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Florida Court SLAPPs Anti-Muslim Activist Laura Loomer's Lawsuit

Considers Sanctions Against Attorney Larry Klayman

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Applying Florida's anti-SLAPP statute, a Palm Beach County Circuit Court dismissed with prejudice Laura Loomer's lawsuit against several media defendants. The court also extended a rare invitation to the defendants to request sanctions against her attorney, Larry Klayman. [Loomer v. New York Media, LLC, et al.](#), 50-2019-CA-015123.

Background

Loomer is a notorious anti-Muslim activist whose rhetoric and antics led digital-platform companies like Twitter, Facebook, Uber and Lyft to ban her from their services. She's successfully leveraged the resulting attention into right-wing stardom and a GOP political career. In 2020, Loomer handily won the Republican primary to campaign for Florida's 21st Congressional District but lost to the incumbent, Democrat Lois Frankel, in the general election. She has announced a 2022 campaign for the same seat and quickly obtained endorsements from Republicans Marjorie Taylor Greene and Paul Gosar.

From 2017 through 2019, New York magazine, TechCrunch, BoingBoing.net, Media Matters for America, The Washington Examiner, Rolling Stone, Bernard Media, and GQ published reports about her political campaign, controversial anti-Muslim rhetoric, notorious self-promotional tactics, and her bans from digital platforms. In response, Loomer retained the help of Larry Klayman. Klayman is frequently counsel to plaintiffs like Loomer and has been sanctioned and disciplined in multiple courts—including most recently the U.S. Court of Appeals for the D.C. Circuit, which in March 2021 barred Klayman from practicing in that circuit for 90 days.

Loomer initially sued the defendants in the U.S. District Court for the Southern District of Florida on November 15, 2019, asserting among other things that the publications defamed her by calling her "alt right" and a "white nationalist," terms she alleged could not apply to her because of her Jewish ethnicity. The district court, on its own initiative, dismissed the case for lack of diversity jurisdiction in light of Loomer's failure to allege and establish the citizenship of each of the defendants.

On November 25, 2019, Loomer filed substantially the same complaint in state court. All defendants—except for Bernard Media and GQ, who were never served the complaint—filed dispositive motions pursuant to Florida's anti-SLAPP statute, Fla. Stat. § 768.295. That statute provides for swift dismissal of lawsuits filed "without merit and primarily because such person or entity has exercised the constitutional right of free speech in connection with a public issue," and it allows for successful defendants to recover attorney's fees.

The defendants filed anti-SLAPP motions, generally arguing that much of Loomer's claims attacked non-actionable statements of pure opinion and that she failed to plead the defendants published with actual malice. Rolling Stone, TechCrunch, Media Matters for America and New York magazine also argued Loomer did not provide pre-suit notice required by Fla. Stat. § 770.001. Additionally, New York magazine and TechCrunch argued Plaintiff did not bring her lawsuit within the state's two-year statute of limitations for defamation actions. A week before the hearing, Loomer filed an Amended Complaint, a re-hash of her original pleading. Defendants promptly filed new anti-SLAPP motions.

The Order

On April 29, 2021, the court granted each of the dispositive motions, dismissing Loomer’s Amended Complaint with prejudice as to all defendants. Among the court’s rulings:

Characterizations of Loomer as a “white supremacist” or “alt right” constitute non-actionable statements of pure opinion. The court explained that “ample case law holding that rhetorical classifications concerning social and political beliefs are protected opinions, particularly when those comments are made in the course of discussing public figures, political candidates, and activists.”

Loomer, a public figure, inadequately relied on “conclusory and vague” assertions of actual malice. The court also rejected Loomer’s argument that the defendants knew their characterizations of her were false because the terms “white supremacist” and “alt-right” can never apply to a Jewish woman like herself. Instead, the court reasoned, “[a]ssumptions and stereotypes standing alone do not allege the ultimate facts required to establish clear and convincing evidence of actual malice.”

Loomer failed to provide the requisite prior notice of suit to Rolling Stone and New York magazine.

Loomer failed to sue TechCrunch and New York Magazine within Florida’s two-year statute of limitations for defamation claims. In both cases, the claims had been timely filed in federal court, with no time to spare. The dismissal of that action 10 days later was thus fatal to her claims against these two defendants.

The court concluded that Loomer’s Complaint was “precisely the type of harassing lawsuit condemned by” the anti-SLAPP statute—not least given her “completely unsubstantiated claim for \$90 million in damages.” It thus reserved jurisdiction to determine attorney’s fees to be awarded. Finally, the court invited defendants to seek sanctions under Florida’s frivolous-filing statute against Klayman, in the form of shared liability with Loomer for the attorney’s fees award, on the grounds that he knew or should have known Loomer’s claims were not supported by the facts or by controlling law.

Loomer has filed a notice of appeal to the Fourth District Court of Appeal, and defendants are preparing their motions for fees and sanctions.

Charles Tobin, Matthew Cate and Lauren Russell of Ballard Spahr LLP represented The Washington Newspaper Publishing Company LLC d/b/a The Washington Examiner and New York Media LLC d/b/a/ New York Magazine; Rachel Fugate and Giselle Girones of Shullman Fugate PLLC represented The Rolling Stone PLLC; Frederick S. Wermuth of King, Blackwell, Zehnder & Wermuch, P.A., Marc E. Elias and William B. Stafford of Perkins Coie LLP represented Media Matters for America; Jean-Paul Jassy, William T. Um and Elizabeth Baldridge of Jassy Vick Carolan LLP and L. Martin Reeder of Atherton Galardi Mullen & Reeder PA represented Verizon Media d/b/a TechCrunch; and Capri Trigo of Gordon Rees Scully Mansukhani represented Happy Mutants LLC d/b/a BoingBoing.net. Larry Klayman of Klayman Law Firm represented Plaintiff Laura Loomer.

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