



UVA Fraternity Sues Rolling Stone Over “Rape On Campus” Story For \$25 Million

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Recently, the University of Virginia (“UVA”) chapter of the Phi Kappa Psi fraternity filed a lawsuit against Rolling Stone magazine in Virginia state court for \$25 million alleging defamation in connection with its ‘A Rape on Campus’ story.

By way of background, on November 19, 2014, Rolling Stone published an article titled “A Rape on Campus” by Sabrina Rubin Erdely. The article recounted an alleged brutal gang rape of a female student by seven members of the Phi Kappa Psi fraternity at a party hosted by the fraternity in 2012. The article sent shockwaves across the University of Virginia campus and produced international headlines concerning the University’s “culture of hidden sexual violence.” Upon publication of the article, the President of the University of Virginia, Teresa A. Sullivan, suspended all fraternities and related social activities.

However, the article soon faced a vast amount of criticism from other journalists for major reporting failures. One such criticism was that the editor wrote the story almost entirely based on only the complainant’s account of the alleged rape. Rolling Stone commissioned Columbia’s School of Journalism to investigate the reporting of the story, which eventually uncovered many flaws in the reporting and editing process. Charlottesville police also conducted an independent investigation and found no substantive basis to support the occurrence of an alleged rape at the Phi Kappa Psi house.

Rolling Stone magazine later retracted the story and several months after the retraction, the managing editor, Will Dana, resigned after working at Rolling Stone for 19 years.

The fraternity’s defamation complaint points out various types of adverse treatment its members received in response to the article’s publication, including in-person and online death threats. “The reputation that Phi Kappa Psi and its alumni spend decades building was destroyed overnight,” the lawsuit said. “The formerly respected fraternity is now known colloquially in the University of Virginia community as ‘the rape frat.’” Rolling Stone “set out in advance to find a sensational story of graphics and violent rape, searched for such a story at elite universities...the story was simply too tempting, too sensational, to let facts get in the way.” The complaint further alleges that the fraternity house was vandalized by people throwing bricks and painting “UVA Center for Rape Studies” on the side of the house. The complaint also includes photographs of demonstrations outside of the fraternity house, including a photograph of a woman holding a sign that stated, “Doesn’t want to take classes with rapists.” The fraternity also claimed that its members received more than 1,300 emails that rebuked them as rapists. Rolling Stone magazine, Straight Arrow Publishers, Wenner Media, and Sabrina Erdely are named as

defendants in the lawsuit.

“The fraternity chapter and its student and alumni members suffered extreme damage to their reputations in the aftermath of the article’s publication and continue to suffer despite the ultimate unraveling of the story,” the Phi Psi chapter said in a statement. “The article also subjected the student members and their families to danger and immense stress while jeopardizing the future existence of the chapter.” Rolling Stone has declined to comment on the lawsuit.

This fraternity’s defamation lawsuit followed two other lawsuits against the magazine in connection with the publication of “A Rape on Campus”. In May 2015, UVA’s associate dean of students, Nicole Eramo, filed a defamation lawsuit against Rolling Stone magazine and Sabrina Erdely in Virginia state court. The complaint seeks \$7.8 million in damages for portraying her as callous and indifferent to allegations of sexual assault on campus. Another lawsuit was filed in New York federal court in July 2015 by three UVA alumni who were former members of the same fraternity. As alleged in the complaint, one of the fraternity members, George Elias, who lived on the second floor of the fraternity house in 2012, wrote in the lawsuit that because he lived in the house in 2012, members of the community automatically presumed he participated in the alleged gang rape.

These and other lawsuits relating to the handling or mishandling of allegations of sexual assault on campus, along with recent media coverage and legislative actions, amply demonstrate that colleges and universities are facing higher scrutiny of their investigatory protocols, procedures, and results. Institutions are advised to implement procedures and policies that comply with Title IX and train their employees regularly to minimize Title IX liability and fulfill their duties to their students.

If you have any questions or concerns regarding employment or education-related issues, please contact Hayley B. Dryer at hdryer@cullenanddykman.com or at 516-357-3745.

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