

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DAVID PORTNOY,

Plaintiff,

INSIDER, INC., HENRY BLODGET,  
NICHOLAS CARLSON, JULIA BLACK,  
and MELKORKA LICEA,

Defendants.

Civil Action No.

**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

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## I. INTRODUCTION

1. This case arises from Defendants' knowing publication of two false and defamatory exposés into the private life of the well-known founder of Barstool Sports, Plaintiff David Portnoy ("Mr. Portnoy"). On February 3, 2022, a representative for Defendant Insider, Inc. ("Insider") gave an interview to *Variety*, boasting, "If we get sued, we will defend the case vigorously. News organizations regularly get sued; *it's the cost of doing business.*" Perhaps it is the cost of doing business for Insider, a publication that generates its revenue through clickbait journalism and the publication of false and defamatory hit pieces concerning the country's most well-known figures. To Insider, the truth has always played second fiddle to the dollar.

2. Defendants published, as fact, that Mr. Portnoy had "violently" raped and sexually assaulted three unnamed females -- an outright fabrication. Defendants perpetrated their "hit pieces" as part of a preconceived plan to sensationalize a story in order to drive reader traffic to an Internet location where they could then be solicited to subscribe to Defendants' tabloid-like publication. Further demonstrating Defendants' malicious intent, each of Insider's stories was published on a date coinciding with Penn National Gaming's quarterly earnings announcements (Penn National Gaming owns a 36% stake in Barstool Sports). Defendants' actions were outside any conceivable notion of actual journalism. Mr. Portnoy seeks to hold Defendants accountable for their willful and unlawful defamation and privacy rights violations.

3. Defendants calculated that "cancelling" Mr. Portnoy would be lucrative business for Insider. Insider and its staff were willing to cash in on their stories while knowingly disregarding the truth. In publishing the false and defamatory stories aimed at destroying Mr. Portnoy's reputation, Insider sought to cause the downfall of one of Massachusetts's most well-known entrepreneurs and media personalities. Indeed, Mr. Portnoy's life has been nothing short

of remarkable. In 2003, in Milton, Massachusetts, Mr. Portnoy created a small sports newspaper named Barstool Sports. In the publication's early days, Mr. Portnoy self-authored and printed the newspaper's first issues and distributed them to commuters on the Boston subway system. Since its humble beginnings eighteen years ago, and under Mr. Portnoy's leadership, Barstool Sports has become one of the most widely known sports media and pop culture enterprises in the world. Because of Mr. Portnoy's celebrity and notoriety, Insider viewed him as the perfect target for its false, albeit scandalous, hit pieces into a celebrity's private life. Insider's defamatory scheme was well-planned and nearly a year in the making, and the defamatory stories would serve as the launch for Insider's promotion on discounted premium subscriptions to its online publication, *Business Insider*.

4. Without a modicum of journalistic integrity, with Insider's Chief Executive Officer Henry Blodget at the helm, Insider, its reporters, Julia Black and Melkorca Licea, and their editor, Nicholas Carlson (collectively, "Defendants"), engaged in a calculated smear campaign against Mr. Portnoy by publishing, and thereafter refusing to retract and/or correct, two false and defamatory stories on its website at least suggesting, if not blatantly stating, that Mr. Portnoy sexually assaulted three women. Insider's allegations are patently false, and, critically, are belied by the evidence actually in Insider's possession.

5. Over the last ten months, Defendants have engaged in targeted smear campaign designed to destroy Mr. Portnoy's reputation and boost Insider's viewership and subscription revenue, which includes the following:

- (i) Defendants knowingly and repeatedly published two false, stand-alone headlines to lure readers and potential subscribers to their website, stating, for example, *'I was literally screaming in pain': Young women say they met Barstool*

*Sports founder Dave Portnoy for sex and it turned violent and humiliating.* Insider thereby suggested actual criminal wrongdoing on Mr. Portnoy's part without further explanation, a tactic which is known as "clickbait" journalism, giving rise to a claim here for "clickbait" defamation;

(ii) Defendants published directly and via innuendo that Mr. Portnoy had committed the crimes of rape, sexual assault, and surreptitious recording while in possession of text and social media messages showing just the opposite;

(iii) Defendants pursued a preconceived and biased agenda aimed at damaging Mr. Portnoy to drive online traffic and subscription revenue to Insider;

(iv) Defendants improperly and knowingly relied upon biased sources who demanded anonymity, all while being in possession of documentary evidence that each source's story was incredible and unreliable; and

(v) Defendants published highly personal and private information in violation of the Massachusetts privacy statute and Mr. Portnoy's common law right of privacy, while affording confidentiality and anonymity to Defendants' alleged sources.

6. Mr. Portnoy has never sexually assaulted anyone, and Defendants are well-aware of this fact. Nevertheless, Insider is attempting to cash in on the climate of fear and "cancel culture" permeating the media, whereby it has become open season for anyone to make any claim (no matter how vile and unsupported) about anyone seemingly without consequence. There are, however, consequences for unlawfully defaming someone. Mr. Portnoy will not stand idly by while Insider and its Twitter army of executives, editors, and reporters attempt to drive clicks, viewership, and subscription revenue for themselves by recklessly spreading malicious



and defamatory lies that Mr. Portnoy engaged in egregious criminal conduct by sexually assaulting three women and/or recording them without their knowledge or consent.

7. Even after being confronted with the exculpatory evidence that contradicts the maelstrom of false allegations in its stories, rather than admitting to its misconduct and irresponsible journalism, Insider refused to retract, correct, or even update its stories about Mr. Portnoy, and is instead maliciously standing by its false and defamatory reporting. Now, months after its initial publication, Insider continues to use Mr. Portnoy as bait to attract consumers to its subscription service.

8. Insider's conduct here is shameful, but given Defendants' track records, it is not surprising. Mr. Portnoy brings this action to clear his name, to set the record straight, and to recover the substantial damages that Defendants caused him as a result of the irresponsible and defamatory stories they published about him.

## **II. THE PARTIES**

9. Plaintiff Mr. Portnoy is an individual and resident of Nantucket, Massachusetts. He is the founder of sports and pop culture blog Barstool Sports.

10. Defendant Insider, Inc. is a Delaware corporation with its principal place of business in New York, New York. Over the course of 2020, traffic across all of Insider's websites, including Businessinsider.com and Insider.com, averaged 114 million unique U.S. visitors per month, as well as over 100,000 paid subscribers.

11. Defendant Henry Blodget ("Blodget") is an individual who resides in New York, New York. At all times material hereto, Blodget was co-founder and Chief Executive Officer of Insider.

12. Defendant Nicholas Carlson (“Carlson”) is an individual who resides in New York, New York. At all times material hereto, Carlson was the Global Editor in Chief of Insider and acted within the scope of his employment at Insider in reviewing, and ultimately approving the headline and contents of the stories at issue here. Further, Carlson authored and published the February 2, 2022 “Editor’s Note” titled, *Why Insider Published Its Dave Portnoy Articles*.

13. Defendant Julia Black (“Black”) is an individual who resides in New York, New York. At all times material hereto, Black was a reporter for Insider and acted within the scope of her employment at Insider in writing the stories at issue here.

14. Defendant Melkorka Licea (“Licea”) is an individual who resides in New York, New York. At all times material hereto, Licea was a reporter for Insider and acted within the scope of her employment at Insider in writing the stories at issue here.

### **III. JURISDICTION AND VENUE**

15. The subject matter jurisdiction of this Court is properly based upon the existence of complete diversity between the parties and an amount in controversy which exceeds \$75,000.00, exclusive of costs and interest pursuant to 28 U.S.C. § 1332. Personal jurisdiction over Defendants is lawful and proper here, where Defendants each transact business in Massachusetts generally and/or engaged in tortious conduct which caused injury in Massachusetts. The false and defamatory Insider publications were directed to individuals and entities in Massachusetts and caused damage to Mr. Portnoy in Massachusetts, as well as elsewhere.

16. The venue for this action properly lies in this district pursuant to 28 U.S.C. § 1391, because a substantial part of the events or omissions giving rise to the defamatory story occurred in Nantucket, Massachusetts and in this District.

#### IV. FACTS

17. Despite being in possession of overwhelming evidence that Mr. Portnoy never sexually assaulted anyone, Defendants maliciously and recklessly concocted a sensationalistic, false, and damaging depiction of Mr. Portnoy to commercially exploit his name and celebrity, all in an effort to boost Insider's online viewership and paid subscription revenue.

18. Indeed, Defendants' hit pieces were nearly a year in the making. In April 2021, Black sent an email to Mr. Portnoy requesting an interview for an upcoming "profile" in *Business Insider*. In her email, Black falsely proclaimed, "There's no particular angle here – I'd like to cover the full gamut, from building a media empire to becoming the face of the meme stock movement." Mr. Portnoy respectfully declined the interview.

19. Shortly thereafter, Mr. Portnoy learned that Defendants did have a "particular angle" for their story. In the weeks and months following her April 2021 email, Mr. Portnoy began receiving unsolicited messages from friends, acquaintances, and complete strangers regarding Defendants' proposed "profile" piece. In those messages, both friends and strangers alike informed Mr. Portnoy that Black had reached out to them for comment, that Black was working on an article about how Mr. Portnoy is a sexual predator, and that Black had been in contact with numerous women that Mr. Portnoy allegedly had associated with.

20. After a full eight months of "investigating" Mr. Portnoy for Defendants' story, on November 1, 2021, Black again emailed Mr. Portnoy requesting that he provide a comment for

her story. Black's comment request email contained thirty-eight bullet points of false and unsubstantiated allegations. In her email, Black informed Mr. Portnoy that Insider was ready to publish the story, and she demanded that he respond within 24 hours to the maelstrom of false allegations contained therein.

**Insider Publishes the False and Defamatory Hit Piece**

21. On November 4, 2021, Defendants published their first defamatory hit piece on Businessinsider.com, titled "*I was literally screaming in pain*": *Young women say they met Barstool Sports founder Dave Portnoy for sex and it turned violent and humiliating.* (<https://www.businessinsider.com/barstool-sports-dave-portnoy-sex-choking-violent-stoolies>) (the "First Story").<sup>1</sup> For search engine optimization and "clickbait" purposes, the First Story's URL included the words "portnoy," "choking," "violent," "sex," and "stoolies" (collectively, the "URL Tags"). Further, the First Story was published behind a paywall, requiring readers to sign up for Insider's paid subscription service to access it. This revenue generating scheme was all part of Defendants' nefarious plan.<sup>2</sup>

22. Defendants knowingly and repeatedly published the false, stand-alone headline, including its publication of the URL Tags, to lure readers and potential subscribers to their website, thereby suggesting actual criminal wrongdoing on Mr. Portnoy's part without further explanation. Defendants' conduct constitutes a tactic known as "clickbait" journalism, giving rise to a claim here for "clickbait defamation."

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<sup>1</sup> A true and correct copy of the Story is attached hereto as "Exhibit A."

<sup>2</sup> Indeed, the date Insider published the Story also happened to coincide with Penn National Gaming's quarterly earnings announcement. Penn National Gaming owns a 36% stake in Barstool Sports.

23. Adding insult to injury, the First Story contained alleged screenshots and quotations from Mr. Portnoy's private text and social media messages, in violation of his privacy rights.

24. The defamatory allegations of sexual assault and forcible rape leveled against Mr. Portnoy are patently absurd and provably false. While the First Story is replete with false and defamatory lies about Mr. Portnoy, the references to his alleged encounters with two women, referred to therein as "Allison" and "Madison," are particularly egregious and defamatory *per se*.

