at the very least, created a false impression of Mrs. Sherrod, to date, none of the Defendants have apologized to Mrs. Sherrod or published a retraction of the defamatory video or blog post. Even more striking is the fact that Defendant Breitbart has not removed the defamatory content from his blog. His original blog post remains available on BigGovernment.com exactly as it was on July 19, complete with the deceptively-edited version of Mrs. Sherrod’s speech and the introductory slides stating that



she “discriminates against people due to their race” in her federal position. This despite the fact that the complete version of Mrs. Sherrod’s speech has been available for many months.

85. Similarly, throughout the media firestorm that ultimately forced Mrs. Sherrod’s resignation, Defendant JOHN DOE, who unquestionably knew the full content and true message of Mrs. Sherrod’s speech, stood silent and took no action to identify himself or correct the false reports. Instead, Defendant JOHN DOE sat idly by and watched while Mrs. Sherrod’s career and hard-earned reputation were destroyed.

**Mrs. Sherrod Has Suffered Severe Reputational And Financial Harm And Has Been Subjected To Severe Emotional Distress**

86. As a direct and proximate result of Defendants’ conduct, Mrs. Sherrod has suffered serious reputational, financial and professional damage. Mrs. Sherrod was forced to resign from her position at the USDA, which had paid her approximately \$113,000 a year.

87. Beyond the financial damage, however, Mrs. Sherrod has suffered irreparable reputational and career damage. Despite the fact that the Obama Administration and various news outlets have offered Mrs. Sherrod their apologies, she remains known by countless persons nationwide for her allegedly “racist” remarks. To make matters worse, even after the full video surfaced, numerous blogs and internet sites continued to rely on — and link to — Defendants’ blog post to viciously accuse Mrs. Sherrod of being a racist.

88. Most difficult for Mrs. Sherrod is her inability to continue in the career that she loved. With her objectivity, independence and intentions called into question, and with her name so closely tied to issues of racial discrimination, Mrs. Sherrod is no longer able to effectively discharge her former duties as the Georgia State Director for Rural Development.

89. Mrs. Sherrod has also been forced to deal with unwanted and unwelcome attention. Unwillingly thrust into the spotlight by Defendant Breitbart’s allegations, Mrs. Sherrod is now

constantly approached by strangers who recognize her exclusively from the controversy sparked by Defendant Breitbart's blog post. Dealing with this public attention has caused Mrs. Sherrod to suffer exhaustion and has forced her to alter daily plans. Because Mrs. Sherrod has been subjected to this unwanted attention, harassment and heckling as a result of Defendant Breitbart's post, she has been forced to take extra security precautions.

90. Moreover, Mrs. Sherrod has suffered continued severe emotional distress as a result of the defamation. She has received harassing phone calls in the middle of the night, interrupting her sleep, as well as harassing emails. Mrs. Sherrod who, at age 63, already suffered from diabetes, also has had problems sleeping and increasingly severe back pain.

#### **DEFENDANTS' CONDUCT WARRANTS PUNITIVE DAMAGES**

91. Defendants' conduct warrants the imposition of punitive damages. The factors justifying punitive damages include, at a minimum, the following:

- a. Defendants knowingly and intentionally edited the video of Mrs. Sherrod's speech to give the misleading impression that Mrs. Sherrod exercised her job duties in a racist manner;
- b. Defendants added false commentary into the video stating that Mrs. Sherrod "discriminates against people due to race" "in her federally appointed position;"
- c. Defendants acted with actual malice in altering the video — that is, acted with actual knowledge of the falsity of the speech or reckless disregard of it;
- d. Defendants intentionally and/or recklessly ascribed to Mrs. Sherrod conduct and characteristics that would adversely affect her fitness for her profession;
- e. Defendants edited the video of Mrs. Sherrod's speech with the purpose of publishing it and disseminating it;

