

## Woman's Crusade Against Bar Spawns Free Speech Case

By Amy E. Wong



Whenever I've told someone to "shut up" and he or she retorted, "It's a free country. Make me," instead of taking up the bait ("Make me!") by smacking the offender upside the head, I've always just shaken my head in utter loss. It's true. Our First Amendment allows people to say anything they want to say even if it bugs the hell out of someone else.

Should free speech be protected by law even when someone is defaming and hurting you?

What would you do if somebody started spreading lies about your character, asserting that you make sex videos, dabble in child porn, distribute illegal drugs, encourage lesbian activities, run a whorehouse, poison people, and are linked to the mafia? When Anne Lemen, 58, made these claims against restaurant and bar owner Aric Toll, 41, he filed a defamation lawsuit against her. The judge ordered that Toll stop making false statements, but before the order could be implemented, Lemen filed an appeal with the California Supreme Court.

Frankly, I feel horrible for Toll and his business, Village Inn. Supposedly, Lemen, a self-proclaimed "innocent Christian," pesters Toll's employees and patrons by calling them "whores" and "Satan," videotaping departing customers, and taking flash photos of dining customers through the restaurant windows. Toll also claims that Lemen once parked her car in front of his business and honked the horn for 30 minutes-nonstop. Lemen also claims that her former husband, guards at a local church, and police officials are all mafia members who are conspiring against her.

In interviews conducted by the *Los Angeles Times*, business owners and neighborhood residents gave their condolences to Toll, calling him "that poor guy," and condemned Lemen, calling her "goofy" and a "very unique individual" whom others should "try to stay clear of." Those who were interviewed refused to be identified out of fear that Lemen would turn on them.

How does the law protect a person against a bully's defamation? What happens when hateful rumors ruin your livelihood and reputation? What are you supposed to do when the law expressly protects a person's right to free speech? Are you just supposed to take it and turn the other cheek?

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In some cases, you can sue people for defamation by making them pay monetary damages. Defamation lawsuits are common in Hollywood. A woman sued Matt LeBlanc for defamation. Keira Knightley sued a British tabloid over anorexia claims. Donald Trump threatened to sue Rosie O'Donnell for insulting him. But what if the costs are incalculable, as in Toll's case? What if, even after the monetary damages are paid, the person continues attacking you?

J. Scott Russo, who will represent Village Inn at the hearing, said that Toll's requested restraining order was the only way to keep Lemen from continually harming the restaurant's business. He said in the *Los Angeles Times*, "It's ridiculous that someone can stand in front of a restaurant and tell patrons that the food makes you sick and that they sell drugs and have prostitution, and a court would have its hands tied and could not say, 'Stop.'"

On the other hand, Erwin Chemerinsky, Duke University constitutional law professor, will testify in the California Supreme Court in Lemen's defense. He fears that if Lemen loses, it will set a new limitation on free speech. He noted that the press could even be barred from reporting on defamation stories. This would have grave and wide-reaching consequences.

Even though being sued for monetary damages is enough to teach the average person an important lesson in keeping his or her mouth clamped, it isn't a viable solution for those who are rich and mentally off-kilter. They don't exactly talk in terms of money. While we must protect our First Amendment rights, we also must continue to protect our citizens from being harassed by bullies.

Restraining orders in defamation cases have been subjects of debate across the country. Usually, restraining orders are issued in cases of national security and obscenity, not in response to defamation complaints.

After reading about all the trouble, distress, and loss that Lemen has caused Toll, I think restraining orders should be enforced in order to protect both of them. Yes, I said, "both of them." I think it's human nature to push back when you're being pushed. If the court won't assist Toll in legally pushing his offender away, he might feel the need to fight back using other methods. In any case, I'm curious to see how the *Lemen v. Toll* case pans out, as it could be a landmark case in Constitutional law.