**"Allison"**

25. Defendants dedicate a significant portion of the defamatory First Story to an entirely fabricated account of Mr. Portnoy's alleged encounter with a woman referred to in the First Story by the pseudonym "Allison." In short, Defendants falsely reported that after a violent and impliedly non-consensual sexual encounter with Mr. Portnoy, Allison suffered from severe depression and suicidal thoughts, which allegedly resulted in her seeking treatment at the hospital. As Defendants were well-aware prior to the First Story's publication, Allison's account is pure fiction.

26. According to the First Story, in July 2020, Allison messaged Mr. Portnoy notifying him that she was in Nantucket and "would love to see him." Allison met Portnoy at his home, where they spent the day by the pool. According to Defendants, Portnoy and Allison then began having violent sex, with the implication that the encounter was not consensual:

"He leaned in and started kissing me and I didn't know what to do at that point...And we went upstairs and he was really aggressive and I didn't know what to do and we had sex and he kicked me out."... She said Portnoy choked her. "He kept spitting in my mouth, which was really gross ... I was kind of scared. I didn't want to disappoint him."

27. Insider implied that Allison's encounter with Mr. Portnoy was not consensual and so impermissibly violent as to constitute a sexual assault. Defendants went on to state that

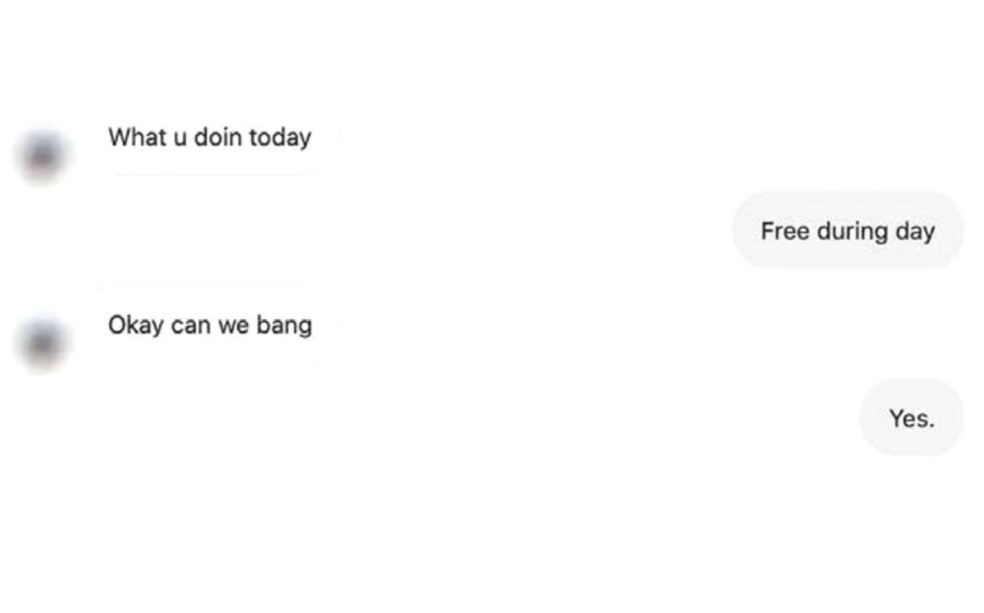
Allison was so distressed by the events that she could barely talk the next day. Defendants further reported that Allison was hospitalized and became suicidal due to the allegedly violent sexual encounter.

28. Moreover, Defendants published that Allison's mother reported Mr. Portnoy to the Nantucket Police Department and falsely suggested that he was under criminal investigation for sexual assault. Prior to publication, however, Defendants were in possession of the so-called "police report," which highlights the outrageous nature of the allegations that Allison's mother made against Mr. Portnoy, namely, that he was often seen in public with younger women. Defendants failed to include these facts from police report in their First Story, and for good reason – the police report does not accuse Mr. Portnoy of any criminal conduct whatsoever.

29. The allegations concerning Allison are false and belied by documentary evidence in Defendants' possession. Indeed, Defendants had all of Allison's communications with Mr. Portnoy prior to and after her alleged encounter with him. Further, Defendants were in possession of the police report filed by Allison's mother, which, critically, contained no allegations of rape, sexual assault, or any other crime for that matter. Even a cursory review of the police report and Allison's subsequent communications with Mr. Portnoy reveal that her story was entirely fabricated. Defendants published it anyway.

30. The day before she visited Mr. Portnoy, Allison begged him to let her come to his house: "I'm on island with all my friends and really want to see you...would do anything...Let's hang tonight." When Mr. Portnoy stated he was unavailable, Allison stated, "Noooo it's your last week [in Nantucket]."

31. The following day, Allison messaged Mr. Portnoy again and stated that she wanted to have sex with him: "What u doin today...can we bang?"



32. Allison and Mr. Portnoy made plans to see each other that day. Just prior to arriving at Mr. Portnoy’s house, he texted her, “Don’t be [nervous]. It’ll be fun. And if you don’t wanna do anything, we won’t.”

33. After spending time at the pool, Mr. Portnoy and Allison had consensual sex in his home.

34. Critically, *after* Allison was allegedly in the hospital and suicidal due to her encounter with Mr. Portnoy, she continued to contact him via text message and Instagram. None of her messages indicated that she was in any distress. In fact, Allison sought to continue her relationship with Mr. Portnoy.

35. On August 1, 2020, Allison replied to Mr. Portnoy’s Instagram story in which he announced he was leaving Nantucket to spend the summer in the Hamptons. Allison stated, “Aww bye :( Nantucket is better.” After Mr. Portnoy responded to her unsolicited message, Allison replied, “I’m in shock that ur still dming [direct messaging] me rn [right now]...like whats up Dave Portnoy?” The next day, on August 2, 2020, Allison messaged Mr. Portnoy again, stating, “If you ever want to text me my number is [redacted].”

36. As is clear by the evidence in Defendants' possession, *after* Allison was purportedly hospitalized due to Mr. Portnoy's alleged conduct, she repeatedly contacted Mr. Portnoy in hopes of seeing him again, gave Portnoy her phone number, and encouraged him to continue their relationship. Defendants were in possession of these messages prior to the First Story's publication, yet Defendants included Allison's false allegations in the First Story anyway.

37. Further, despite that the police report did not contain *any* accusations that Mr. Portnoy committed a crime, Defendants included references to the police report in the First Story, falsely implying that Mr. Portnoy was under criminal investigation for sexual assault.

38. Mr. Portnoy was not the only person shocked by the allegations of criminal conduct. Indeed, on November 5, 2021, in response to the First Story's allegations concerning the police report, Nantucket Police spokesman Lt. Angus MacVicar issued a statement to NBC News, clarifying that *Portnoy was not under any criminal investigation whatsoever*.

### **"Madison"**

39. Defendants' smear campaign did not stop there. Additionally, the First Story described Mr. Portnoy's alleged encounter with a woman referred to by the pseudonym "Madison," wherein Mr. Portnoy is falsely accused of sexual assault and forcible rape. Such allegations are equally preposterous.

40. Defendants reported that Madison traveled to visit Mr. Portnoy at his home in Nantucket. Prior to visiting Mr. Portnoy, Madison messaged Portnoy for several weeks, wherein she described to Mr. Portnoy her "rape" fantasy.



41. Defendants went on to describe an entirely fabricated series of events, namely, that Portnoy choked and raped Madison.

“It was so rough I felt like I was being raped...It hurt and I was literally screaming in pain’... She recalled crying and shouting, “Too much! Too much!” and “It hurts!”... “I kept trying to get away and he was like, ‘stop running away from me. Stop running away from me.’”

42. After the purported rape, Defendants reported that Madison slept on the couch for two additional nights before flying back home.

43. The allegations concerning Madison are provably false. In reality, Portnoy and Madison engaged in consensual sex, and Defendants were fully aware of that fact. Indeed, prior to publishing the First Story, Defendants were or should have been in possession of all of Madison’s communications with Portnoy, as well as her social media posts. Moreover, it is beyond dispute that as of November 11, 2021, when Portnoy publicly disclosed those communications (while taking steps to conceal his accuser’s identity), Defendants have been in possession of Allison’s social media correspondence, yet continue to refuse to retract, correct, update, or in any way modify their defamatory First Story.

44. Madison operates a “Finsta” account (slang for “Fake Insta”), a term used to describe secondary Instagram accounts, where the user’s identity — and, often, the content of the user’s posts — is unknown to all but a small, carefully chosen group of followers. The posts on Madison’s Finsta account unambiguously contradict Defendants’ false report.

45. On July 19, 2020, Madison uploaded a picture of her and Mr. Portnoy playing scrabble together. The photograph depicts Madison and Mr. Portnoy together in Nantucket on the weekend of the alleged sexual assault. In the post, Madison gloated, “Me beating Dave Portnoy in scrabble.”

46. On July 20, 2020, after having consensual sex with Mr. Portnoy, Madison then posted a video to her Finsta account, revealing her true motivations with Mr. Portnoy. In the caption to the video, Madison wrote:

Portnoy was a dick and lame and grumpy. He gets a 2/10 from me. If he ever truly pisses me off I have lots of content to expose him with. I am going to stick to athletes. 🤔 🤔 🤔 🤔 🤔.

47. Later, Madison posted a picture of Mr. Portnoy with Donald Trump. In the caption to the photograph, Madison wrote, “Ok. Not my proudest fuck.”

48. Notably, in the days following the First Story’s publication, Madison sought to take advantage of her new-found notoriety by setting up an OnlyFans account, an online platform whereby the general public can pay Madison for personalized content (photos, videos, and live streams) via a monthly subscription membership.

49. Despite the fact that Defendants had access to Madison’s social media and should have been fully aware of the problems with her false and sensationalistic account of events, Defendants published the defamatory First Story anyway.

50. On November 11, 2021, after taking steps to protect the anonymity of the two women who purportedly accused Mr. Portnoy of sexual assault, Mr. Portnoy published redacted versions of Madison’s Finsta posts to all of his social media accounts. Despite having access to this information, Defendants have failed and refused to retract, correct, update, or in any way modify their defamatory First Story.

51. Critically, Mr. Portnoy provided Defendants with the true facts and documentation concerning Allison and Madison, including through Mr. Portnoy’s various press conferences (which Insider admits it viewed), but Insider ignored the information because of their preconceived agenda to harm Mr. Portnoy’s reputation. In particular, Insider was made

aware that critical text messages were available to them, but Insider did not demand them. Where Insider did include information from Mr. Portnoy, Insider made an affirmative effort in its presentation to minimize its import.

52. Readers of Insider’s First Story were misled into believing something that Defendants knew prior to publication was plainly false. The false statements concerning Allison and Madison cast Mr. Portnoy in a negative and defamatory light to all readers and have had a disastrous effect on Mr. Portnoy’s personal and professional reputation.