- f. Defendants targeted Mrs. Sherrod in order to make her an example of alleged NAACP racism;
- g. Defendant JOHN DOE sent the video of Mrs. Sherrod's full speech to Defendants Breitbart and O'Connor with the intention that it be used to mislead the public about the true content of the speech and to defame her reputation;
- h. Defendant O'Connor knowingly and intentionally and/or recklessly or negligently posted the edited version of Mrs. Sherrod's speech to YouTube in order to give the impression that Mrs. Sherrod exercised her job duties in a racist manner;
- i. Defendant Breitbart knowingly and intentionally and/or recklessly or negligently posted the edited version of Mrs. Sherrod's speech to his blog in order to give the impression that Mrs. Sherrod exercised her job duties in a racist manner;
- j. Defendant Breitbart added additional commentary describing Mrs. Sherrod's speech in which he falsely stated that Mrs. Sherrod's "federal duties are managed through the prism of race and class distinctions," and in which he falsely accuses her of "describ[ing] how she racially discriminates against a white farmer" and telling a "racist tale;"
- k. Defendant Breitbart acted with actual malice authoring his blog post — that is, he acted with actual knowledge of the falsity of the speech or reckless disregard of it;
- l. Defendants intentionally and/or recklessly ascribed to Mrs. Sherrod conduct and characteristics that would adversely affect her fitness for her profession;
- m. Defendant Breitbart acted with actual malice in posting a Twitter message encouraging Attorney General Holder to "hold accountable" "fed appointee" Mrs. Sherrod for "admitting practicing racial discrimination;"

- n. Defendant Breitbart continues to republish the defamatory blog post even with undisputed actual knowledge of its falsity;
- o. Defendants refuse to apologize to Mrs. Sherrod and refuse to issue a retraction.

**COUNT I: DEFAMATION**

92. Plaintiff incorporates all preceding paragraphs of the Complaint as fully set forth herein.

93. Through the editing of the video of Mrs. Sherrod's speech and the publication of falsehoods on BigGovernment.com, YouTube.com and Twitter.com, Defendants have defamed Mrs. Sherrod in at least the following ways:

- a. By falsely stating, both directly and by implication, that Mrs. Sherrod exercised her federal job duties in a racially discriminatory manner;
- b. By falsely stating, both directly and by implication, that Mrs. Sherrod presently discriminates against white farmers in the course of her federal employment;
- c. By falsely stating, both directly and by implication, that Mrs. Sherrod condones and encourages racism.

94. Specifically, Defendants have defamed Mrs. Sherrod by editing and publishing an intentionally misleading clip of Mrs. Sherrod's speech and by making at least the following statements:

- "Mrs. Sherrod admits that in her federally appointed position, overseeing over a billion dollars .... She discriminates against people due to their race."
- The clip shows "video evidence of racism coming from a federal appointee and NAACP award recipient."
- "[T]his federally appointed executive bureaucrat lays out in stark detail, that her federal duties are managed through the prism of race and class distinctions."
- "In the first video, Sherrod describes how she racially discriminates against a white farmer."

- Her speech is a “racist tale.”
- “Will Eric Holder’s DOJ hold accountable fed appointee Shirley Sherrod for admitting practicing racial discrimination?”

95. These defamatory falsehoods were of and concerning Mrs. Sherrod and specifically impugned Mrs. Sherrod’s professional reputation. They ascribe to her conduct that would adversely affect her fitness for the proper conduct of her profession.

96. These defamatory falsehoods were made with actual malice by Defendants inasmuch as they knew of their falsity or recklessly disregarded their truth or falsity.

97. These defamatory statements made with actual malice were published on BigGovernment.com, YouTube.com and Twitter.com, accessible to millions of people. Those statements were amplified in many other media outlets and internet locations.

98. These defamatory falsehoods have and will actually injure Mrs. Sherrod in at least the following ways:

- a. By impugning Mrs. Sherrod’s professional reputation;
- b. By ascribing to her conduct that would adversely affect her fitness for the proper conduct of her profession;
- c. By causing Mrs. Sherrod’s forced resignation from the USDA;
- d. By inhibiting Mrs. Sherrod’s successful performance of her previous job duties;
- e. By limiting Mrs. Sherrod’s future career prospects;
- f. By subjecting Mrs. Sherrod to unwanted attention, harassment and persecution.

