

July 29, 2008

VIA EMAIL michaelhood@gmail.com

Dear Mr. Hood:

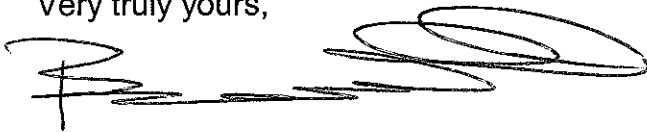
Over the course of the last several years you have published the "Blatherwatch," a conservative political blog site.

Approximately two years ago you published a defamatory and slanderous blog of the undersigned in connection with a story of the famed talk show host, Mike Webb. Despite Mr. Webb's demise, you have continued to make disparaging remarks when reminiscing the memory of past times.

The story you published concerning me was inaccurate, denigrating and placed me in a false light. The purpose of this writing is to formally request that you remove the article from the Blatherwatch website and cease any further negative reporting concerning the undersigned. Every day that the article remains in the public domain constitutes continuing harm to my personal and professional standing in the community.

Attached is information that may be of use to you in weighing my request. It is not my desire to seek redress through the courts, but I will do so if you and I are unable to reach an amicable resolution.

Very truly yours,



Bradley R. Marshall

BRM/kg
Attachment



Lawsuits Against Bloggers Seen Rising

Since 2004, 159 Court Actions Have Targeted Citizen Journalists for Libel and Other Charges

By HUMA YUSUF

July 20, 2008 —

When Christopher Grotke answered a late-night knock on the door, he did not expect to find the deputy sheriff on his doorstep serving notice that he was being sued. Nor was he prepared for the charge: libel.

Someone had posted a comment on his citizen-journalism Web site, iBrattleboro.com, stating that a woman in Brattleboro, Vt., was having an extramarital affair. The accused woman then sued Grotke and his Web site co-founder for failing to edit or delete the comment.

The blogging community increasingly is subject to lawsuits and threats of legal action running the gamut from subpoenas to cease-and-desist notices.

Since blogging became popular in about 2004, there have been 159 civil and criminal court actions involving bloggers, according to the nonprofit Media Law Resource Center (MLRC) in New York. Seven cases have resulted in verdicts against bloggers, with cumulative penalties totaling \$18.5 million. Many more legal actions never result in trial.

The result? A stifling of free speech in a medium providing more comprehensive and diverse opportunities for commentary than ever before, digital-rights activists, media lawyers, and bloggers say.

"There is a chilling effect of a cease-and-desist letter or a legal threat that claims an aspect of a blogger's work could lead to liability, even when those claims are not well grounded," says Kurt Opsahl, a senior staff attorney at the Electronic Frontier Foundation (EFF), a nonprofit in San Francisco that defends digital rights.

Bloggers faced with legal threats often deem it easier to remove potentially offensive content rather than undertake the difficulty and expense of defending themselves, he adds.

Abroad, More Than 60 Bloggers Arrested

Bloggers face much bigger threats overseas, particularly if they criticize governments or point to human rights abuses.

Since 2003, 64 bloggers have been arrested around the world -- with Egypt, China, and Iran initiating more than half of those arrests, according to the World Information Access Report, published last month by the University of Washington. By contrast, the United States has arrested two in that period.

Still, online commentators face risks in the United States.

"In the developed world, bloggers can be punished through lawsuits," writes Philip Howard, a communications professor at the University of Washington, in an e-mail.

The number of lawsuits is growing, says Robert Cox, president of the Media Bloggers Association (MBA), a U.S.-based group devoted to protecting citizen journalists.

"As blogging expands and more people are aware of it," he says, "the lawyers are not far behind."

No one is suggesting that bloggers should have free rein to publish whatever they want.

"If you're slandering, you can be sued whether you have a blog or not," says Cox, a blogger himself. "You're not immune to defamation charges ... just because you're a citizen speaking your mind."

Who Should Educate the Bloggers?

There is no consensus, however, on how best to make bloggers aware of their legal responsibilities.

Many lawyers expect bloggers to figure it out themselves.

"If you're going to be responsible enough to manage a site where people post such things, you should be able to detect when things are defamatory and take them down," says Margot Stone, the lawyer for the woman who sued Grotke. "The problem is that technology is outpacing the ethical responsibilities. People haven't thought through the ethics of all this."

Online communities as well as media activists and lawyers are pushing to ensure that bloggers are aware of their legal rights and responsibilities.

The EFF and the Citizen Media Law Project (CMLP) -- an affiliate of the Berkman Center for Internet and Society at Harvard Law School -- offer detailed legal guides for bloggers. Both organizations also help bloggers find legal counsel.

In addition, the CMLP maintains a database of all legal action directed against bloggers.

"That way bloggers know they're not alone," explains David Ardia, director of the CMLP.

Other citizen-media groups say more proactive support is needed.

Since 2006, the MBA has been working with Media Pro Insurance to create the MBA Media Liability Insurance program.

"We're coming up with a product that covers defamation, copyright, privacy violations -- the same protections as newspapers -- for bloggers," says the group's Cox.

MBA members will receive a hefty discount on the insurance package, due to be launched at the end of this month. The cheapest coverage for a solo blogger will be \$540 a year.

But some bloggers resist the idea.

"I don't have the money for that kind of thing," says Kathleen Seidel, a New Hampshire-based blogger who was subpoenaed this spring in connection with another lawsuit against vaccine manufacturers that

she had written about on her blog.

Having written several posts about litigation and completed two legal courses at the local community college, Seidel was able to deflect legal threats against her blog and successfully composed a motion to quash the subpoena.

Grotke, too, was able to convince a Vermont court to dismiss libel charges.

Many bloggers, however, aren't so fortunate, which is why the online community is searching for ways to protect them.

"The effect of intimidation is a real one," Seidel says.

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