### **Insider’s Promotional Campaign**

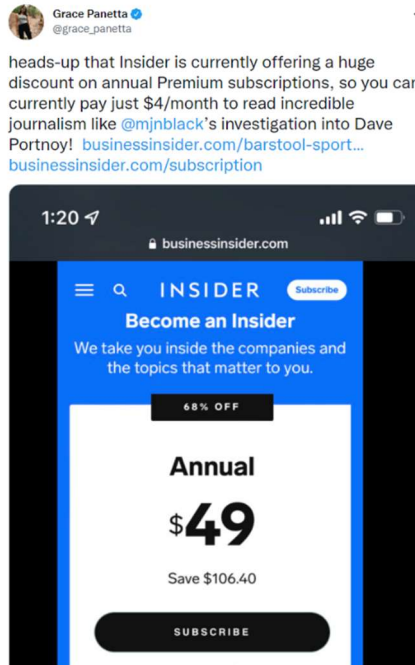
53. As if Defendants’ nefarious intent was not already apparent through their actions prior to and through the publication of the Story, just minutes after Insider published the First Story, Defendant Black tweeted to her thousands of Twitter followers, soliciting more unsubstantiated “tips” regarding Mr. Portnoy’s private life. Insider made it clear that they intended to double-down on their defamatory allegations by planning to publish a follow-up story concerning Mr. Portnoy. To ensure that her tweet reached the widest audience possible, Black “pinned” her tweet to her Twitter profile, ensuring that her message remained at the top of her feed for all to see. Through February 1, 2022, Black’s tweet remained “pinned” to the top of her Twitter page.



54. Seemingly aware that those who live in glass houses should not throw stones, prior to the publication of the First Story, Black took steps to protect herself from online scrutiny. Prior to the First Story's publication, Black's public Twitter profile contained 4,151 tweets. Just prior to publication, however, Black deleted nearly all her prior tweets, leaving only 132 tweets visible to the public.

55. Simultaneously, Insider unleashed its Twitter army of executives, editors (including Defendant Carlson), reporters, and employees, shamelessly tweeting and re-tweeting the First Story in a transparent attempt to drum up buzz, and, notably, to attract new paid subscription customers.

56. Indeed, the nefarious hit piece served as the launch for Defendants' new promotion on premium subscriptions. On the day of the First Story's publication, Insider circulated its "68% off" subscription promotion, encouraging the public to sign up using Insider's libelous hit piece as bait. For example, Insider's Senior Politics Reporter, Grace Panetta tweeted a screenshot of the promotion, along with the message "heads-up that insider is currently offering a huge discount on annual Premium subscriptions, so you can currently pay just \$4/month to read incredible journalism like [Defendant Black's] investigation into Dave Portnoy!"



57. Concurrently, Insider launched promoted paid advertisements for its subscription service, using Mr. Portney’s photograph in conjunction with a new defamatory headline, “Dave Portney [sic], Barstool Sports founder, accused of allegations involving sexual violence and humiliation.”



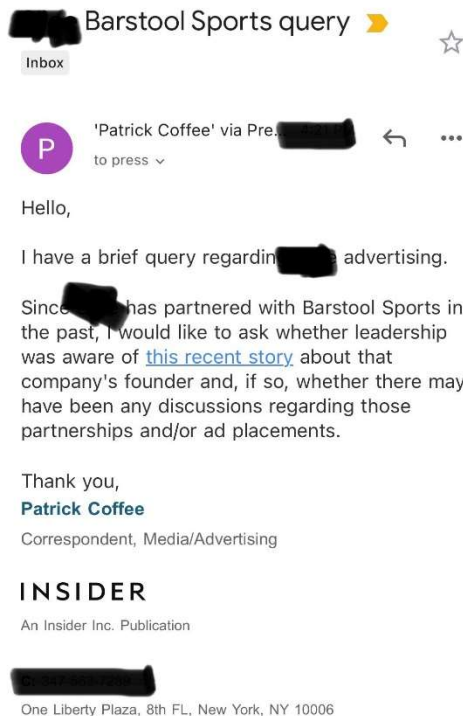
58. Concurrently, having been publicly questioned regarding Insider’s true motives in publishing the first hit piece as a vehicle to generate new subscribers, Defendant Licea immediately took to Twitter to defend Insider’s decision to run a promotion at Portnoy’s expense: “*Broken record here, but the reason big important stories like these are behind a paywall is because people spend months working their asses off and need to make a living. Anyways, subscribe to Insider.*”



59. The next day, on November 5, 2021, Defendant Carlson tweeted a story from Business Insider concerning Penn National Gaming, which owns a 36% interest in Barstool Sports. In his tweet, Carlson gloated, “Penn National plummets 20% after weak earnings and allegations against Dave Portnoy.”

60. Perhaps most indicative of Defendants’ malicious intent, in the days following the First Story’s publication, Insider employees began contacting Barstool Sports’ advertisers, informing the advertisers of the false allegations against Portnoy, and inquiring whether those advertisers would continue to advertise with Barstool Sports. For example, on or around November 6, 2021, Insider correspondent Patrick Coffee emailed a Barstool Sports advertiser, stating “I would like to ask whether leadership was aware of this recent story about [Barstool

Sports’] founder and, if so, whether there have been any discussions regarding those partnerships and/or ad placements.” Defendants’ conduct was intended to shame Barstool Sports’ advertisers for working with Mr. Portnoy and his company and encourage them to stop doing business with Mr. Portnoy.



61. To a large degree, Defendants succeeded. Due to Defendants’ deliberate interference with Barstool Sports’ business relationships, Barstool Sports has lost no less than \$12,000,000 in advertiser revenue since the publication of the defamatory First Story.

**Insider Publishes a Second False and Defamatory Hit Piece**

62. To make matters worse, on January 18, 2022, Defendants Black and Licea again emailed Mr. Portnoy informing him that Insider was planning to run an additional defamatory story. In that email, Black and Licea requested that Mr. Portnoy provide a comment for their Second Story. Insider’s comment request email contained an additional twenty-eight bullet points of false and entirely unsubstantiated allegations. In their email, Black and Licea informed

Mr. Portnoy that Insider was ready to publish the Second Story, and they demanded that he respond within 48 hours to the new maelstrom of false allegations contained therein.

63. In response to the comment request email, on January 19, 2022, counsel for Mr. Portnoy transmitted a legal letter to Insider, putting Insider on notice of the provably false allegations contained in the proposed Second Story, providing Insider with documentary evidence directly contradicting the malicious allegations contained therein, and demanding that Insider refrain from publishing the Second Story. Defendants published the Second Story anyway.

64. On February 2, 2022, Defendants published their second defamatory hit piece on Businessinsider.com, titled *Three More Women Say Barstool Sports Founder Dave Portnoy Filmed Them Without Asking During Sex* (<https://www.businessinsider.com/dave-portnoy-new-women-sexual-misconduct-allegations-filming-sex-without-permission>).<sup>3</sup> For search engine optimization and “clickbait” purposes, the Second Story’s URL included the words and phrases “portnoy,” “new women,” “sexual misconduct,” “filming,” “sex,” and “without permission.” Further, the Second Story, like the First Story, was published behind a paywall, requiring readers to sign up for Insider’s paid subscription service to access it.<sup>4</sup>

**“Kayla”**

65. The thrust of the Second Story pertains to a fabricated account of Mr. Portnoy’s alleged encounter with a woman referred to as “Kayla.” In short, the Second Story falsely

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<sup>3</sup> A true and correct copy of the Second Story is attached hereto as “Exhibit B.”

<sup>4</sup> Perhaps no longer a coincidence, the date Insider published the Second Story occurred *the day before* Penn National Gaming’s next earnings announcement.



accuses Mr. Portnoy of sexual assault and forcible rape. Defendants' narrative of events is preposterous, and, critically, belied by the evidence in Defendants' possession.

66. The Second Story alleges that Kayla first messaged Mr. Portnoy on Instagram in the summer of 2017, and that Kayla eventually took an Uber to Mr. Portnoy's house to visit him.

67. Defendants further allege that Kayla and Mr. Portnoy had violent sex and that "it was just way too much." Kayla further alleges that Mr. Portnoy filmed her without permission.

68. However, despite Mr. Portnoy's alleged violent and non-consensual conduct, Kayla was eager to see Mr. Portnoy again.

69. About one month later, Kayla again visited Mr. Portnoy at his home in New York. Defendants went on to report that "the sex during her second encounter was far rougher than she had anticipated or would have agreed to had she been asked." Kayla further admitted that "Yes, it was technically consensual sex, but that was not the sex I consented to."

70. Defendants also falsely reported that Mr. Portnoy attempted to force Kayla to have anal sex during this encounter, and that Kayla had injured her rib from rough sex.

71. At a minimum, the Second Story implies that Kayla's encounter with Mr. Portnoy was not consensual and was so impermissibly violent as to constitute sexual assault.

72. The allegations concerning Kayla are provably false. In reality, Mr. Portnoy and Kayla engaged in consensual sex, and Defendants were fully aware of that fact. Indeed, in messages that post-date the alleged violent sexual encounters between Kayla and Mr. Portnoy, Kayla repeatedly referred to those past interactions in only positive terms. In March 2019, after describing a "really good" albeit "scary aggressive" sexual encounter she supposedly had with another male celebrity who, according to Kayla, would "pin [her] down, choke [her] a little, slap

[her] around a little, [and] bite [her],” Kayla teased Mr. Portnoy about his sexual prowess and suggested they get together again.

73. Several months later, in an unsolicited message, Kayla informed Mr. Portnoy that he would “100% get laid” if he helped her find a home for a certain rescue animal.

74. And while the Second Story claims that it took Kayla “months to process what had happened to her,” *two years* after the alleged non-consensual sexual encounter, Kayla again messaged Mr. Portnoy, “Miss that dick.”



75. At no time during her extensive text message exchange with Mr. Portnoy did Kayla ever complain about him being violent, abusive, or recording her without her permission – allegations that Mr. Portnoy unequivocally denies. In fact, Kayla joked about how she injured her rib during one of their sexual encounters and boasted to Mr. Portnoy that he “still holds [her] title for most aggressive sex... 😊.”



76. Again, Mr. Portnoy’s counsel provided Defendants with the true facts and documentation concerning Kayla, but Insider ignored the information because of their preconceived agenda. In particular, Insider was made aware that critical text messages were available to them, but Insider again did not even request copies of them from Mr. Portnoy or his attorneys. Where Insider did include information from Mr. Portnoy, Insider made an affirmative effort in its presentation to minimize its import.

77. Despite the fact that prior to the Second Story’s publication Defendants were provided with Kayla’s post-dated communications with Mr. Portnoy and were fully aware of the problems with her sensationalistic account of events, and the fact that Defendants’ in-house counsel promised to “be in touch...to give Mr. Portnoy ample time to comment,” Defendants published the defamatory Second Story anyway.

**Insider Runs Its Second Promotional Campaign**

78. Insider again ran a promotional campaign for their subscription service in connection with the release of the Second Story behind a paywall. Again, Insider’s Twitter army

of executives, editors, and reporters advertised and promoted the article, seeking further subscription revenue.

79. Defendant Black again tweeted to her thousands of followers seeking further dirt into Portnoy's private life: "*If you would like to share any information connected to this story, you can reach us securely at juliablackjourno@protonmail.com and melkorkalicea@protonmail.com.*"

80. Anticipating the backlash from the outlandish allegations contained in the Second Story, Defendant Carlson published an Editor's Note on Insider's website, titled *Why Insider Published Its Dave Portnoy Articles* (<https://www.businessinsider.com/why-insider-published-its-dave-portnoy-articles-2022-2>). In that article, Carlson further defamed Mr. Portnoy, stating that he took "a sexual encounter that began consensually and turn[ed] it violent without first asking [his] sexual partner for permission." Carlson further described Portnoy as "a rich, famous, and powerful person [who] uses [his] power in a way that is harmful to other people." Carlson then pinned his article to the top of his Twitter account.

81. An Insider representative then gave an interview to *Variety*, in which Insider welcomed a lawsuit and claimed that such lawsuits are "the cost of doing business" (<https://variety.com/2022/digital/news/barstool-sports-dave-portnoy-sex-video-lawsuit-insider-1235171273/>).

