

# 미주지역 언론사 징벌적 손해배상 사례로 보는 한국의 언론 개혁 방향

JNC TV 송현기자, 04/29/2024

## Hulk Hogan Awarded \$115 Million in Privacy Suit Against Gawker

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Judge Pamela Campbell, left, and Kenneth Turkel, a lawyer for Hulk Hogan, who described the video in question as “just porn.” Pool photo by Boyzell Hosey

By Nick Madigan and Ravi Somaiya

March 18, 2016

### 1. 가우커 미디어, 헐크 호건 성관계 영상 게재

- 4년 걸린 1심: **1억 1,500만 달러 (약1,500억)** 배상 판결 (청구 금액 1억 달러 보다 많은 액수)
- 경제적 손해: 5,500만 달러, 정신적 고통: 6,000만 달러, 징벌적 손해배상액은 별도
- 가우커 미디어: “비디오 포스팅은 언론활동, 수정 헌법 제 1조에 의해 보호되어야” 주장
- 추가 **2,500만 달러** 손해 배상 판결
- **징벌적 손해 배상**: 가우커- **1,500만** 달러, CEO- **1,000만** 달러, 편집장- **10만** 달러

➔ **3,100만 달러 (약 420억)** 배상 합의  
**가우커 미디어 파산**

# Communication 273

## Public Issues Reporting

October 23, 2001

### Memo to the class:

About 20 miles upstream from St. Louis on the Mississippi River lies the historic town of Alton. Alton was established by French fur traders in a place that much later became Madison County. From this meeting of the waters, Lewis and Clark set off on their exploration of the trans- continent. Here in 1837, Elijah Parish Lovejoy, the abolitionist preacher and publisher, became America's first martyr when he was then murdered him. Here in 1858, Abraham Lincoln and Stephen Douglas held the last of their famous debates. And here for more than 150 years was published a newspaper called the Alton Telegraph. I'm proud. Not many papers could say that Abraham Lincoln had appeared in local news articles. Our story begins with a prominent apartment developer named James C. Green. As a big-time contractor, his activities and the rumors around them came to the attention of two investigative reporters. They were looking into possible Mafia connections in Madison County. A federal anti-crime task force had developed information that mob money was being funneled into the Piasa First Savings and Loan. The reporters surmised that Green was involved with the Mafia. That might explain the mysterious kickbacks, in which case he was a racketeer. The reporters got some leads from the sheriff's office and elsewhere but the investigation was blocked by a strike force, alleging that Mafia money was going into Piasa. In the memo, they accused Green by name of receiving kickbacks and said he was associated with the "No. 2 crime boss in the county." The reporters asked the strike force to verify this information. It was explosive stuff. The trouble was, nothing came of it. The reporters' work eventually ran into a dead end. They could find no wrongdoing by Green.

## 2. 알톤 텔레그래프, 1969년에 '한 건설업자 (제임스 그린)가 마피아와 연관돼 있다' 투서

- 두 기자, 연방 반범죄 대응 특별팀에 비밀 투서, → 특별 대응팀, 메모를 연방 주택 대출 은행 이사회와 공유 → 2,500세대 아파트 건설업자 그린 씨 자금조달 막히고 사업 실패, 목수로 전향

- 1975년 명예훼손으로 알톤 텔레그래프 고소. 알톤: "실제로 피해 줄 수 있는 자료 인쇄하지 않아. 명예훼손 위협은 보도 기관들의 조사 능력 약화시키고, 시민들의 법 집행 기관에 정보 제공 막을 수 있어"

➡ 1980년 1심 **920만 달러 (실질적+징벌적)** 손해 배상 판결, **알톤 텔레그래프 파산** (당시 순자산 250만 달러)

- 당시 미국 역사상 최대의 명예훼손 판결



# \$25 Million Award In 'Jenny Jones' Case

May 7, 1999

Justine Hyde

AP

PONTIAC, Mich. - A jury decided today that "The Jenny Jones Show" was negligent in the slaying of a man and ordered the producers to pay more than \$25 million in damages.

Jonathan Schmitz killed Scott Amedure a few days after Amedure declared on the show that he is homosexual.