#### **COUNT II: FALSE LIGHT**

99. Plaintiff incorporates all preceding paragraphs of the Complaint as fully set forth herein.

100. Defendants published false statements, representations, and/or imputations of and concerning Mrs. Sherrod. Those include at least:

- a. False statements, both direct and by implication, that Mrs. Sherrod exercised her federal job duties in a racially discriminatory manner;
- b. False statements, both direct and by implication, that Mrs. Sherrod presently discriminates against white farmers in the course of her federal employment;
- c. False statements, both directly and by implication, that Mrs. Sherrod condones and encourages racism.

101. Specifically, Defendants have represented Mrs. Sherrod in false light by publishing an intentionally misleading, edited clip of Mrs. Sherrod's speech and by making at least the following statements:

- "Mrs. Sherrod admits that in her federally appointed position, overseeing over a billion dollars .... She discriminates against people due to their race."
- The clip shows "video evidence of racism coming from a federal appointee and NAACP award recipient."
- "[T]his federally appointed executive bureaucrat lays out in stark detail, that her federal duties are managed through the prism of race and class distinctions."
- "In the first video, Sherrod describes how she racially discriminates against a white farmer."
- Her speech is a "racist tale."
- "Will Eric Holder's DOJ hold accountable fed appointee Shirley Sherrod for admitting practicing racial discrimination?"

102. These statements placed Mrs. Sherrod in a false light that would be highly offensive to a reasonable person.

103. The Defendants had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which Mrs. Sherrod would be placed.

104. These defamatory falsehoods have and will actually injure Mrs. Sherrod in at least the following ways:

- a. By impugning Mrs. Sherrod's professional reputation;

- b. By ascribing to her conduct that would adversely affect her fitness for the proper conduct of her profession;
- c. By causing Mrs. Sherrod's forced resignation from the USDA;
- d. By inhibiting Mrs. Sherrod's successful performance of her previous job duties;
- e. By limiting Mrs. Sherrod's future career prospects;
- f. By subjecting Mrs. Sherrod to unwanted attention, harassment, and heckling.

**COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

105. Plaintiff incorporates all preceding paragraphs of the Complaint as fully set forth herein.

106. Defendants' defamatory and false statements, intentionally misleading editing, and wide publication constituted extreme and outrageous conduct.

107. Defendants' actions were done intentionally and/or recklessly in conscious disregard of the high probability that Mrs. Sherrod's mental distress would follow.

108. As a result of Defendants' actions, Mrs. Sherrod suffered severe emotional distress resulting in sleeping problems and mental anguish.

**PUNITIVE DAMAGES**

109. The actions or omissions of Defendants set forth in this Complaint demonstrate malice, egregious defamation, and insult. Such actions or omissions by Defendants were undertaken with either (1) maliciousness, spite, ill will, vengeance or deliberate intent to harm the Plaintiff; or (2) reckless disregard of the falsity of the speech and its effects on Plaintiff. Accordingly, Plaintiff requests an award of punitive damages and attorneys' fees beyond and in excess of those damages necessary to compensate Plaintiff for injuries resulting from Defendants' conduct.

**PRAYER FOR RELIEF**

Plaintiff prays that this Court provide the following relief:

- (1) An order requiring Defendant Breitbart to remove the defamatory language and video from his blog;
- (2) An order requiring Defendant O'Connor to remove the defamatory video clips from YouTube.com;
- (3) An order enjoining Defendants from engaging in future tortious conduct against Mrs. Sherrod;
- (4) Compensatory and consequential damages for detraction from good name and reputation, for mental anguish, distress and humiliation, and for injuries to Plaintiff's occupation in an amount of no less than \$5,001;
- (5) Punitive damages to punish Defendants' reprehensible conduct and to deter its future occurrence;
- (6) Costs and fees incurred in the prosecution of this action; and
- (7) Further relief as this Court shall deem just and proper.



**JURY DEMAND**

110. Plaintiff requests a trial by jury on any and all issues raised by this Complaint which are triable by right of a jury.