82. The effects on Mr. Portnoy's reputation have been pervasive and continuing. As a result of Defendants' defamatory statements and use, Mr. Portnoy has suffered significant and irreparable damage to his reputation and profession, as well as embarrassment and humiliation.

83. To any reasonable reader of the Insider stories, the clear and essential gist and sting of Defendants' overall publications is that Mr. Portnoy is a rapist, an abuser of women, and

a person who secretly records women having sex without their consent. Yet, Defendants intentionally ignored and/or intentionally buried in their Stories actually provided and/or readily available and known evidence establishing precisely to the contrary. Simply put, Defendants slanted material facts in their published Stories pursuant to their pre-conceived agenda to harm Mr. Portnoy. In doing so, Defendants ignored, for example, and without limitation, that the sex which took place was fully consensual as reflected in text messages of the women themselves, that the women themselves either enjoyed and/or never protested their encounters, as reflected in their text messages, and that all recordings were done openly and notoriously with the full knowledge of the women who voiced no objection whatsoever.

#### **COUNT 1 – DEFAMATION**

84. Plaintiff realleges and incorporates herein by reference each of the prior paragraphs.

85. Defendants published their false and defamatory First Story and Second Story (together, the “Stories”) of and concerning Mr. Portnoy with a knowing and reckless disregard of the truth and thereby caused and continue to cause Mr. Portnoy damages. The clear and essential gist and sting of Defendants’ overall publications is that Mr. Portnoy is a rapist, an abuser of women, and a person who secretly records women having sex without their consent. Mr. Portnoy sues here based upon the overall knowing, slanted, false and defamatory sting of the publications in their entirety, as well as over specific statements set forth in the publications which are too numerous to allege here in their entirety. Without limitation, these statements include the following:

- (a) “‘I was literally screaming in pain’: Young women say they met Barstool Sports founder Dave Portnoy for sex and it turned violent and humiliating.”
- (b) “Five women have now told Insider that Portnoy filmed them during sex without seeking permission. Four of them said the sex that was recorded started consensually but then turned violent and frightening beyond what they would have agreed to had they been asked.”
- (c) “Three more women say Barstool Sports Founder Dave Portnoy filmed them without asking during sex.”
- (d) “The sex during her second encounter was far rougher than she had anticipated or would have agreed to had she been asked.”
- (e) “He attempted to have anal sex without her permission.”
- (f) Mr. Portnoy took “a sexual encounter that began consensually and turn[ed] it violent without first asking [his] sexual partner for permission.”
- (g) Portnoy is “a rich, famous, and powerful person [who] uses [his] power in a way that is harmful to other people.”
- (h) “He didn't ask — he just like, tried to force it in.”
- (i) “She told him ‘no’ three or four times because she ‘knew it would have been excruciating.’”
- (j) “That was not the sex [she] consented to.”
- (k) “These women told Insider the experiences with Portnoy turned frightening and humiliating and had taken a toll on their mental health. Two of the women also said Portnoy filmed their encounters without their consent.”

- (l) “I kept trying to get away and he was like, ‘Stop running away from me. Stop running away from me.’”
- (m) “She first became uncomfortable when Portnoy pulled out his phone and started filming her — without asking permission — as she performed oral sex on him.”
- (n) “Another, who has had depression, said she was suicidal after the two had sex.”
- (o) “She was both choked and filmed without advance permission.”
- (p) “Three of these women said they had sex with Portnoy, now 44, and that the encounters turned into frightening and humiliating experiences that have taken a toll on their mental health. Two, including Madison, said Portnoy both choked and filmed them without advance permission.”

86. The Stories are defamatory *per se*, in that the Stories falsely accuse Mr. Portnoy of having committed a crime or crimes, including sexual assault and unlawful recording.

87. Defendants compounded their wrongdoing by continuing to publish and promote their defamatory Stories, and by failing and/or refusing to retract or update the Stories even after they were notified that the clickbait, headlines, ledes, and substance of the Stories were false, unsupported by documentary evidence, and defamatory.

88. In so doing, Defendants’ false and defamatory statements subjected Mr. Portnoy to ridicule and scorn, sabotaging his reputation. The consequences of the false allegations in the headline of the Stories and the Stories themselves have been harmful to Mr. Portnoy and his work.

89. As a result, Defendants are liable in damages to Mr. Portnoy.

**COUNT 2 – INVASION OF PRIVACY (G.L. c. 214, § 1B)**

90. Plaintiff realleges and incorporates herein by reference each of the prior paragraphs.

91. Massachusetts G.L. c. 214 §1B guarantees Mr. Portnoy the right to be free from unreasonable, substantial, or serious interference with his privacy.

92. Mr. Portnoy's rights to privacy include a right to be let alone and a right to be free from the public disclosure of private facts and information without his consent.

93. Defendants' releasing and publishing of Mr. Portnoy's highly personal text messages and social media messages amounted to an unreasonable, substantial, and serious interference with and invasion of Mr. Portnoy's privacy in violation of G.L. c. 214 §1B and of his common law rights to privacy.

94. As a result of Defendants' invasion of Mr. Portnoy's privacy, Portnoy was humiliated, felt invaded and ashamed, and suffered a violation of his privacy, dignity, and personal integrity. As a result of the Defendants' invasion of Mr. Portnoy's privacy, Mr. Portnoy has suffered harm, injury, and damages.

WHEREFORE, the plaintiff, David Portnoy, respectfully requests that the Court grant him the following relief:

1. after trial, enter judgment on Counts I and II in his favor and award him damages in the amount assessed by the jury on each Count, including fees, costs, and interest; and
2. grant such other further relief as the Court deems just and proper.



**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all claims so triable.

Respectfully submitted,  
For Plaintiff, David Portnoy,  
By his attorneys,

Dated: February 7, 2022

/s/ Howard M. Cooper  
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# EXHIBIT

# A



MEDIA

# 'I was literally screaming in pain': Young women say they met Barstool Sports founder Dave Portnoy for sex and it turned violent and humiliating





Dave Portnoy has built a business off being crass, crude and boundary-pushing. But women who have had sex with the mogul tell Insider that the experiences were humiliating and took a toll on their mental health. Slaven Vlasic/Getty Images

**Julia Black**

17 minutes ago



In the summer of 2020, Madison sent Barstool Sports' founder, Dave Portnoy, a direct message on Instagram complimenting his famous "one bite" pizza reviews.

"Sick pizza reviews," she wrote. "Thanks fly bitch," Portnoy responded. She was a 20-year-old college student at the time, Portnoy a 43-year-old multimillionaire. The conversation soon moved to Snapchat and text, where it quickly turned to the topic of sex. He sent her graphic videos of other women he'd slept with, according to Madison, and in messages reviewed by Insider, he pressed her to tell him about her sexual fantasies.

"I mean actually this ones kind of common," she wrote. "Like a rape fantasy, where I don't have any control of what's going on."

"You and I are going to get along so well," he responded.

"But I will say, in order to do that one I have to be pretty comfortable with you," Madison said.

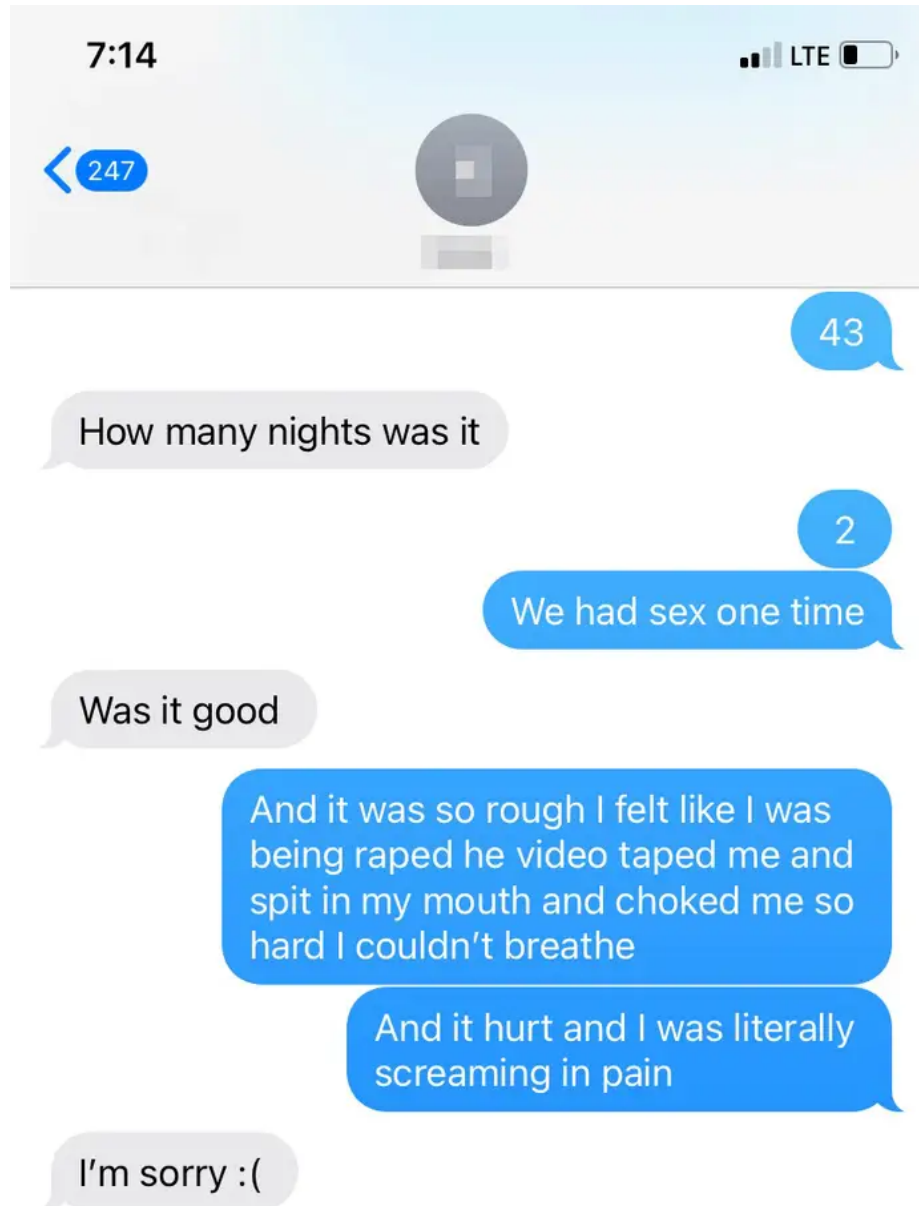
"Of course," Portnoy said, and he bought her a first-class plane ticket to visit him at his \$2.2 million Nantucket home.

The trip was a "traumatic experience," Madison told Insider.

She arrived at Portnoy's four-bedroom home about 3 p.m., tired enough from her travels that she didn't mind when Portnoy told her they would order in pizza instead of going out. Still, she was

surprised to find him nothing like his charismatic online persona. "He was very rude. He wasn't funny at all. He just reminded me of a boring, grumpy old man," Madison said.

After dinner, they started kissing. Madison said she first became uncomfortable when Portnoy pulled out his phone and started filming her — without asking permission — as she performed oral sex on him. "I never said anything. I was scared. He was just so mean," she said.



Madison texted a friend two days after having sex with Portnoy. Courtesy Madison

From there, things escalated until, as Madison put it, "I felt like I was just a human sex doll."



