

Democratizing the Defense to Doxing: New Attorney Fee Awards for Victims Alters Paradigm

Article

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Defamation is the line between free and unlawful speech. Doxing is the disclosure of another's personally identifiable information with the intent to bring the internet's violent speech to their front door.

Online defamation campaigns frequently involve an internet mob striving to take down an individual. Publishing the target's personally identifiable information (e.g., their home address or their children's school) is a common theme in defamation campaigns. Doxing instills fear and encourages violence. Our courts have correctly determined that the First Amendment does not protect one's right to dox.

In January 2024, Illinois's Civil Liability for Doxing Act (Act) went into effect. The Act allows private individuals to bring civil lawsuits against those who publish their personally identifiable information with the intent that it be used to harm or harass. What makes this law unique is that if the elements are met, the doxing victim can seek attorney fees.

Litigants must usually pay their own attorney fees win or lose. However, the Act allows doxing victims to have their fees covered by their perpetrator, which radically alters these lawsuits' financial paradigms by lessening financial barriers to justice. This is how it works:

Example 1 (Defamation Without Doxing)

John defames Lucy on X, Reddit, Substack, Instagram, LinkedIn, Facebook, and TikTok by falsely accusing her of financial crimes and fraud.

- Lucy has a good defamation suit against John. She can sue John for damages to her reputation, other actual damages including emotional distress, and maybe punitive damages. But how does she finance over a year of legal fees?
- In a defamation suit, she cannot seek to recover her attorney fees—she must pay tens of thousands of dollars out of pocket or convince an attorney to take

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Max Goodman
Partner

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the case in exchange for about one-third of the recovery (a contingency fee).

- Because of these financial hurdles, Lucy may not be able to afford her lawsuit. John may get away with it and do it again.

Example 2 (Defamation Plus Doxing)

In this example, imagine the same facts, however, John additionally publicized Lucy's home address or the name of her children's school. Here, John has defamed *and doxed* Lucy.

- Lucy will sue for defamation and violation of Illinois's anti-doxing law. Under this law, **Lucy can now also seek her attorney fees.**
- Attorneys will be financially incentivized to represent Lucy in this lawsuit against John because the Act allows the attorney to recover their fees from John.

Allowing doxing victims to have their tormentors pay the attorney fees (in addition to damages) empowers victims by lowering the financial barrier to entry while increasing potential rewards for victims. The Act is a valuable tool to beat back the online mob.

Effective counsel can use this weapon to negotiate higher settlements for doxing victims, put more money in victims' pockets, and, hopefully, dissuade the internet from encouraging violence to spill from its pages into our neighborhoods.

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