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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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SNYDER *v.* PHELPS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 09–751. Argued October 6, 2010—Decided March 2, 2011

For the past 20 years, the congregation of the Westboro Baptist Church has picketed military funerals to communicate its belief that God hates the United States for its tolerance of homosexuality, particularly in America's military. The church's picketing has also condemned the Catholic Church for scandals involving its clergy. Fred Phelps, who founded the church, and six Westboro Baptist parishioners (all relatives of Phelps) traveled to Maryland to picket the funeral of Marine Lance Corporal Matthew Snyder, who was killed in Iraq in the line of duty. The picketing took place on public land approximately 1,000 feet from the church where the funeral was held, in accordance with guidance from local law enforcement officers. The picketers peacefully displayed their signs—stating, *e.g.,* "Thank God for Dead Soldiers," "Fags Doom Nations," "America is Doomed," "Priests Rape Boys," and "You're Going to Hell"—for about 30 minutes before the funeral began. Matthew Snyder's father (Snyder), petitioner here, saw the tops of the picketers' signs when driving to the funeral, but did not learn what was written on the signs until watching a news broadcast later that night.

Snyder filed a diversity action against Phelps, his daughters—who participated in the picketing—and the church (collectively Westboro) alleging, as relevant here, state tort claims of intentional infliction of emotional distress, intrusion upon seclusion, and civil conspiracy. A jury held Westboro liable for millions of dollars in compensatory and punitive damages. Westboro challenged the verdict as grossly excessive and sought judgment as a matter of law on the ground that the First Amendment fully protected its speech. The District Court reduced the punitive damages award, but left the verdict otherwise intact. The Fourth Circuit reversed, concluding that Westboro's state-

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ments were entitled to First Amendment protection because those statements were on matters of public concern, were not provably false, and were expressed solely through hyperbolic rhetoric.

Held: The First Amendment shields Westboro from tort liability for its picketing in this case. Pp. 5–15.

(a) The Free Speech Clause of the First Amendment can serve as a defense in state tort suits, including suits for intentional infliction of emotional distress. *Hustler Magazine, Inc.* v. *Falwell*, 485 U. S. 46, 50-51. Whether the First Amendment prohibits holding Westboro liable for its speech in this case turns largely on whether that speech is of public or private concern, as determined by all the circumstances of the case. "[S]peech on public issues occupies the '"highest rung of the hierarchy of First Amendment values"' and is entitled to special protection." *Connick* v. *Myers*, 461 U. S. 138, 145. Although the boundaries of what constitutes speech on matters of public concern are not well defined, this Court has said that speech is of public concern when it can "be fairly considered as relating to any matter of political, social, or other concern to the community," *id.,* at 146, or when it "is a subject of general interest and of value and concern to the public," *San Diego* v. *Roe*, 543 U. S. 77, 83–84. A statement's arguably "inappropriate or controversial character . . . is irrelevant to the question whether it deals with a matter of public concern." *Rankin* v. *McPherson*, 483 U. S. 378, 387. Pp. 5–7.

To determine whether speech is of public or private concern, this Court must independently examine the "'content, form, and context,'" of the speech "'as revealed by the whole record.'" *Dun & Bradstreet, Inc.* v. *Greenmoss Builders, Inc.,* 472 U. S. 749, 761. In considering content, form, and context, no factor is dispositive, and it is necessary to evaluate all aspects of the speech. Pp. 7–8.

The "content" of Westboro's signs plainly relates to public, rather than private, matters. The placards highlighted issues of public import—the political and moral conduct of the United States and its citizens, the fate of the Nation, homosexuality in the military, and scandals involving the Catholic clergy—and Westboro conveyed its views on those issues in a manner designed to reach as broad a public audience as possible. Even if a few of the signs were viewed as containing messages related to a particular individual, that would not change the fact that the dominant theme of Westboro's demonstration spoke to broader public issues. P. 8.

The "context" of the speech—its connection with Matthew Snyder's funeral—cannot by itself transform the nature of Westboro's speech. The signs reflected Westboro's condemnation of much in modern society, and it cannot be argued that Westboro's use of speech on public issues was in any way contrived to insulate a personal attack on

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Snyder from liability. Westboro had been actively engaged in speaking on the subjects addressed in its picketing long before it became aware of Matthew Snyder, and there can be no serious claim that the picketing did not represent Westboro's honestly held beliefs on public issues. Westboro may have chosen the picket location to increase publicity for its views, and its speech may have been particularly hurtful to Snyder. That does not mean that its speech should be afforded less than full First Amendment protection under the circumstances of this case. Pp. 8–10.

That said, "'[e]ven protected speech is not equally permissible in all places and at all times.'" *Frisby* v. *Schultz*, 487 U. S. 474, 479. Westboro's choice of where and when to conduct its picketing is not beyond the Government's regulatory reach—it is "subject to reasonable time, place, or manner restrictions." *Clark* v. *Community for Creative Non-Violence*, 468 U. S. 288, 293. The facts here are quite different, however, both with respect to the activity being regulated and the means of restricting those activities, from the few limited situations where the Court has concluded that the location of targeted picketing can be properly regulated under provisions deemed content neutral. *Frisby*, *supra,* at 477; *Madsen* v. *Women's Health Center, Inc.*, 512 U. S. 753, 768, distinguished. Maryland now has a law restricting funeral picketing but that law was not in effect at the time of these events, so this Court has no occasion to consider whether that law is a "reasonable time, place, or manner restrictio[n]" under the standards announced by this Court. *Clark*, *supra,* at 293. Pp. 10–12.

The "special protection" afforded to what Westboro said, in the whole context of how and where it chose to say it, cannot be overcome by a jury finding that the picketing was "outrageous" for purposes of applying the state law tort of intentional infliction of emotional distress. That would pose too great a danger that the jury would punish Westboro for its views on matters of public concern. For all these reasons, the jury verdict imposing tort liability on Westboro for intentional infliction of emotional distress must be set aside. Pp. 12–13.

(b) Snyder also may not recover for the tort of intrusion upon seclusion. He argues that he was a member of a captive audience at his son's funeral, but the captive audience doctrine—which has been applied sparingly, see *Rowan* v. *Post Office Dept.*, 397 U. S. 728, 736–738; *Frisby*, *supra,* at 484–485—should not be expanded to the circumstances here. Westboro stayed well away from the memorial service, Snyder could see no more than the tops of the picketers' signs, and there is no indication that the picketing interfered with the funeral service itself. Pp. 13–14.

(c) Because the First Amendment bars Snyder from recovery for in-

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tentional infliction of emotional distress or intrusion upon seclusion—the allegedly unlawful activity Westboro conspired to accomplish—Snyder also cannot recover for civil conspiracy based on those torts. P. 14.

(d) Westboro addressed matters of public import on public property, in a peaceful manner, in full compliance with the guidance of local officials. It did not disrupt Mathew Snyder's funeral, and its choice to picket at that time and place did not alter the nature of its speech. Because this Nation has chosen to protect even hurtful speech on public issues to ensure that public debate is not stifled, Westboro must be shielded from tort liability for its picketing in this case. Pp. 14–15.

580 F. 3d 206, affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. BREYER, J., filed a concurring opinion. ALITO, J., filed a dissenting opinion.