Two days later, Madison texted a close friend. "It was so rough I felt like I was being raped he video taped me and spit in my mouth and choked me so hard I couldn't breathe," she wrote in messages viewed by Insider. "And it hurt and I was literally screaming in pain."

She recalled crying and shouting, "Too much! Too much!" and "It hurts!"

"It was so painful," Madison said. "I kept trying to get away and he was like, 'Stop running away from me. Stop running away from me.'"

But Portnoy, she said, "just went harder."

Madison's flight home wasn't until two days later, so she slept on Portnoy's couch both nights. They did not have sex again.

Dave Portnoy makes no secret of the fact that he likes to have sex with young women, and to push the boundaries of what is considered socially acceptable. In many ways, that image is at the core of the brand that has made him one of the wealthiest and most powerful figures in digital media. There are the [rape jokes](#), his [repeated use of the N-word](#) on camera, and his [harassment of female journalists](#).

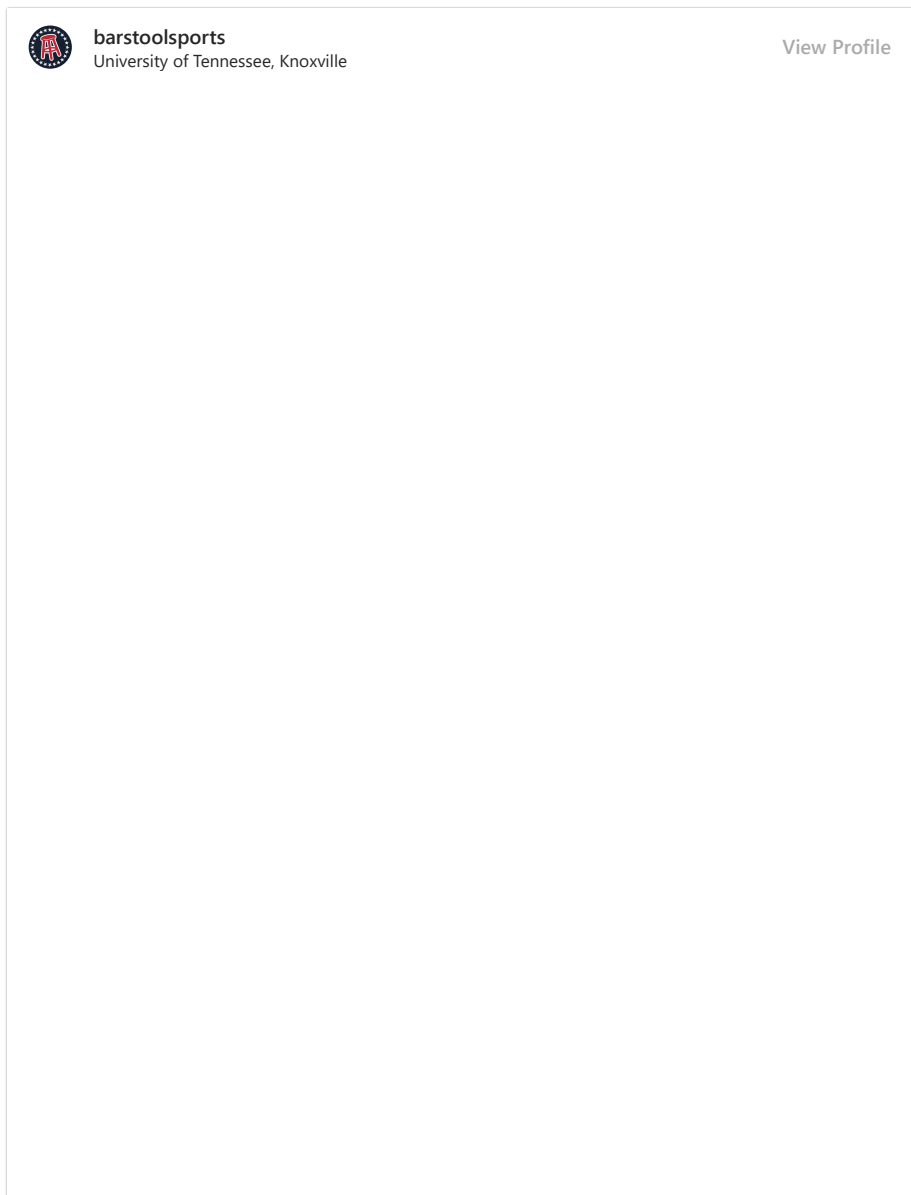
Last July, he released a viral TikTok [video](#) that offered women three tips for how to slide into a celebrity's DMs: "Be very hot. Don't be ugly. And say this, two words: I fuck." Since 2019, he has appeared in three sex tapes that have leaked online. The stock price of Barstool's parent company plunged after the most recent leaked video, in which he violently chokes a woman using a collar and a leash. Both Portnoy and the woman said the encounter was consensual.

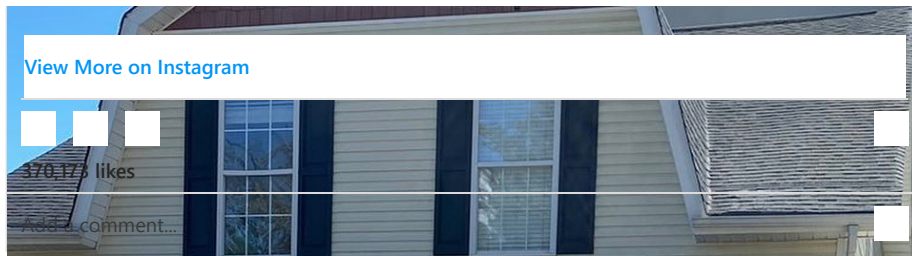
"I used to sling it," Portnoy responded at the time, "I've gotten better."

For years, Portnoy has managed to escape scrutiny. His behavior and comments weren't just accepted; they were expected. And

commoditized. A 2020 Barstool [documentary series](#) produced by the media company features Portnoy forcefully digitally penetrating a sex doll while donning a tuxedo, later declaring himself "the finger king."

Young men, who call Portnoy "El Presidente," follow the mogul's every move, buying up Barstool merchandise printed with logos like "Team Portnoy" and "Portnoy/Musk 2024." Young women tag him in provocative videos and photos in an attempt to get his attention. The woman who appeared in his third leaked sex tape even went on a publicity blitz this past May to defend him. In October, when Portnoy visited the campus of the University of Tennessee at Knoxville for a college football game, Barstool's official Instagram page posted a picture of a house whose front porch had a huge sign that said "Dave, come on in. We have pizza and pussy. 10/10"





For many, Dave Portnoy is a hero. But some in his orbit, particularly women, have told Insider they felt as though he abused his fame and power and put them in compromising positions.

Insider spoke with more than two dozen people with direct experience with Portnoy and Barstool, including eight current or former employees. Some women, as young as 19 who had no professional connection to Portnoy, recounted having sexually explicit online exchanges with him. Three of these women said they had sex with Portnoy, now 44, and that the encounters turned into frightening and humiliating experiences that have taken a toll on their mental health. Two, including Madison, said Portnoy both choked and filmed them without advance permission; another, who has had [depression](#), said she was suicidal after the two had sex. And all three were afraid to speak out, fearing retaliation from the media mogul and his rabid fan base. This article uses pseudonyms chosen by Insider, which is aware of the women's real identities.

"I know how he is when someone goes after him," said the second woman, who said she was both choked and filmed without advance permission. She asked not to have the specific details of her experience publicly revealed, fearing harassment from Portnoy or his fans. Insider spoke to someone with whom the woman shared details of her rough sex with Portnoy. "I thought he would say something in public, or share videos of me."

In an email, Portnoy and Barstool Sports' attorney said many of the accusations in the article "embody half-truths, are highly misleading, lack appropriate context, and appear to have been provided to you by individuals whose motivations and trustworthiness should at least have been fully vetted." The attorney asked for more time for further comment. Insider provided an additional two days, but Barstool's attorney did not provide additional comment or communication.



Perpetually tan and bearded, Portnoy has built a half-a-billion-dollar digital-media empire off of sports gambling, crude humor, and barely clothed women. Barstool Sports — whose slogan is "By The Common Man, For The Common Man" — does for digital media what Donald Trump did for politics. It speaks to the masses: no pretension, no highfalutin language, and, notably, no apologies. The company says it reaches an estimated 54 million monthly unique visitors. In 2020, Barstool was valued at \$450 million; Portnoy has an estimated net worth of \$100 million.

Portnoy founded Barstool in 2003 in his hometown of Swampscott, Massachusetts. The free four-page newspaper offered betting tips alongside rambling sports rants. Portnoy hit the streets every day to distribute the paper to Boston-area commuters, writing all the articles under various pseudonyms. To drum up more interest, Portnoy started hiring young local models to hand out the paper in skimpy outfits (one of whom, Renee Satterthwaite, became his wife; they separated in 2017).

By 2007, Barstool had taken its operations online. In the heyday of stream-of-consciousness blogging, Barstool featured early columns like "Smokeshow of the day," in which employees scoured Facebook for photos of attractive local women, and "Guess that Ass," which invited readers to guess which female celebrity was pictured in each meticulously cropped image.

A 2013 [profile](#) in Entrepreneur magazine described Barstool's original Milton, Massachusetts, offices as "the unholy union of a fraternity house and a crime scene: Beer advertisements featuring half-naked women adorn the walls, towers of junk wobble in every corner, and the carpet is soiled with a panoply of dark dribbles and stains."

The environment reflected their company's irreverent attitude. Portnoy didn't just court controversy; he relished in it. As he became increasingly known for going against the grain, fans who felt alienated by modern-day "woke" culture turned to him as the antidote.

Take a 2017 episode of the podcast "Barstool Radio," during which Portnoy seemed to defend a hypothetical casting-couch scenario in which Harvey Weinstein says to a struggling actress, "Hey, if you sleep with me, I'm going to put you in a starring role."

"No force, just a question," the Barstool founder said. "Do you have a problem with that trade?"

He's ignited feuds with female journalists, like the ESPN sportscaster Sam Ponder, whom he told to stop posting pictures of her "ugly kid" and to "sex it up and be slutty" while she hosted the college football pregame show "College GameDay."

In 2010, Portnoy infamously wrote a blog post defending an Australian man who had been acquitted of raping a 24-year-old woman on the so-called skinny-jeans defense.

"I never condone rape, but if you're a size six and you're wearing skinny jeans, you kind of deserve to be raped," Portnoy wrote. The post has since been removed from Barstool's site, but just this May, Portnoy told the Fox News host Tucker Carlson there was only one part of that statement that he regretted. "I thought size 6 was like size 20," he said. "I had my, I had my measurements screwed up. I wasn't on top of that."

Portnoy's brashness is exactly what fans and some colleagues say they love most about him.

Portnoy has become a celebrity in his own right. In 2017, he appeared on Seth Meyers' show. Lloyd Bishop/NBC/Getty Images

"The big thing about him is he's very truthful," Portnoy's longtime friend and Barstool podcast host Elio Imbornone said. "You might not want to hear exactly what he wants to say, but he says what he believes and you've got to respect that."

Still, not everyone at Barstool is free to broadcast their opinions. In 2018, Portnoy [removed](#) two posts that cast a sympathetic light on Brett Kavanaugh's sexual-assault accuser Christine Blasey Ford, citing Barstool's "no politics" policy, but left other posts on the hearings in place. Two years later, amid Black Lives Matter protests, Portnoy told his content team, in an email reviewed by Insider: "If anybody wants to write about politics or mentions white privilege or BLM on either side of the fence it must be approved by me and only me. Nobody else has the authority to publish anything." He told them "not to bother" asking Barstool's editor in chief, Keith Markovich. "Ask me."

