

# Study shows courts tending to side with people impersonating, parodying via social media

August 16 2018, by Mike Krings

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Thirty years ago, the U.S. Supreme Court ruled that a satirical ad in *Hustler* magazine was not libelous against the Rev. Jerry Falwell and did not intentionally cause him emotional distress because no reasonable person would believe Falwell lost his virginity to his mother in an outhouse while drunk. The media landscape has changed a great deal since then, and court rulings have recently tended to swing toward siding with people impersonating, satirizing and parodying via social media as well, research from the University of Kansas has shown.

Genelle Belmas, associate professor of journalism, has co-authored and presented a study examining satire, impersonation and parody in the digital age. Focusing on [court rulings](#) in cases of social media, the study also examines how public figures have reacted to being parodied via social media and how the cultural landscape for such lampooning has evolved. Belmas and co-author Bastiaan Vanacker of Loyola University Chicago presented their findings in April at "The State of the Satirical Union" conference at the University of Minnesota, celebrating the 30th anniversary of *Hustler v. Falwell*.

Cases that have gone to court over parodying via social media have recently tended to side with those doing the parody, the authors found. That shows a shift since parody rulings prior to social media. In the mid-'80s, "Wheel of Fortune" hostess Vanna White successfully sued Samsung Electronics for depicting a robot version of her, and the court refused to apply a parody defense. More recently, commercial parody cases have been protected. For example, a court upheld the rights of a company making "Chewy Vuiton" branded purse-shaped dog chew toys spoofing luxury brand Louis Vuitton, claiming there was no consumer confusion and that such parody was allowable.

"The vast majority of these parody cases that are brought are intellectual property cases," Belmas said. "Trademark has some representation as well, and it was interesting for us to see the evolution into intellectual

property areas. It shows we're OK with parodying, as long as it's not bullying or abuse."

That society is becoming more comfortable with parody is evident on social media, especially Twitter, as countless parody accounts lampoon politicians, celebrities, athletes, corporations and others. The authors note that Twitter sets forth criteria for parody accounts, including clearly stating the work is satire, while other platforms such as Facebook and LinkedIn do not. But, as the 2016 presidential election showed, not all accounts on Facebook were legitimately operated by the people they claimed to be.

"We now know that millions of Facebook accounts were bots or bad actors at the time," Belmas said. "Their terms don't allow for parodic accounts, but maybe they should."

Not surprisingly, politicians are frequent targets of parody social media accounts. The authors point out there are lessons to be learned in how best to respond to such accounts:

- Chicago Mayor Rahm Emanuel was satirized by an account that posted foul-mouthed, though generally accepted as funny, tweets that clearly weren't coming from the candidate. Emanuel decided not to fight the account or threaten its creator with legal action, instead offering \$5,000 to the charity of the creator's choosing if he or she revealed their identity. Eventually the creators came forward after Emanuel had won the election and proved to be a good sport about the issue.
- Another Illinois mayor, Jim Ardis of Peoria, decided to take action when parodied via Twitter and depicted as a foul-mouthed boozier obsessed with alcohol and drugs. The city notified Twitter of plans to sue, and the creator of the account was subjected to having his home and electronic devices searched and detainment.

The mayor's emails discussing the case were later obtained through a Freedom of Information Act request and documented, and concern about First Amendment issues in prosecuting a citizen over a social media account led to Ardis being labeled as the poster child of thin-skinned politicians unable to take a joke and brought nationwide attention to the parody account, the authors wrote.

In an age when the president of the United States' preferred method of communication is Twitter, the cases are noteworthy and can reveal a great deal about the qualities of leaders and elected officials.

"I think there's a lesson there, certainly, for public officials," Belmas said. "You have to try to let it roll off. Because you expose yourself to the public for votes, you have to be able to take the good with the bad."

In future research, Belmas plans to explore section 230 of the Communications Decency Act and how it may affect [social media platforms](#) such as Twitter and Facebook and others that allow user comments. The section, in essence, protects such platforms from being sued for the actions of its users. However, recent legislation has passed stating the section does not extend to sites that support sex trafficking, and Belmas plans to study if that new legislation has direct or indirect consequences on the aforementioned sites.

In the meantime, the findings were one of the first overall reviews of how courts have responded to impersonation, satire and parody on [social media](#). The fact that courts tend to side with those doing the parody work shows that society has evolved to accept satire, given its growth from editorial cartoons to hugely popular programs such as "Saturday Night Live," "The Daily Show," "The Colbert Report" and others.

"What we hadn't recognized before this was the attitude of, 'We're going

to protect the rights of the company or person being parodied' to the pendulum swinging the other way," Belmas said. "I'd argue it's because of society becoming much more comfortable with parody and acknowledging it's a tool to get content, as well as laughing at and enjoying the content."

Provided by University of Kansas

Citation: Study shows courts tending to side with people impersonating, parodying via social media (2018, August 16) retrieved 27 April 2024 from <https://phys.org/news/2018-08-courts-tending-side-people-impersonating.html>

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