

Judge Rules Trial against Twitch for Phantoml0rd Breach of Contract Can Proceed, Dismisses Motion for Summary Judgment Entirely

Trial Set for March 2021 in case deemed among “most significant lawsuits in streaming history”

Chicago—The Quinlan Law Firm LLC (QLF) revealed a San Francisco County Superior Court judge has ruled in favor of its client, influential livestreamer James “Phantoml0rd” Varga, dismissing a motion for summary judgment sought by streaming platform Twitch. The ruling allows Varga’s lawsuit to proceed against the platform for violating its terms of service after banning him in 2016. A jury trial in what has been called one of the “most significant lawsuits in streaming history” is scheduled to begin on March 29, 2021.

“This is an important decision not only for Mr. Varga to move forward in his quest to seek full compensation for the losses he suffered as a result of Twitch’s wrongful termination, but it also poses significant legal ramifications for hundreds if not thousands of other streamers who have signed contracts with Twitch and rely on the platform as their main source of income and professional standing,” said William J. Quinlan, who represents Varga. “This case has the potential to set a standard of rights and responsibilities for streamers and platform providers for years to come.”

From 2012 to 2016, Varga was one of the most popular broadcasters on Twitch, attracting millions of viewers, after having signed a contract with Twitch, including a Partnership Agreement that permitted Varga to stream content and established a revenue share. In July 2016, Twitch terminated Varga’s account but failed to cite why it was terminating his account, or provide a written notice of its intent to terminate or set 30 days to cure any alleged breach of contract, as required by the Partnership Agreement.

In 2018, Varga filed suit in California state Superior Court in San Francisco, alleging Twitch’s termination constituted a breach of contract, negligent misrepresentation, intentional misrepresentations, and a violation of California’s Unfair Competition Law.

Following two years of discovery, Twitch filed a motion for summary judgment in July 2020 seeking to have all of Varga’s claims dismissed. Twitch’s motion argued that Varga’s claims were barred by Section 230 of the federal Communications Decency Act—which ostensibly immunizes websites from litigation involving content posted on its site—and that its Terms of Service permit it to nullify streamer accounts without notice or explanation. The company also argued that Varga’s Partnership Agreement terms were pre-empted by the Terms of Service that Twitch requires all users to sign prior to joining its website.

Judge Curtis Karnow’s decision found that Section 230 did not immunize Twitch from Varga’s claims for wrongful termination because Twitch was not acting as a “publisher” when it breached Varga’s Partnership Agreement, finding that the actual contract at issue in the case is

the Partnership Agreement between Varga and Twitch, not Twitch's Terms of Service, and that Twitch had failed to even attempt to show that its actions were consistent with the Partnership Agreement.

The recent order dismissing Twitch's motion follows Karnow's earlier ruling that Varga can seek damages in excess of Twitch's original \$50,000 cap, noting Varga suffered potentially millions in damages and lost wages as a result of his wrongful termination.

The case, *Varga v. Twitch Interactive, Inc.*, case number 18-1564337, is being handled by Quinlan and Associate Eric Schmitt.

About the Quinlan Law Firm LLC

The Quinlan Law Firm, LLC is a national complex litigation practice headquartered in Chicago, with offices in Phoenix and Redwood City. Founded in 2006, the firm oversees all aspects of litigation from the circuit court to the appellate court. Principal and founder William J. Quinlan, former General Counsel to the State of Illinois and a litigator for over 20 years, brings his extensive government and litigation experience to guide clients in developing custom strategies that meet their legal needs as well as their ultimate business goals. The Quinlan Law Firm, LLC serves as outside counsel to numerous corporations, as well as litigation counsel to both businesses and individuals. The Quinlan Law Firm, LLC brings together a team of talented litigators with experience in handling complex commercial litigation, as well as the ability to assist with the day-to-day legal matters that arise in the daily operations of the business world, from employment matters to contract drafting and negotiation.

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