It's even written into Barstool contracts that employees need to check their political correctness at the door.

In 2017, the sportscaster Elika Sadeghi [leaked](#) the terms of the Barstool contract she was offered after the company pursued her for an on-camera position.

"I understand and acknowledge that as part of my job I may be exposed to speech and conduct that explicitly relates to sex, sexual orientation, gender, national origin, religion, disability and age," it said. "I expressly agree and represent that I do not object to being exposed to such speech and conduct and do not find it otherwise offensive or objectionable, and that I am willing to work in such an environment."

Sadeghi did not accept the job.

Critics of Barstool, both within and outside the company, told Insider there's a real risk to speaking out.

The online community of Stoolies, as Barstool's fans call themselves, have waged harassment campaigns against detractors. These have included death threats, doxing, online harassment, and targeting of people's families, friends, and workplaces.

Bob Murchison, a private-equity investor with no professional connection to Barstool, first began tracking Barstool's content in 2019 after it hired a radio host with a history of transphobic comments. Murchison, who has a transgender son, has taken it upon himself to privately warn advertisers of what he perceives to be the company's transphobic, misogynist, and racist content.

In 2019, a Barstool employee shared a tweet containing Murchison's cellphone number and email address; his home address was posted on fan-run message boards. In response, Stoolies sent Murchison death threats and packages (including one with an object meant to look like a bomb and another containing feces), staged a "prayer vigil" in his hometown that was also attended by Barstool employees, contacted organizations with which he was affiliated to make false claims of criminal activity against him, and showed up to his house, where they filmed videos of their trespassing, which they later posted online.

"I reached out to Erika Nardini" — Barstool's CEO — "and Barstool counsel several times asking them to address this horrific behavior," Murchison told Insider. "Their responses left me with the impression that the harassment would only be stopped if I agreed to stop my criticism of their content. I believe the harassment was intended to intimidate and silence me." Nardini did not respond to our request for comment.

Portnoy declined to get involved, saying on "Barstool Radio" in 2019: "This Murchison guy, he sounds like a crazy person. I'm not going to

war with someone I've literally never said a word to."

But Portnoy doesn't always stay silent.

The online community of Stoolies, as Barstool's fans call themselves, has waged harassment campaigns against detractors. Photo by Brett Carlsen/Getty Images

This spring, Nantucket magazine featured a glowing profile of Portnoy, including a cover shot with Portnoy lounging in the ocean atop a rosé floatie. After readers complained about being offended by Portnoy's inclusion given his history of misogynistic and racist comments, the magazine issued an apology. Portnoy went on the attack, [telling Page Six](#) that the Nantucket magazine editors were "spineless jellyfish who are held hostage by the whims of the vocal minority." He added that anyone who didn't like him "can go fuck themselves."

Since 2020, Portnoy has issued commands on Twitter for his fans to "ATTACK!!!!" people who criticize him or Barstool, tagging an employee who was [hired](#) expressly for the purpose of harassing Portnoy's enemies.

In 2017, Portnoy publicly accused his ex-girlfriend Jordyn Hamilton of cheating on him with a SoulCycle instructor. Stoolies responded en masse, waging a harassment campaign not only against Hamilton but against SoulCycle. When Portnoy saw a message from SoulCycle's corporate office advising studio managers on how to deal with harassment from Stoolies, he [tweeted](#): "Best way to avoid calling 911? Don't have your instructors fuck the girlfriend of the head of major media company."

"It was really, really tough for me and my family, everything being put online," Hamilton told Insider.

Despite Hamilton's personal experience, she said she continued to be on good terms with Portnoy. "Dating him, you kind of have to go into it with a thick skin," she said, adding: "I think that today a lot of people are kind of soft."

Not everyone is as forgiving.

The podcaster Ali Weiss told Insider she was on the receiving end of Stoolie harassment for several months in 2016 and 2017 following an appearance on ["Barstool Idol."](#) The commentary, she said, included calls to kill her and jabs about "my shitty sense of humor, my shitty eyebrows, the fact that I looked like a man."

While Portnoy was not a perpetrator in her harassment, Weiss believes he has created a culture in which the Stoolies run wild and Portnoy rarely tries to stop them.

Weiss described the Stoolies as "hordes of basically crazed superfans of Dave who were trying from afar to impress him."

"And Dave was hyperaware of this," she said. "Everything that Dave Portnoy does is to incite the Stoolies to do his dirty work for him."

Last July, a young woman, Allison, was at her family's home on Nantucket. She had just graduated from high school. According to several people on the island, Portnoy was a celebrity on Nantucket.

Recent high-school graduates from wealthy New England towns would try to land an invitation to Portnoy's house while summering on the island.

"The reputation on the island is that he is a God and a king and kind of untouchable," Allison said. "And everyone wants to get into his house for parties."

Allison's sister, Olivia, who had recently graduated from college, told Insider that some of her friends were sending Portnoy direct messages attempting to get the mogul's attention but he "wasn't giving them the time of day." Then they realized that her 19-year-old sister, Allison, might be more his type.

"They said: 'You should reach out to him, he likes younger girls.' And he completely took the bait," Olivia said. "He was much more interested in her than any of my 22-year-old friends."

Allison sent Portnoy a message telling him she was on the island and would love to see him. He invited her over to his house, and she asked him whether she could come by with a couple of friends.

"While we fuck? Seems weird," Portnoy wrote in a message viewed by Insider. Allison responded, "Nah they don't mind."

On the island of Nantucket, where Portnoy owns a \$2 million home, "he is a God and a king and kind of untouchable," Allison said. "And everyone wants to get into his house for parties." Corbis Documentary/Getty Images

Portnoy told Allison he didn't like her friends messaging him, then wrote: "I'm not cool with your friends coming. Sorry." Allison called off the meetup, unwilling to go alone.

About a week later, though, she messaged him again. This time, the two agreed to meet up in the afternoon. "I was definitely pushed by my friends," Allison said.

Allison recalled sitting by the pool. Portnoy offered her watermelon and water. He asked her which school she went to and which grade she was in, Allison recalled. Then, she said: "He got up to go inside and I was like, 'OK, I'll go in with you.' And he was like, 'I didn't know it would be that easy.'"

"He leaned in and started kissing me and I didn't know what to do at that point," she added. "And we went upstairs and he was really aggressive and I didn't know what to do and we had sex and that was it and he kicked me out."

Allison said her memories were fuzzy because of her emotional distress surrounding the event, but, like Madison, she said Portnoy choked her.

"He kept spitting in my mouth, which was really gross," Allison said. "I was kind of scared. I didn't want to disappoint him."

A little over an hour later, Allison's friends picked her up. One of the young women who was in the car told Insider that Allison was uncharacteristically quiet. "She was clearly almost in shock," she said.

"She basically couldn't talk the next day," Allison's mother told Insider.



Allison does not describe what happened to her as sexual assault but said she was still deeply disturbed by the experience. "I just felt very preyed on," she said.

Soon after Allison's encounter with Portnoy, two photos — a selfie Allison had taken with Portnoy and a photo her friend took of her leaving his house — began to circulate the island. Both were posted on private Snapchats by Allison's friends but were then screenshotted and shared widely. Before long, it felt as though the entire island knew what had transpired between Allison and Portnoy, Olivia said.

Allison, who has had depression, said she felt stressed and overwhelmed following her sexual encounter with Portnoy and the subsequent attention it got. "I guess it was kind of my breaking point," Allison said.

Three nights after having sex with Portnoy, Allison was suicidal and was hospitalized.

While she was in the hospital, her mother began going through her phone trying to understand what had happened. After finding Portnoy's messages, Allison's mother called the Nantucket Police Department.

She told the police, "Go put somebody outside his door because you're going to see every day there's some young girl being dropped off." Insider viewed police documents confirming this call.

Her mother wanted to pursue some sort of legal action against Portnoy, but Allison refused.

"I knew he would drag me through the mud," Allison said.

For years, Dave Portnoy has been untouchable. In 2020, following the controversy surrounding his use of the N-word, Portnoy [declared himself "uncancellable."](#) Throughout all the scandals and controversies, Barstool has attracted advertisers like Dunkin'

Donuts and Coors, partnered with Walmart on a line of frozen pizzas, and nabbed the rights to broadcast the Arizona Bowl from CBS Sports.

But insiders say Barstool has been slowly distancing itself from its founder in an attempt to reshape its image.

In 2016, Erika Nardini beat out 74 men to become Barstool's new CEO, and she brought with her an influx of high-level female executives. The company began to branch out in its content, as well, launching five female-lifestyle podcasts including "Chicks in the Office," "Call Her Daddy," and Nardini's own "Token CEO."

Insiders say the appointment of Erika Nardini as Barstool CEO in 2016 was part of the company's attempt to rebrand itself. John Lamparski/Getty Images

Then, in 2020, Penn National Gaming purchased a 36% stake in Barstool. The next year, Penn National's stock joined the S&P 500 index. Portnoy suddenly was newly accountable as part of a publicly traded company.

Eric Schippers, Penn National's senior vice president, told the local news site Billy Penn in an email that the company was confident Barstool "has the right guardrails in place to ensure that their comments won't negatively reflect on PENN or the gaming industry in general." He said this included "comments that might be deemed as harassment or discrimination of women or minorities." (Penn National did not respond to our request for comment.)

Following the Penn National acquisition, Portnoy convened his staff for a meeting. According to numerous former employees who attended, he told them he was contractually obligated to stay at the company for five years but planned to leave afterward to pursue other ambitions like sports team ownership.

Portnoy's celebrity status and professional success should open many doors should he choose to leave Barstool. But some who have worked with Portnoy can't help being concerned by his past behavior, particularly his sexual exploits with young women, some recently graduated from high school.

