

MEDIA

For Gawker, Legal Issues Beyond Hogan

By KATIE ROGERS and DANIELLE IVORY MAY 30, 2016

Gawker Media's legal battle with Hulk Hogan over the publication of a sex tape has had wide-ranging impact.

A \$140 million verdict threatens the future of the company and the emergence of the billionaire Peter Thiel as the behind-the-scenes financial supporter of the professional wrestler's lawsuits has highlighted a simmering fissure between Silicon Valley and the news media.

But Gawker's legal entanglements do not end with Hulk Hogan.

The company has acknowledged facing lawsuits with plaintiffs ranging from an individual who claims he invented email to the website of the British tabloid The Daily Mail. Currently, Gawker Media is fighting five defamation-related lawsuits, according to a person who has been briefed on the company's legal situation but who spoke on condition of anonymity because the person was not authorized to discuss legal strategy. That does not include the invasion-of-privacy lawsuit brought by Hogan, whose real name is Terry G. Bollea; the company plans to appeal the verdict in that case.

Charles J. Harder, the Los Angeles-based lawyer who represented Mr. Bollea, is involved in at least two of the other lawsuits brought against the company.

When asked about the lawsuits, Gawker issued a statement criticizing Mr. Thiel's "twisted scheme to destroy a news organization" and demanded that he be transparent about which cases he was underwriting.

“Will he confirm that he’s behind the other two cases (Ayyadurai and Terrill) that his lawyer, Charles Harder, is publicly handling?” the statement read, referencing the cases of Shiva Ayyadurai, who says he invented email, and Ashley Terrill, a journalist who was the subject of a 2015 Gawker article chronicling her reported quest to gather information on a former Tinder executive. Mr. Harder is representing Mr. Ayyadurai and Ms. Terrill. Mr. Thiel has said that he is supporting other cases against Gawker, though he declined to disclose which ones.

Ms. Terrill could not be reached for comment, but Mr. Ayyadurai said in an interview that he was not aware of Mr. Thiel being involved in his lawsuit. “To the best of my knowledge,” he said, “there’s no other third party involved.”

Most libel lawsuits are filed in state court, but because those court cases are not filed in a central location and many records are not available online, it is difficult to generate a reliable tally of lawsuits previously filed against Gawker or to compare them with the number of cases brought against other news organizations. The New York Times is currently facing two libel cases, one of them a pro se case — in which a plaintiff is self-represented — which it won but which is now being appealed.

“Defamation is a very idiosyncratic claim — people sue publishers all the time over true articles that bruise their feelings,” Dave Heller, deputy director of the Media Law Resource Center, said in an email. “So it’s not surprising that a publisher will face defamation suits — especially one like Gawker that’s going to cover public figures in an irreverent way. So being sued may be a badge of honor — but if you start losing these cases you have to look in the mirror and ask whether you are failing the basics of journalism.”

Mr. Heller cautioned that complaints against news organizations were not all necessarily legitimate. Pro se complaints, for example, tend to be nuisance suits that “no lawyer would touch,” he said. One of the defamation-related lawsuits Gawker currently faces is pro se, said the person who has been briefed on the company’s legal situation.

Mr. Ayyadurai, the man who claims he invented email, said he had been looking into his legal options since 2012, when Gizmodo, a Gawker property, published an article that harshly criticized his professional track record. He said

he was not asked for comment before publication. (The article had the headline “Corruption, Lies, and Death Threats: The Crazy Story of the Man Who Pretended to Invent Email.”) In 2014, when the actress Fran Drescher said she married Mr. Ayyadurai, Gizmodo followed up with another story headlined: “If Fran Drescher Read Gizmodo She Would Not Have Married This Fraud.”

Mr. Ayyadurai said he hired Mr. Harder to pursue a lawsuit around the time of the March verdict in Mr. Bollea’s case, calling it a “lucky” coincidence that Mr. Harder was available after years of his looking for the right legal team.

On May 10, Mr. Ayyadurai sued Gawker Media, Nick Denton, the company’s founder and majority owner, and two Gawker journalists, John Cook and Sam Biddle. The complaint was filed in Massachusetts by another lawyer, though Mr. Harder is the lead on the case. Mr. Ayyadurai is seeking \$35 million.

“The First Amendment refers to journalism,” he said, “not what they do.”

Gawker has said it stands by its reporting. In an open letter to Mr. Thiel published on Thursday, Mr. Denton asked readers to review Gizmodo’s article on Mr. Ayyadurai and decide for themselves whether the reporting was newsworthy. Other news organizations, including The Los Angeles Times, have cast doubt on Mr. Ayyadurai’s claims.

Many who have sued Gawker said that it overstepped the boundaries of privacy, slandered reputations or failed to do adequate reporting before posting articles. Several of the suits have found fault with Gawker’s tendency to link coverage across several websites, opening up the stories for reader discussion and, in some cases, online harassment.

Though several suits over the years have been dismissed relatively quickly, Gawker has occasionally faced an uphill battle in court.

In 2012, a young North Carolina woman sued Gawker Media and Deep Dive Media for defamation, accusing both of aggregating a local news article speculating about whether she had exposed herself in a high school yearbook photo. (She was not named in the article.) A district judge denied Gawker’s request to dismiss the suit, and both parties later settled in mediation, according to Chris Mauriello, the woman’s lawyer.

Stuart Karle, an adjunct professor at Columbia University's Graduate School of Journalism and the general counsel of North Base Media, a venture capital firm investing in developing-world media, said in an email that the number of lawsuits against Gawker spoke to the impact its articles were having.

“But the other angle, and the especially troubling one given the Thiel reveal, is the fact — and it does now appear to be a fact — that even a successful digital publisher can be threatened with ruin by a concerted litigation attack financed by someone (or some group) who wants to destroy it,” he said. “In that context, this number of defamation actions is far more sinister.”

He added, “That is of course what lawsuits against the press are almost always about: Not the last story, the one in the lawsuit, but the next story, the one that hasn't been written or filmed and now can't be because there isn't the time or the money to do it.”

Andrew Ross Sorkin, whose DealBook column usually appears on this page, is away.

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