

Hearing gets underway in Gateway Pundit defamation suit

A high-stakes defamation suit against The Gateway Pundit, a far right, St. Louis-based website, is off to a slow and contentious start in St. Louis Circuit Court. But a hearing today could begin to untie some of the knots.

The hearing is scheduled for this afternoon in the court of Judge Jason Sengheiser. The agenda includes a motion to compel The Gateway Pundit and its owner, St. Louisan James (“Jim”) Hoft, to provide discovery – i.e., information – that the plaintiffs have been seeking for six months in connection with a suit they filed a year ago. Hoft’s identical twin brother, Joe Hoft, who appears to be a resident of both St. Louis and Florida and contributes articles to the website, is also a defendant.



(Photo by University of Chicago Institute of Politics via Flickr)

The plaintiffs in the suit are two Georgia poll workers, Ruby Freeman and her daughter Wandrea (“Shaye”) Moss. Beginning in November of 2020, The Gateway Pundit has published dozens of articles – 58, according to the plaintiffs – accusing them

of having processed the same votes for Joe Biden multiple times while election observers weren't looking. (See, for example, ["NEW VIDEO shows anti-Trump Georgia Ballot Counter Ruby Freeman with Piles of Ballots, ... Working Alone in Cubes WITH NO GOP OBSERVERS IN SIGHT!"](#))

Georgia election officials immediately and publicly refuted the accusation – the two women had done nothing wrong – but the allegations, which were echoed by Rudolph Giuliani and President Trump himself, continued. [Death threats and other harassment](#) ensued. The two women's public testimony to the Special Committee Investigating the Jan. 6 Attack on the Capitol provided an emotional highlight to one of the committee's hearings last summer.

When Judge Sengheiser will rule on the specific matter to be brought before him today is unknown but given the accumulated volume of arguments and the time of year it may not be soon. Regardless, it's expected that if the case does come to trial – perhaps in about a year – it will have national repercussions.

That's because the case is one of a handful across the country in which plaintiffs are accusing various parties of having topped the very high bar – proof of "actual malice" or reckless disregard for the truth – that protects media organizations from libel judgments involving public officials. Advocates for these plaintiffs see an opportunity to punish some of the most egregious purveyors of misinformation.

Yet some observers fear that this same outcome could produce a weakening of the protections offered even to traditional media by the First Amendment. And conversely, if the defendants largely escape unharmed, purveyors of misinformation could be emboldened even further.

In one defamation case that has already made headlines, Alex Jones, the host of the InfoWars podcast, was recently fined

more than \$1.4 billion for his allegations that the Sandy Hook massacre never took place. In another, [Fox News is being sued](#) by Dominion Voting Systems for repeated claims by Fox's hosts, including Sean Hannity, that the company's voting machines were rigged for Joe Biden. That case may go to trial next year. And in a third case, in the Colorado District Court in Denver, the former chief of security for Dominion has sued Rudolph Giuliani, Sidney Powell, the Trump campaign, Newsmax, and again, The Gateway Pundit, for their assertions that he participated in the alleged rigging.

One First Amendment champion who is full-speed ahead on the case against the Hofts in St. Louis is Floyd Abrams, who represented *The New York Times* in the Pentagon Papers case in 1972. In fact, two lawyers with his Floyd Abrams Institute for Freedom of Expression at the Yale Law School are among the attorneys for Freeman and Moss. And Abrams is quoted on the [website of United to Protect Democracy](#), another non-profit helping with the women's suit, as follows:

"This is the sort of lawsuit libel law was created to permit. The complaint depicts terribly wronged plaintiffs suing to restore their grievously harmed reputations from statements made with knowledge of their falsity. Not only does the First Amendment provide no protection for such statements, but this is precisely the situation in which libel litigation is most needed."

The stakes in the case go beyond the pain endured by the two women. The written complaint that launched the case a year ago noted, "The intentional dissemination of known falsehoods aimed at sowing doubt about the integrity of our elections threatens our very ability to function as a democracy."

The specific focus of the hearing scheduled for today is a motion submitted Dec. 2 on behalf of the plaintiffs' legal team by Matt D. Ampleman of the powerful Dowd Bennett firm in St. Louis. Dowd Bennett is part of a legal team that besides

lawyers from the Abrams Institute and the Washington, D.C.-based United to Protect Democracy includes two private firms in Atlanta.