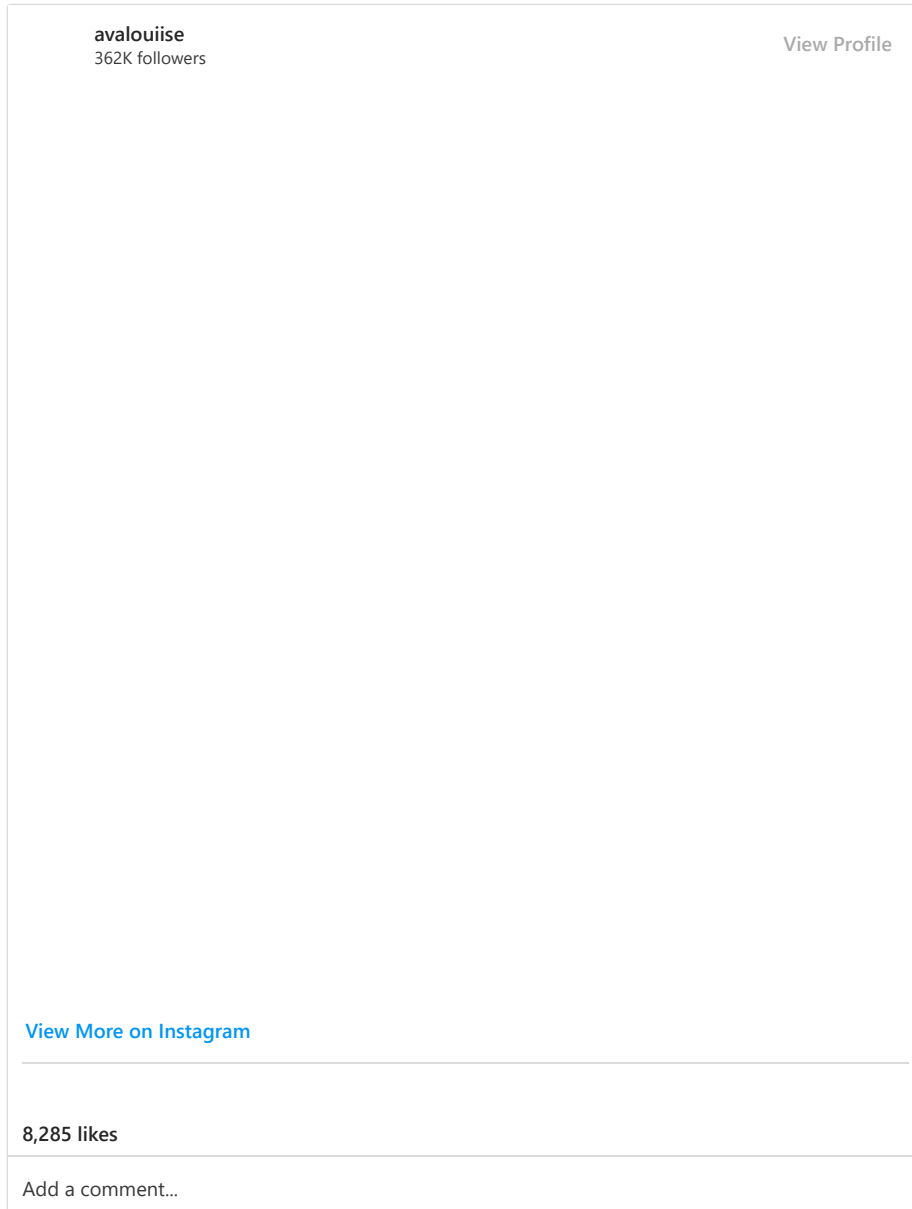
In the popular r/barstoolsports Reddit thread, Stoolies regularly discuss Portnoy's conquests.

"Playing a dangerous game here Davey," is the title of one thread, referring to a since-deleted TikTok posted by a 19-year-old who said Portnoy began pursuing her on Instagram shortly after her high-school graduation.

Several additional TikTok videos, many of which have since been made private or taken down, purported to show private messages from Portnoy sent to women soliciting sex. When the poster of one of these videos — who was 19 at the time of posting — was reached for verification, she forwarded a screenshot of the message to Portnoy. He tweeted it out to his followers with the caption "Hard hitting research from @BusinessInsider dm'ing girls who follow me on insta asking if they've Dm'd with me."

Portnoy later acknowledged on his podcast that he'd sent messages to this woman, though he said they never met up.

The Instagram influencer [Ava Louise](#) recalls messaging with Portnoy in August 2017. At the time, she had just turned 19, and he was 40.



"I never reach out," he texted her in August 2017, in messages viewed by Insider. "I noticed you 2 weeks ago and was interested." Later he wrote, "I thought about you a bunch last night. Not all wholesome all the time."

"I wanna be famous so bad I'd be so good at it," she wrote later.

"I'm a good start then 😊," he replied.

Though she responded willingly at the time, Louise said she had come to see an inherent problem with "a man in power knowing he could take advantage of a younger girl."

"It's predatory," she said.

Louise said it's not just a problem with Dave Portnoy.

"It's every man that has followers or status of any sort, and it's kind of, like, terrifying in a way," she said.

She says her parents were "really freaked out by it" when they found out she was thinking of meeting up with him and threatened to stop paying for her college if she followed through. Today, she's grateful for their intervention.

"I probably would have let Dave Portnoy do whatever the hell he wanted to me," she told Insider.

"Because I'm like, 'Oh my God, it's Dave Portnoy,'" she added. "I'm glad I didn't have that experience."

***If you want to get in touch with Insider regarding Barstool Sports or Dave Portnoy, email [featuretips@insider.com](mailto:featuretips@insider.com)***

*Additional reporting by Kat Tenbarge.*

*If you or someone you know is struggling with depression or has had thoughts of harming themselves or taking their own life, get help. [The National Suicide Prevention Lifeline \(1-800-273-8255\)](#) provides 24/7, free, confidential support for people in distress, as well as best practices for professionals and resources to aid in prevention and crisis situations.*

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# 3 more women say Barstool Sports founder Dave Portnoy filmed them without asking during sex





One woman told Insider that Barstool Sports' founder, Dave Portnoy, grabbed her ribs so roughly during sex that it caused an injury a physician later diagnosed as an "assumed fracture." [Jasen Vinlove/USA TODAY Sports](#)

### Julia Black and Melkorka Licea

31 minutes ago



In November 2021, three young women came forward about sexual encounters they had with Barstool Sports' founder, Dave Portnoy. [These women told Insider](#) the experiences with Portnoy turned frightening and humiliating and had taken a toll on their mental health. Two of the women also said Portnoy filmed their encounters without their consent.

Since then, three more young women have told Insider that Portnoy filmed them during sex without asking for permission. They ranged in age from 18 to mid-20s at the time.

One of these women, given the pseudonym Kayla by Insider, says Portnoy broke one of her ribs during an encounter that he filmed. A physician diagnosed the injury as an "assumed fracture."

Many of these women who were filmed by Portnoy said they were scared to ask him to stop recording because of his aggressive behavior; some said the fact he then possessed these sexually explicit videos and photos discouraged them from saying or doing anything in future interactions that they thought might anger him.

A total of four women have now told Insider that Portnoy has sent them at least 19 unsolicited videos of what appears to be him having sex with other women.

Two of these videos, viewed by Insider, show women who appear to have difficulty breathing as they are being choked. One of the women interviewed also showed Insider an explicit photo from Portnoy of a woman's body covered in red marks with an accompanying message boasting that he was responsible for the injuries.

Kayla, the woman who said Portnoy broke her rib, asked that Insider use a pseudonym to protect her from Portnoy's fiercely loyal fans.

Her identity, however, is known to the sports-media mogul as well as to his attorney Andrew Brettler.

After Insider approached Portnoy for comment for this article, he tweeted out a four-page letter from Brettler responding to Insider's questions. Brettler represents several high-profile figures accused of sexual misconduct, including Prince Andrew, Chris Noth, and Armie Hammer.

The letter doesn't deny that any of the alleged encounters took place, though it says all of Portnoy's sexual encounters "have been entirely consensual." The letter acknowledges Kayla's rib injury and says she told Portnoy that sex with him was the most aggressive she ever had. Brettler says Portnoy "never filmed any sexual encounter surreptitiously or without the full knowledge and participation of his partners."

The day after Portnoy tweeted his lawyer's letter, Brettler wrote directly to Kayla and demanded that she renounce the statements she made to the Insider reporter Julia Black.

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\* ALSO ADMITTED IN NY AND NJ

January 21, 2022

VIA EMAIL: [REDACTED]

[REDACTED]

Re: David Portnoy / Insider, Inc., et al.  
Our File No. 7199-2

Dear [REDACTED]

Our firm is litigation counsel to David Portnoy. We are writing regarding the outrageous, false, and defamatory statements you made about Mr. Portnoy to Julia Black and others in connection with a story she was preparing for Insider, Inc. We demand that you immediately set the record straight with Ms. Black and retract the false allegations you made about our client. Your failure to do so will expose you to substantial liability for defamation.

In that regard, we further demand that you take all necessary measures to collect and maintain all documents and materials in your possession, custody, and/or control pertaining to Mr. Portnoy and/or to Barstool Sports, including, but not limited to: (i) copies of all your written correspondence with Julia Black, Kat Tenbarge, and any other reporter or editor at Insider, Inc.; (ii) copies of all correspondence between you and Mr. Portnoy, including your emails, text messages, direct messages, other electronic communications, and all attachments thereto; (iii) copies of all correspondence between you and any third party regarding Mr. Portnoy and/or Barstool Sports; and (iv) copies of all of your social media posts, including drafts thereof, regarding and/or referring to Mr. Portnoy and/or Barstool Sports.

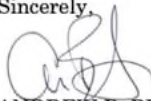
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██████████  
Re: Portnoy / Insider, Inc., et al.  
January 21, 2022  
Page 2

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If you are represented by counsel, please have your attorney contact me.

This letter does not constitute a complete or exhaustive statement of our client's claims, rights, and/or remedies, all of which are hereby expressly reserved.

Sincerely,  
  
ANDREW B. BRETTLER

cc: Mr. David Portnoy  
Howard Cooper, Esq.  
Christian Kiely, Esq.  
Jake Camara, Esq.

A letter one of Insider's sources received from Dave Portnoy's attorney after Portnoy learned about the allegations she had made against him. Courtesy of Kayla

"We demand that you immediately set the record straight with Ms. Black and retract the false allegations you made about our client," the letter said. "Your failure to do so will expose you to substantial liability for defamation." The letter also demanded that Kayla preserve all documents and materials pertaining to Portnoy.

Kayla has decided to move forward with telling her story.

"I know what happened to me, and I know what I experienced," she told Insider. "I know what I went through, and I remember everything in those encounters so vividly, and I'm just very determined to speak up and share my story and hopefully encourage other women to feel confident to speak up."

She added that she wanted to support the women who came forward in the first article.

"I have to stand up for these girls," she said.

---

Kayla first messaged Portnoy on Instagram in the summer of 2017. Kayla, who was 21 at the time, was between her junior and senior

years in college, living at her parents' home in Connecticut. Portnoy was 40.

"I didn't even think he would respond," she said, adding that she was intrigued by Portnoy, who has millions of Instagram followers and a rabid fan base.

To her surprise, Portnoy replied within 24 hours. He sent her a direct message on Instagram, commenting on a photo of her posing in a bathing suit with her dog. "Mini Schnauzer and great ass. Nice combo," he wrote. Kayla said she excitedly took a screenshot of this message — which she shared with Insider — along with other early ones from Portnoy when they popped up on her phone as push alerts.

Kayla and Portnoy continued to exchange flirtatious messages on Instagram and Snapchat for several weeks, Kayla said.

"I generally get what I want soooo," he wrote in one Instagram message, urging her to come to his New York City home after learning her parents had an apartment on the Upper East Side.

"It was definitely exciting because he was famous," Kayla said. "I was also obviously nervous, too, because I don't know him and he was so much older than me."

The two arranged to meet at Portnoy's downtown apartment.





Barstool Sports has capitalized on its ability to appeal to 18- to 35-year-old men. Portnoy is seen here onstage at The Barstool Party in 2017. John Parra/Getty Images for Barstool Sports

An Uber receipt viewed by Insider shows Kayla was dropped off next to Portnoy's apartment at about 10:30 p.m. that first night they met.

She took an elevator that opened directly into his apartment, and, soon, they had sex. It was more aggressive than Kayla anticipated. Kayla told Insider that at one point Portnoy began choking her so hard she couldn't breathe and that she became frightened. He also slapped her on the butt so forcefully that it left red marks that lasted days. One of Kayla's friends told Insider they viewed the red marks a few days later.

"I have never experienced that before," she said. "Like, sure, it's fun to get choked a little bit. It was just way too much. It was scary. I was getting no air. Not being able to breathe is one of the scariest things, and it sends you into such a panic."

Kayla said she was too intimidated to try to push Portnoy off her.

"It's hard to stand up for myself more. It's like, 'Oh, he's so much older, he's famous,'" she said.