Respectfully Submitted,

*Thomas A. Clare, P.C.*

KIRKLAND & ELLIS LLP  
655 Fifteenth Street, NW  
Washington, D.C. 20005  
202-879-5000

Thomas D. Yannucci, P.C. #358989  
Thomas.Yannucci@kirkland.com  
Michael D. Jones, #417681  
Michael.Jones@kirkland.com  
Thomas A. Clare, P.C., #461964  
Thomas.Clare@kirkland.com  
Beth A. Williams, #502522  
Beth.Williams@kirkland.com

*Attorneys for the Plaintiff*

BREITBART BREITBART TV BIGHOLLYWOOD BIGJOURNALISM BIGPEACE

ANDREW BREITBART PRESENTS

# BIG GOVERNMENT

FEATURING EDITOR IN CHIEF

HOME EXCLUSIVES CATEGORIES CONTRIBUTORS

Search



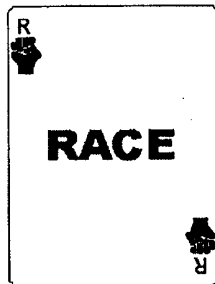
## Video Proof: The NAACP Awards Racism—2010

by Andrew Breitbart

**Correction:** While Ms. Sherrod made the remarks captured in the first video featured in this post while she held a federally appointed position, the story, she talks refers to actions she took before she held that federal position.

Context is everything.

In this piece, you will see video evidence of racism coming from a federal appointee and NAACP award recipient and in another clip from the same event a perfect rationalization for why the Tea Party needs to exist.



But first the context:

For the past week, Americans who consider themselves aligned with the Tea Party movement have suffered the indignity of being falsely labeled racist by the NAACP and their pro-bono publicity managers, the main stream media. The constant calls to "reconcile the racists from our ranks" have not only been insulting, but have also served to force a false standard upon America's fastest-growing and most vibrant political movement that no other group could ever live up to nor would ever be asked to live up to.

While the media has chosen to do the Democratic Party's bidding in allowing for the NAACP to negatively, and falsely, brand the millions strong, loosely affiliated tea party, phenomenon as "racist", the moral indignation over race and racism has taken center stage in a summer of economic and political discontent.

The NAACP, an undeniable weapon in the Democratic Party's arsenal, was more than happy to exploit this nation's sensitive racial schism for possible political gain. The Democratic Party and the NAACP, needless to say, are playing with fire.

From the beginning of the Tea Party movement, the Left, its aiders and abettors at MSNBC, the NY Times and other reliable left of center propaganda venues, raised race as the driving force behind the movement even though the evidence was never there. MSNBC cut off a black protester's head in a photograph of a man carrying a gun to a rally, in order to discuss that anti-black racism was rearing its head in America.

But it got even more blatant when Congressmen Andre Carson and John Lewis and other Congressional Black Caucus members staged a walk through the Tea Party crowd in front of the capitol the day before the health care vote. They claimed they were threatened by a violent mob and were subjected to the vile N word six times. With the unpopularity of the toxic health care bill that the majority of Americans did not want, the Democrats needed a November strategy. Neutralizing the growing Tea Party movement with charges of racism was clearly its post-health care reform vote priority.

What they did not expect was that new media would successfully, challenge the propaganda of the old media and the Congressmen's racial smear.

First, in a \$100,000 video challenge for any evidence of racism was met with crickets. The CBC, looking for a fight, and taking to the airwaves to accuse the Tea Party of racism made a 180 degree turn and went into hiding when challenged on the truthfulness of the outrageous allegations. From camera hops to ostriches in snap of a finger.

When the media chose to ignore that Representatives Lewis and Carson's story was falling apart, we dug deeper. I've found four lies from the moment Rep. Carson claimed the racist Tea Party incident occurred. The four lies, which include audio show beyond a reasonable doubt that the incident was a manufactured lie. That lie that was supposed to be the centerpiece in the Democratic strategy to destroy the Tea Party. The videos had been available on YouTube almost immediately after the incident occurred and could have been found by any reporter interested in investigating the truthfulness of Rep. Carson's claim.