Amedure's family had argued that Schmitz was lured onto the talk show in 1995 during a sex interview with a woman, and was humiliated into murder when his secret admirer turned out to be Amedure, who is heterosexual.

Lawyers for Warner Bros., the show's owner, argued Schmitz was told that his secret admirer was a woman and played a role in Amedure's death.

Besides funeral expenses, jurors awarded \$5 million in damages for Amedure's suffering because of companionship and \$10 million for the loss of money Amedure would have earned.

Defense attorney James Feeney said the defense would appeal. Feeney said it was wrong to blame the show for the death.

Ven Johnson, an attorney for the Amedure family, said the jury "was 100 percent correct."

Yesterday, jurors watched the taped show, in which Amedure talks about a sexual fantasy in which he kills a man. One of Amedure's comments is shown to him - he buries his face in his hands.

Authorities said Schmitz shot Amedure, 32, twice in the chest three days after the taping.

Schmitz, now 28, was found guilty of murder in 1996, but his conviction was thrown out on appeal because he admitted he killed Amedure but contended that the show humiliated Schmitz and that he was in a mental condition.

Jones was not a defendant.

## 3. 1995년, 주간 토크쇼 "제니 존스 쇼" 동성애 비밀 연애 에피소드 방영

- 1995년 게스트 조나단 스미츠는 전 여자친구 만날 것 기대하고 출연, 스콧 아메듀어는 슈미츠와 관련된 성적 판타지 묘사, 슈미츠는 자신이 이성애자이며 아메듀어에 관심없다고 강조

- 그로부터 3일 후, 슈미츠가 아메듀어 살해

- 슈미츠: 1, 2심(96,99) 형사 재판에서 2급 살인 유죄 판결

- 1999년 민사 재판에서 쇼 제작자들, 아메듀어 가족에게 **2,500만 달러** 배상 판결

UPI ARCHIVES APRIL 1, 1996

## Philadelphia Inquirer settles libel suit



PHILADELPHIA, April 1 -- The Philadelphia Inquirer Monday settled a libel suit filed 23 years ago by criminal attorney Richard Sprague over a series of articles that questioned his ethics. Terms of the settlement were not disclosed, but in 1990 a jury awarded Sprague \$34 million in damages. The state Superior Court later lowered the award to \$24 million. The 1973 series detailed alleged improprieties by Sprague when he was a homicide prosecutor with the Philadelphia District Attorney's Office in 1963. The articles suggested that Sprague had quashed a 1963 murder investigation as a favor for a friend, former State Police Commissioner Rocco Urella. The series was based on reporting by the late Inquirer writer Greg Walter. Sprague contended that Walter had a grudge against him because he had successfully prosecuted the writer for illegally tape recording telephone interviews. Superior Court

## 4. 1973년, 필라델피아 인콰이어러, 형사 변호사 리처드 스프레이그의 검사 시절 윤리에 의문 제기 기사 보도

- 1963년 스프레이그 검사가 친구인 전 주 경찰청장을 위해 살인 조사 기각했다 주장
- 1983년 1심 스프레이그 승소, 1990년 2번째 재판 1심, 인콰이어러에 **3,400만 달러** 배상 선고(**250만 달러** 배상금, **3,150만 달러 징벌적 손해배상**)
- 1994년 2심 **2,400만 달러** 배상으로 감경, <기사들, '진실에 대한 무모한 무시' 보여주며 '악의적인 의도'로 쓰여져>
- 1996년 대법원, 인콰이어러 항소 기각, **23년 법정 소송 종료**

## CNN Settles Defamation Lawsuit With Covington Student Nicholas Sandmann

The settlement agreement was not made public



Lindsey Ellefson January 7, 2020 @ 1:16 PM



CNN settled a defamation lawsuit with Covington Catholic student Nicholas Sandmann on Tuesday. A CNN spokesperson confirmed to TheWrap that a settlement was reached but did not comment on details.

A lawyer for Sandmann filed a \$275 million defamation suit against CNN in March 2019, saying the network's coverage of the student's encounter with Native American tribal elder Nathan Phillips in January of that year constituted a "vicious attack" against his client.

