

K&L Gates Attorneys Have Put 28,000 Hours Toward Stamping Out Revenge Porn in Past Decade

By Amanda O'Brien

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What You Need to Know

- K&L Gates' Cyber Civil Rights Project, aimed at providing pro bono services to victims of revenge porn, is marking 10 years of service and more than 28,000 pro bono hours.
- The firmwide initiative, which spans more than 33 of K&L Gates' global offices, was developed in-house back in 2014 to address a dearth of social media laws and attorneys.
- The firm receives about 33 requests for help through this project each week.

It's difficult to imagine a time when social media wasn't a useful tool to keep in touch with friends, family and colleagues or, depending on your point of view, the symbol of a collapsing, intolerant society; but as certain risks attached to the rise of these platforms began manifesting themselves more than 10 years ago, K&L Gates jumped on an opportunity to lead the pack when it came to social media, privacy and revenge porn laws.

For the past decade, the firm has been offering pro bono services to those who need help removing instances of revenge porn, defined as sexually explicit images posted on the internet without the subject's consent, from the web. In total, more than 400 volunteers from 33 of K&L Gates' global offices have dedicated more than 28,000 hours to its Cyber



Photo: Diego M. Redzinski/ALM

K&L Gates offices in Washington, D.C.

Civil Rights Project, leveraging legal expertise, including in litigation and intellectual property, to help clients lacking in resources.

"There were two concurrent problems at the time: there really were no laws and no lawyers with expertise on how to deal with social media," said program co-founder and Seattle-based internet and technology law partner David Bateman. "It sounds like, 'Well, it was only 10 years ago,' but a lot happens in the technology world and legal world in 10 years. Now we have really robust revenge porn statutes and people are more familiar with it, but at the time no one really knew what to do. Victims had nowhere to go and didn't have lawyers to go to."

Sensing a need for services addressing revenge porn, Bateman and project co-founder Elisa D'Amico, who has since departed K&L Gates to launch her own firm, approached K&L Gates leadership to gauge its interest in the project. After getting the seal of approval from firm management, Bateman said, "we just started doing it without much of a playbook."

"There were some great people in academia and there were some small groups of lawyers working on this who were very good and were giving us guidance," Bateman recalled, adding that the initiative was developed entirely within the firm and without the aid of an outside organization.

In the years since the launch of the Cyber Civil Rights Project, the firm receives about 33 requests for help involving revenge porn each week, according to Harrisburg-based pro bono committee vice chair Amy Groff. Bateman described the ongoing phenomenon of revenge porn as an epidemic, hence the program's longevity.

"The reason it has lasted so long is that the behavior has not gone away. People are still doing the same thing," he said. "As with all internet bad behavior, you never stop it by litigation. You can't sue everybody, you can't arrest everybody. The reality is, the only thing that changes behavior is education."

Yet the firm's attorneys have risen to meet the ongoing challenge, encouraged by K&L Gates recognizing pro bono hours in billable hour requirements.

"This really resonates with a lot of our younger lawyers," Bateman observed. "They know the technology, they're familiar with the behavior. We have people who do hundreds of hours and people who do one and two hours every year. ... The firm has a long and deep tradition of supporting pro bono work and we've put in many thousands of hours into this project."

Although the Cyber Civil Rights Project does work on educating individuals on the consequences of posting nonconsensual sexually explicit images, the

brunt of its work focuses on quickly removing images from the web and securing legal relief for victims.

"We go in order of priority. No. 1 is to get things taken down. The longer they stay up, the more likely the images will be copied, go viral, and stay on the internet forever," Bateman said. "No. 2 is getting to the poster and getting him to stop. It usually is a him. This is not a gender-neutral problem. ... Getting them to stop and making sure they're not reposting the images and destroying all of our efforts.

"That's more of an art than a science," he continued, noting that the act of posting revenge porn is typically rooted in a sudden sense of anger. "Often ... upon reflection the guy decides to behave better. Sometimes with a letter of a large law firm that says, 'Hey, we're representing this woman, you better stop or you'll be in trouble.' ... The cease and desist letters are surprisingly effective in changing people's behaviors."

From there, the firm considers seeking either criminal or civil relief. While the firm cannot ensure an individual is prosecuted, which often depends on the priorities of a given law enforcement agency, it can seek out civil litigation as a means of relief for a victim.

"These days, [civil litigation] is just a lot easier now that there are so many state and federal statutes that give very concrete and positive relief to a victim who wants to be a plaintiff," Bateman said.

Even with an easier legal path to relief, the problem of revenge porn persists, and K&L Gates' pro bono efforts to address the issue continues.

"Pro bono is such a rich and diverse part of lawyers' lives and people are doing amazing things out there. ... There's so many great causes. This one just happens to be the niche we fell into," Bateman reflected. "I don't think it's remarkable in any substantive way. It's just that it has really resonated with people in the community and there are just so many victims that ... we've hit a spot that really needed attention."