While the media ignored these news-worthy revelations, the CBC remained in hiding and ignored a letter in good faith from the Tea Party Federation repudiating all forms of racism, but also asking for the CBC's help in investigating the Capitol Hill incident. The silence from the CBC was deafening.

The NAACP and the Congressional Black Caucus do not want racial harmony. They want political victory, and the race card is their Stradivarius.

Three months later, the NAACP decided to "double-down" on the fabricated "Tea Party/racism" narrative and has the gall to include the disparaged Capitol Hill N-word non-incident as their formal condemnation of the Tea Party. Simply by snapping its fingers, the mainstream media again parroted lies. The Tea Party was guilty, until it proved itself innocent. A most un-American and dare I say, culturally Marxist construct.

In fact, it's worse. The media that provided the left a platform to accuse the Tea Party, all the while refusing to air any accuser's evidence, again, the mainstream media inserts itself as the number one weapon in the progressive weapons stash. Political correctness, as the Duke Lacrosse case exemplified, trumps all in PC America and her afflicted media.

But the new media will not be silenced. It will not allow for the main stream media to pronounce hateful

Click Here For More on ACORN

### FEATURED STORY

#### What Does the Constitution Constitute?


by Will Morrison



As we celebrate Constitution Day this week, a simple question suggests itself: What exactly does the Constitution constitute? Or, with respect to the Framers: What were these men trying to do? The Constitution cannot have constituted the American people. The Preamble begins, famously, "We the People..." The American people already... [Read more...](#)

More Featured Stories...

**Andrew Breitbart:**  
Sign up here to join more than 1 million grassroots activists with Americans for Prosperity to oppose Cap-and-Trade.



[Sign Up](#)

[Follow Us on Twitter](#)

[Subscribe via RSS](#)

[Got a Tip? Contact Us](#)

## Click Here

Tell Senators Webb and Warner To Oppose Obama's Latest Big Labor Scheme



### BIGPEACE

- Diana West: The Constitution Trumps Islamic Law
- Joseph F. Connor: Never Forget: 9/11 01 Through One Man's Eyes
- Sun Tzu: Telegraph: China's UN Diplomat in Drunken Rant Against Americans
- Sun Tzu: OIC: It's Slander When We Say it's Slander (Part 2)
- Sun Tzu: Cuomo Issues Some Red Flags Regarding G21

### BIGJOURNALISM

Susan Swift: On Cusp of Another WikiLeaks Document Dump, Questions About the Role Played by the Administration and the New York Times

Frank Ross: Andrew Breitbart Speaks in D.C. at 9/11 Rally: 'We're Going to Take This Country Back'

Frank Ross: When Discussing Islam, Liberal Media Can Only Reach for 'Bigotry' Card

Exhibit 1

and hurtful lies in order to save the Democratic Party from the toxic choices it has made over the past few years. And by bringing up race, and demanding a zero tolerance of racism, the left, and the NAACP in particular, has opened itself up for scrutiny.

We are in possession of a video from in which Shirley Sherrod, USDA Georgia Director of Rural Development, speaks at the NAACP Freedom Fund dinner in Georgia. In her meandering speech to what appears to be an all-black audience, this federally appointed executive bureaucrat lays out in stark detail, that her federal duties are managed through the prism of race and class distinctions.

In the first video, Sherrod describes how she racially discriminates against a white farmer. She describes how she is torn over how much she will choose to help him. And, she admits that she doesn't do everything she can for him, because he is white. Eventually, her basic humanity informs that this white man is poor and needs help. But she decides that he should get help from "one of his own kind". She refers him to a white lawyer.

Sherrod's racist tale is received by the NAACP audience with nodding approval and murmurs of recognition and agreement. Hardly, the behavior of the group now holding itself up as the supreme judge of another group's racial tolerance.



The second video affirms the real reason there is tension between the Democratic Party and a growing mass of middle Americans — and it's not because of race.

The NAACP which has transformed from a civil rights group to a propaganda arm of the Democratic Party and social-justice politics, supports a new America that relies less on individualism, entrepreneurialism and American grit, but instead giddily embraces, the un-American notion of unaccountability and government dependence. Shirley Sherrod, a federal appointee who oversees over a billion dollars of federal funds, nearly begs black men and women into taking government jobs at USDA — because they won't get fired.