"In short, the false and defamatory gist of CNN's collective reporting conveyed to its viewers and readers that Nicholas was the face of an unruly hate mob of hundreds of white racist high school students who physically assaulted, harassed, and taunted two different minority groups engaged in peaceful demonstrations, preaching, song, and prayer," according to the suit, filed in U.S. District Court in Kentucky.

In July 2019, a federal judge dismissed a defamation lawsuit from Sandmann against the Washington Post, but it was partially reopened in October. There are

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## 5. 2019년 1월, CNN 니콜라스 샌드만 학생과 원주민 부족 장로 네이션 필립스 간의 대립 보도

- CNN이 샌드만을 평화적인 시위에 참여하는 소수 집단을 괴롭히고 조롱하는 백인 인종차별주의자 고등학생 폭도로 보도했다고 주장
- 2019년 3월 샌드만 변호사 **2억 7,500만 달러** 명예훼손 소송 제기
- **2020년 1월 CNN, 샌드만과 배상 합의** (자세한 내용은 비공개)





6. 2015년, CNN은 세인트 메리 메디컬 센터 소아 심장외과 프로그램이 2011년부터 2013년까지 국가 평균보다 세 배 이상 높은 사망률 보인다고 보도. 사망률은 사망자 수를 수술 수로 나누어 계산

- 2015년 6월 세인트 메리 메디컬 센터 소아 심장 수술 프로그램의 전 책임자인 의사 마이클 블랙, CNN 명예훼손 소송 제기.
- 23년 10월 **항소 법원**: 블랙 의사, CNN을 상대로 한 명예훼손 소송에서 **징벌적 손해배상 추구하는 데 필요한 "실질적 악의(actual malice)" 입증 못해**
- 24년 1월 플로리다 대법원에 상고

Legal | Litigation

## Trump sues CNN claiming defamation, seeks \$475 million in punitive damages

By Dan Whitcomb

October 3, 2022 6:10 PM CDT · Updated 2 years ago



# 트럼프 측 (22년 10월) : X

- CNN은 '큰 거짓말'이라는 용어를 2020년 대선 패배에 대한 거짓된 주장과 광범위한 선거 부정을 비난하는 데 사용
- 트럼프가 대통령 후보로 출마할 때나 대통령으로서의 업적을 흔들려는 효과 없을 때, CNN은 히틀러와 관련시키는 시도

# CNN 측 (22년 11월): O

- CNN이 사용한 '큰 거짓말' 용어는 많은 기자와 해설가들이 원고의 선거 부정 주장을 지칭하는 데 널리 사용되는 용어
- 소송의 주장은 언론의 자유와 공개적인 정치적 논쟁에 반대하는 것으로, 이는 미국 헌법에 반하는 것

# CNN asks judge to dismiss Trump defamation claim

BY DOMINICK MASTRANGELO - 11/23/22 10:11 AM ET



# POLITICO



The Homeless Former Mayor  
Ad By  
The New York Times  
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# 7. 트럼프가 임명한 판사 (23년 7월): O

- '히틀러와 같다'는 주장은 손해배상 청구를 지지할 수 있는 확인 가능한 사실 아냐

LEGAL

## Judge dismisses Trump's 'Big Lie' lawsuit against CNN

"Being 'Hitler-like' is not a verifiable statement of fact that would support a defamation claim," a Trump-appointed judge wrote.



- 언론사 징벌적 손해배상 제도는 피해자 구제가 목적  
(노무현 대통령 논두렁 시계 보도 잊어선 안 돼)
- 악의적 보도 일삼는 언론, 징벌적 손해배상으로 파산해도 이상하지  
않아
- 비판적 보도와 악의적인 왜곡 보도는 구분되어야 하고, 악의적인  
왜곡 보도 처벌하는 징벌적 손해배상 제도 정착시켜야
- 징벌적 손해배상제도: 공인과 사적인 인물 구분하고, 공인은 보도가  
다소 부정확했던 경우라도 '실질적 악의' 없었다면 인용되지 않아야
- 사법당국이 피의사실 흘리고, 언론이 받아서 특종 보도하는 공생  
관계 깨뜨려야 (불법적인 피의사실 유포 엄격히 처벌)