

Gawker Suspects Common Backer Is Delivering Payback In Exchange For Nick Denton's Operation As the White House's Senior Character Assassin

(You Bet Gawker But There Are MANY Common Backers)

Gawker Founder Suspects a Common Financer Behind Lawsuits



[Andrew Ross Sorkin](#)

Photo



Hulk Hogan, center, won a \$140 million jury award in his defamation case against Gawker over the publication of a sex tape. Credit Eve Edelheit/Tampa Bay Times, via Associated Press

At first, Nick Denton, the founder of [Gawker Media](#), thought it an unlikely conspiracy theory.

Now, he's starting to believe it himself.

For the last several years, Mr. Denton has been the [target of a lawsuit](#) brought by the wrestler Hulk Hogan in the now-infamous defamation case over Gawker's publication of a sex tape — an editorial choice that recently resulted in a \$140 million jury award to Mr. Hogan. The appeals process is likely to drag on for years, and some legal experts predict that the judgment will ultimately be overturned or the award greatly reduced.

During the trial, a [low hum of speculation](#) emerged within the legal community that Mr. Hogan's legal case, which dragged on for more than three years, might be funded by someone other than Mr. Hogan — and for reasons other than simply inflicting financial pain on Gawker. At the time, the questions

were provoked by several strategic decisions on Mr. Hogan's side that didn't appear economically rational. More on that in a moment. Back then, Mr. Denton dismissed the idea of a third party secretly underwriting Mr. Hogan's case as "rather conspiracy-theorylike."

But in recent weeks, in the face of several new lawsuits brought against Gawker that are unrelated to Mr. Hogan's case and seem to personally attack certain Gawker writers, Mr. Denton is having second thoughts. All of the new cases, like Mr. Hogan's, were brought by [Charles J. Harder](#), a Los Angeles-based litigator, working on a contingency basis, who has most likely run up huge legal bills and expenses. Gawker has said it has already spent as much as \$10 million on its side of the case.

Mr. Denton has begun to question whether Mr. Harder has a benefactor, perhaps one of the many subjects of Gawker's skewering coverage.

"My own personal hunch is that it's linked to Silicon Valley, but that's nothing really more than a hunch," Mr. Denton told me. "If you're a billionaire and you don't like the coverage of you, and you don't particularly want to embroil yourself any further in a public scandal, it's a pretty smart, rational thing to fund other legal cases."

Mr. Denton's view is based on the huge expenses of legal cases and settlements, the fact that Mr. Hogan's financial health has been erratic — and on the rich history of lawsuits in which lawyers make money only if they win the case. There is an entire industry that exists to provide lines of credit to lawyers working on contingency. There is also a small netherworld of investors who back certain lawsuits.

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“The answer may be entirely innocent,” Mr. Denton said, musing on the question of whether Mr. Harder was paid by someone other than Mr. Hogan, “but I think in order for people to understand what’s going on here, what the stakes are, I think it’s important that it be out in public, or at least that he’d be asked the question in public.”

Based on my conversation with Mr. Denton as well some independent lawyers who first raised questions about the financing of Mr. Hogan’s suit, I approached Mr. Harder and asked him the question directly. In an email, he said, “I do not discuss the finances of my clients, including any financial arrangements they have with my firm. This applies to all clients.”

Stepping aside from this case, it’s clear that some lawsuits have been funded for reasons beyond strict economics. Kenneth G. Langone, the co-founder of Home Depot and former director of the New York Stock Exchange, helped fund Maurice R. Greenberg’s lawsuit against the United States government over the bankruptcy of the American International Group, which was viewed as being as much as about money as about principle.

And Max Mosley, the former head of Formula One who successfully brought a series of suits against News of the World for publishing pictures of him involved in an orgy, later funded a number of lawsuits against the same tabloid by people who said its journalists had hacked their phones.

Photo



Nick Denton, the founder of Gawker. Credit Eve Edelheit/Tampa Bay Times, via Associated Press

As for the lawsuits against Gawker Media, “the evidence has built up over time that there are questions that are unanswered here,” Mr. Denton said. “The data point that really got us thinking was the move that they made on insurance, which seemed designed to prevent insurance paying for our defense.”

Mr. Denton is referring to a decision by Mr. Hogan’s legal team to abruptly drop one of the claims — for “negligent infliction of emotional distress” — from its case. That claim had a particularly special meaning: It was the one claim that required Gawker’s insurance company to pay for its defense as well as potential payouts in the case of a settlement. (That provision of Gawker’s insurance policy became public after the insurance company, Nautilus, sued Gawker to try to limit payment for defense.)

Several legal experts said that it was particularly unusual for a plaintiff using a lawyer being paid on a contingency basis not only to turn down settlement offers (several sizable settlements were proffered

by Gawker) but also to pursue a strategy that prevented an insurance company from being able to contribute to a settlement.

“It’s a very unusual thing to do, because the insurance company would have deeper pockets than Gawker,” said Larry Geneen, a risk management consultant who has long dealt with lawsuits involving insurance companies. “I’ve never had a situation where the plaintiff intentionally took out the claim involving the insurance company.”

And given that Mr. Hogan has had financial ups and downs, the cost of the hundreds of motions his lawyers made is significant, and the chances the award is significantly reduced based on previous cases he lost making the same claims in federal court, it’s hard to completely understand the motivations at play.

Additionally, Mr. Harder has brought two new cases against Gawker that seem puzzling. One is a defamation case on behalf of Shiva Ayyadurai, who claimed to have invented email. Gawker had written an article challenging his argument, similar to an article from The Washington Post and others on the same topic.

“In L.A. and New York power centers, people are pretty used to an independent and critical press,” Mr. Denton said. “It’s not like we write that much about Hollywood’s celebrities that isn’t written in TMZ or in other celebrity news sites.”

But some subcultures aren’t used to the glare, Mr. Denton added. “Silicon Valley coverage with coverage on Valleywag, and the coverage on Gawker and Gizmodo — I think that has been a change for them.”

Gawker has made a virtual industry of skewering the industry. The company got into a public battle with Steve Jobs over the publication of pictures of a prototype iPhone that was found at a bar. It has also poked at the private lives of virtually every member of Silicon Valley’s royalty and outed many. (I’ll spare them being name-checked here because it will invariably send readers scurrying to Google to search the names.)

Admittedly, it is a bit hard to defend Gawker Media. I often disagree with Gawker’s news judgment, and it has routinely published items over the years that crossed the line of good taste. I’ve been on the other side of Gawker’s critical pen, and it is not fun. Even so, I believe in a free press, and that means freedom of speech for Gawker’s brand of journalism.

Mr. Denton does too, but he also would like to see more transparency on the financial side. As for the Hulk Hogan lawsuit, “it’s a big case that involves the balance of power between public figures and the press,” he said. “I think it’s in the public’s interest and the media interest for the motives of people on both sides to be out there.”

It would be great to know the answer.

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