This is why the Democratic Party is scared. This is why the NAACP is scared. This is why black conservatives, previously marginalized as "Uncle Toms" by these progressive bullies, and shamefully, the NAACP, are coming out of the woodwork to join and, in many cases, lead the Tea Party movement.

The emerging Tea Party nation understands that the media has focused on the manufactured racial schism while intentionally ignoring the schism between free market thinkers and government expansionists, that the latter of which is brazen in its desire to transform America into a European-model welfare state with a healthy dose of socialism.

It's unfortunate that the NAACP's recent resolution and false accusations have forced us to show you video 1 when video 2 is the bigger problem. That's not to say, video 1 is not a problem, but this country can ill afford, in this time of economic peril, to waste our time poking and prodding at the racial homet's nest that was supposed to have been removed with this post-racial presidency. But now President Obama and the modern-day Democrat party reveal they are anything but post-racial.

Yet again, the juxtaposition of the real video evidence shown here versus the mainstream media's straight faced reportage of the NAACP's baseless accusations demonstrates that, once again, the American mainstream media has asserted itself as the number one enemy, of the truth, when the facts don't fit the left-wing narrative. Like the NAACP, it has become no better than Al Sharpton and Jesse Jackson in its willingness to exploit race for political ends and their unflinching support of the Obama's left-wing agenda.

[Print Blog](#)

[Email this to a friend](#) | [Print](#) | [Share on Facebook](#) | [Tweet this](#) | [Add This](#)

Tags: [Al Sharpton](#) [Andre Carson](#) [Jesse Jackson](#) [John Lewis](#) [mainstream media](#) [network smear](#) [NAACP](#) [NAACP Freedom Fund](#) [NAACP resolution](#) [ObamaCare](#) [race card](#) [racism](#) [shirley sherrod](#) [Tea Party](#) [tea party federation](#) [USDA](#) [white farmer](#)

Posted Jul 19th 2010 at 6:18 am in [Culture](#), [Featured Story](#), [Media Criticism](#), [News](#), [Politics](#), [Tea Party](#)

Comments (702)

Comments (706)

[Login](#)

Frank Ross: Chris Christie, Republican Role Model

Michael Walsh: The Way We Were: 1922, Rochester, New York

**BIGHOLLYWOOD**

Ezra DuRis: Sucker Punch Squad: NBC's 'The Event' Pilot Script a Bush Haters' Dream Show

Hollywoodland: Today's Open Thread

Cam Cannon: What Shoulda' Won Best Picture: 1981 Edition

The Army You Have: F'ck Tea?: We'll 'See You in November'

Carl Kozlowski: Interview: With His Memoir 'The Hilliker Curse,' James Ellroy Comes to Terms With the Women in His Life

**Click Here**

**Tell Senators Webb and Warner To Oppose Obama's Latest Big Labor Scheme**



**LIVE TALK ON TWITTER**

What Does the Constitution Constitute?: As we celebrate Constitution Day this week, a simple question suggests ... 59 minutes ago

Big Government - What Does the Constitution Constitute? 50 minutes ago

What Does the Constitution Constitute?: As we celebrate Constitution Day this week, a simple ques... 36 minutes ago

Traffic Depot Update 9/11 Aftermath: Quiet Patriots of Wall Street Should Not be Today's Polit... 23 minutes ago

Big Government 9/11 Aftermath: Quiet Patriots of Wall Street Should Not be Today's Political Casualties 15 minutes ago

9/11 Aftermath: Quiet Patriots of Wall Street Should Not be Today's Political Casualties 4 minutes ago

BigGovt: 9/11 Aftermath: Quiet Patriots of Wall Street Should Not be Today's Political Casualties

**CATEGORIES**

- [2nd amendment](#)
- [ACORN](#)
- [Big Labor](#)
- [Census](#)
- [Coffee and Markets](#)
- [Congress](#)
- [Culture](#)
- [Defense](#)
- [Earmark's](#)
- [Economic's](#)
- [Education](#)
- [energy](#)
- [Environment](#)