The Dec. 2 motion asserts that since the case was filed in December of 2021, “Defendants’ pattern of delay and obstruction has left Plaintiffs, to date, without a single non-public document responsive to discovery requests.” The defendants’ tactics have included objecting to the “definitions for the terms ‘Defendants,’ ‘You,’ and ‘Your,’” the motion says.

Several of the requests that have gone unmet, the filing says, relate to The Gateway Pundit’s finances. For example, the motion requests information from Google Analytics that would provide insight into how many readers The Gateway Pundit’s articles about Freeman and Moss attracted. With that data, it would be possible to make inferences about “how much Defendants have monetized their defamatory content about the Plaintiffs,” and therefore how strong their motive might have been to have “continued to publish defamatory statements after being put on notice of falsity.”

Likewise, the motion seeks information about The Gateway Pundit’s former relationship with Google AdSense, the company’s powerful advertising unit, and about The Gateway Pundit’s subscription base. Information about both would shed light on The Gateway Pundit’s financial motive to keep publishing “known falsehoods” about the two women and about its “journalistic practices and ethical standards, which also bears on the actual malice question.”

As a company owned 100 percent by Jim Hoft, The Gateway Pundit does not make its finances publicly known. A website monitoring firm called SimilarWeb, however, estimates the company’s annual revenues at \$10-15 million a year. The Plaintiffs have not yet offered any indication as to what they may be contemplating for damages.

Also of interest in the plaintiffs' filing is an exhibit asking for communications between Joe Hoft and two people, Christina Bobb and Owen Shroyer. Bobb is a lawyer for Trump who has been quoted in stories by both Joe and Jim Hoft several times. She gained notoriety this past June when it was revealed that she had signed a sworn statement that all classified material had been returned from Trump's Mar-a-Lago home to the Federal Government and that a "diligent search" had been conducted. It turned out documents marked classified remained at Mar-a-Lago.

Shroyer is a host on InfoWars and also a frequent guest on InfoWar's "The Alex Jones Show" who [testified](#) in a Jones defamation case last summer in Austin, Tex. He is a native St. Louisan and a former host on St. Louis radio stations KXFN and KFNS. He also has been quoted or cited in many stories on The Gateway Pundit.

Representing the Hoft brothers and their website in the case is St. Louis attorney John C. Burns, who in court filings has provided only a post office box as an address. Joining him are two lawyers from a Las Vegas-based firm whose namesake partner, Marc Randazza, has often defended far-right figures. They include, according to this [Wikipedia profile](#), Jones, the neo-Nazi Andrew Anglin, and a participant in the planning of the violent [Unite the Right rally](#) in Charlottesville, Va. who used the pseudonym "Kristall.night," an apparent reference to Kristallnacht, a pogrom the Nazis conducted against Jews in 1938,

In a filing objecting to Plaintiffs' requests for discovery, the defendants' attorneys wrote that many of the requests are "unduly burdensome and wildly inappropriate." "If there is any gamesmanship, it is Plaintiffs' attempt to manufacture a failure to produce discovery where the discovery doesn't belong to Defendants."

Trying to get details on the financial performance of specific

Gateway Pundit articles is “an affront to the Constitution,” the filing continued, quoting a 1973 U.S. Supreme Court ruling: “If a newspaper’s profit motive were determinative, all aspects of its operations – from the selection of news stories to the choice of editorial position – would be subject to regulation ... (that) would be incompatible with the First Amendment.”

The objection also described the entire case as misconceived. “This is a lawsuit not to compensate the plaintiffs, but rather to shut down the Gateway Pundit. ... The sole purpose of this suit is to impose costs on Defendants, with Plaintiffs’ counsel at the ill-named ‘United to Protect Democracy’ engaging in fundraising off this suit and maintaining it through a form of political champerty.”

Moreover, Freeman and Moss have no cause to pursue The Gateway Pundit because they have already reached a settlement in a similar but separate suit they filed against One America News Network, Burns and his fellow attorneys wrote. “There is no reason to suggest that they were not made whole for the very same injuries they claim here were caused by Mssrs. Hoft and TGP Communications,” the attorneys argue.

Paul Wagman is a former Post-Dispatch reporter and FleishmanHillard executive who is now an independent reporter, editor and communications consultant. He wrote an investigative [report](#) earlier this year for GJR on the involvement of St. Louis Republican officials in the election denial myth.