Toward the end of their sexual encounter, Kayla said, she saw Portnoy holding his iPhone and recording her.

This was "odd and creepy," she said, adding that the overall experience left her feeling "startled." But she was willing to see Portnoy again.

Her friends, most of whom didn't know the details of her sexual encounter with Portnoy, "thought it was kind of cool that I hooked



up with him," she said. She added that she enjoyed the attention he gave her.

So, about a month later, when Portnoy asked Kayla to come over to his New York City apartment again, she agreed. She said it didn't even cross her mind that he might try to film her again or that the sex would become even more violent.

"Maybe I was being naive and hoping that something would be different," she said.

"I just thought you know like: 'He wants to see me again? How cool is that? He likes me. I'm good enough to get a second invite,'" she added.

Later, she would regret this decision. She says the sex during her second encounter was far rougher than she had anticipated or would have agreed to had she been asked.

"I always think back to it," she said, "like, 'Yes, it was technically consensual sex, but that was not the sex I consented to.'"

Kayla arrived at about 8:30 p.m. Early on, Portnoy and Kayla were standing in the hallway of his apartment talking when their conversation turned sexual, she said. Then, Kayla said, Portnoy suddenly slapped her across the face "full force."

"I was like, 'What the fuck?'" she said. "It just came out of nowhere. It wasn't like a light slap."

Kayla said she was shocked and afraid to speak up. "If he can hit me that hard, I was like, 'I don't want to make you mad,'" she recalled.

She started to panic and was overwhelmed with anxiety, she told Insider. "I'm in this guy's apartment, he's twice my age, famous, and I felt trapped almost," she said. She worried that he could become forceful if she tried to leave and figured it was just better to go along with it all.

She ended up with her back on the living-room rug, having sex that she described as very painful. She said she could feel the skin on the small of her back "pulling away" during those moments. She developed a 3-inch-long rug burn.

"It really hurt," she said. Photos viewed by Insider show layers of skin missing from Kayla's back.

"It was literally raw flesh on her back," said the friend who saw the wounds a few days later. This friend also recalled hearing contemporaneously about the slap.





Kayla said she developed a 3-inch-long rug burn after having rough sex with Portnoy. She said she could feel her skin "pulling away" on the carpet. Courtesy of Kayla

After several minutes, Portnoy and Kayla moved to the bedroom and started having sex on the bed. She said he attempted to have anal sex without her permission.

"He didn't ask — he just like, tried to force it in," she said, adding that she told him "no" three or four times because she "knew it would have been excruciating."

"I really was trying to convince him, 'I do not want that, that is absolutely not going to happen,' but he kept trying," Kayla said. Eventually, she said, he listened to her and "gave up."

At one point, Kayla said, Portnoy was behind her and gripped her rib cage so tightly that she felt as if her body "was compressing in on itself." Kayla believes this was when one of her ribs broke.

Shortly after, Portnoy placed his iPhone on the pillow in front of her. She said she felt too intimidated to ask him to stop recording.

Later, when he showed her the video he'd taken, she realized he'd been filming before she'd seen the phone.

When they were done having sex that night, Portnoy and Kayla went back to the living room to clean up the blood from her back wound.

Kayla spent the night at Portnoy's but lay awake in bed. "I remember thinking: 'I will not come back here. That's it. I'm done,'" she said.

The next day, Kayla began experiencing pain and pressure in her chest as well as difficulty breathing. Embarrassed to explain to her parents why she would need to see a doctor, Kayla waited until she returned to college before visiting her school's medical center. At



that point leaning over, laughing, and working out had become extremely painful, she said.

A second friend saw Kayla in the days following her second sexual encounter with Portnoy. The friend said Kayla relayed the events to her in detail and said the experience "scared the shit out of" Kayla.

"We were 21. We were a little stupid, clearly," the second friend said. "But I do specifically remember her being in a lot of pain."

Insider reviewed a patient-visit summary dated September 4, 2017 — two weeks after Kayla said she and Portnoy had their last sexual encounter. The medical document said Kayla had "difficulty taking full breaths" and "specific site pain/swelling on chest bone." The doctor didn't order an X-ray, since most rib fractures heal on their own, but the provider's assessment says "assumed fracture to left true rib #2" with advice to "rest and do deep breathing exercises to prevent pneumonia." Kayla said she didn't inform Portnoy about her diagnosis. Brettler's letter said Kayla "joked about how she injured her rib during one of their sexual encounters and boasted to Mr. Portnoy that he 'still holds [her] title for most aggressive sex.'"

Days after their second encounter, Portnoy texted Kayla three video clips of them having sex, which she says she eventually deleted.

She says she felt ashamed and hoped he wouldn't share them with anyone else. But she also remembers feeling a lack of control.

"That really sucked, knowing that he had those," she said, "and I felt like even if I told him to delete them, I would never trust him to actually delete them." She said she tried to put the whole thing out of her mind.

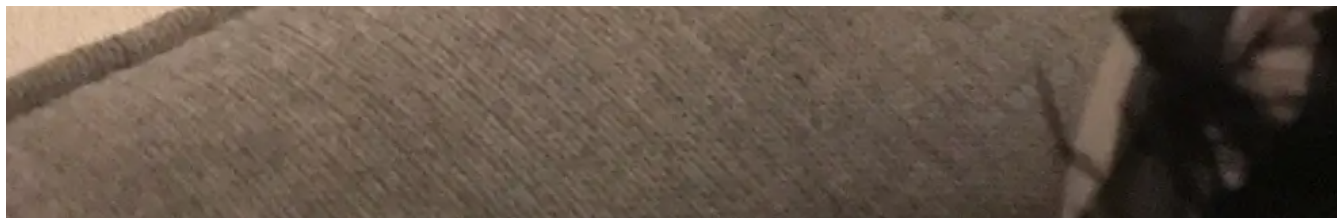
In the months after their second encounter, Portnoy also sent Kayla at least three sexually explicit videos via Snapchat and text of him having similarly "aggressive" sex with several women, she said. Kayla said watching the videos, which appeared to show young women going through experiences similar to her own, was upsetting.

"He would text me or message me and be like, 'Hey, I thought you'd like this,'" she said. "First of all, no I don't like it. Second of all, I doubt that girl knows that you're sending that degrading video to other girls."

Annie Seifullah, an attorney at C.A. Goldberg PLLC, a national law firm that represents victims of privacy violations and sexual abuse, explained that in New York under a 2019 law, "Even if a person consents to having an intimate image being taken in the first place, it is still a violation of the law for someone to distribute that image without their consent" if there's intent to harass, annoy, or alarm.

Portnoy made several attempts to meet Kayla in person again in the months following, but she refused, using her college schedule as an excuse, she said.





Kayla said this was a photo she took of Portnoy cleaning blood out of the carpet in his New York City apartment in 2017 after she developed a severe rug burn on her lower back during sex with Portnoy. Courtesy of Kayla

Kayla says it took months to process what had happened to her.

"I think it takes some time and being removed from the situation to really realize how fucked up that all was," she said. "It all felt very degrading." Even once she came to terms with what had transpired, Kayla said, she was still too scared to talk about it publicly.

"It's Dave Portnoy," she said. "Everyone kind of knows if you go against him, it never turns out well. He's basically built his brand around that idea. Like you don't mess with him," she continued, adding that the thought of widely sharing what happened made her anxious. "That just didn't really seem like an option for me at the time."

According to Brettler's letter to Insider, Portnoy and Kayla texted again in March 2019 about a sexual experience she said she had with another celebrity in which the celebrity would "pin [her] down, choke [her] a little, slap [her] around a little, [and] bite [her]" (the letter included the bracketed text).

Kayla told Insider that she was no longer in possession of these messages because of an auto-delete setting on her phone but that the only other celebrity she'd had a sexual relationship with was a friend of Portnoy's.

She described her sex with the celebrity as "the complete opposite of my experience with Dave" and said while they did engage in some of the acts described in the text, it was "respectful" and not nearly as forceful as what she said she experienced with Portnoy. She said there was communication with this celebrity about what she liked and she "never felt scared."

Melissa A. Vitale, the communications director for NSFW, a sex-positive members-only club in New York City, told Insider that to

safely practice BDSM — an abbreviation for bondage, dominance, sadism, and masochism — "both partners must give prior consent before performing any type of act or physically touching one another."

"This includes discussing hard and soft limits of what each partner is comfortable with, agreeing on a safe word, negotiating pain levels, and checking in with your partner regularly throughout the process," she continued. "Ultimately, any act should be pleasurable and desirable for both partners involved." Things like hairpulling, choking, or spanking, Vitale said, don't fall under the BDSM umbrella unless there's consent and desire from both parties.

"He never hurt me," Kayla said of the celebrity. "I felt confident. I felt good, which was not how I felt with Dave." Kayla says this celebrity didn't film them having sex.

According to Brettler's letter, Portnoy said that shortly after Kayla messaged him about the celebrity, she wrote to him again saying Portnoy would "'100% get laid' if he helped her find a home for a certain rescue animal." Brettler wrote that she also responded to a sexually explicit video Portnoy had sent her in which she wrote "fucking hot . . . miss that dick." Kayla told Insider she didn't recall writing these messages but usually answered sexually explicit videos he sent her with short replies meant to end the conversation quickly.

She also said she still felt intimidated by Portnoy and the fact that he possessed videos of the two of them having sex.

"It makes me scared knowing that he has those videos on his phone that I have no control over what he does with them, or how he uses them," Kayla said.

"It's really upsetting because it's something that I can't do anything about."

Since its founding in 2003, Barstool has grown into a digital media juggernaut covering sports, gambling, and pop culture, with a mix of crude humor and barely clothed women. Portnoy himself has an estimated net worth of \$100 million and has helped build Barstool into a \$450 million empire that does business with brands including Dunkin' and Walmart.

In the November article, one woman, given the pseudonym Madison by Insider, said she had sex with Portnoy at his Nantucket home last year that was so rough she was "literally screaming in pain." Two of the women said Portnoy, now 44, both choked and filmed them without asking. The third, a woman given the pseudonym Allison, said she felt stressed and overwhelmed after her sexual encounter with Portnoy and the subsequent attention it got when her peers found out. Allison, who had depression, said she became suicidal three nights after the two had sex and was admitted to a hospital.

After that article was published, Portnoy acknowledged having sex with two of the women who were quoted but vehemently denied their characterization of the encounters. The day the article went live, he posted a nearly [12-minute filmed rebuttal](#) on Instagram and Twitter, calling the allegations "100% not true" and saying he had "never done anything that's remotely not consensual."

On November 11, [during an hourlong YouTube address](#), Portnoy speculated without evidence that Insider Inc. CEO Henry Blodget sought to profit personally by publishing the article on the day when Penn National, a public company with partial ownership of Barstool, was reporting its quarterly earnings. Portnoy went on to show anti-Trump tweets from Madison as proof she had an "agenda" since Portnoy publicly supported Donald Trump in the 2016 US presidential election and interviewed him in 2020. He also showed flirtatious messages from Allison after the two had sex but before she was hospitalized. Portnoy said he "did not film without advance permission."







All of the women who spoke with Insider have expressed fear of speaking out, citing both Portnoy's hostile fan base and, for some, the fact that he may still have compromising photos and videos of them. Tom Briglia/ Getty Images

On the day that article was published, he characterized Madison's and Allison's claims as not only false but also unique.

"Talk to all the girls I've actually hooked up with and known, you're going to see just one after another, 'great guy,' 'respectful,' 'yes, may like kinky sex,' 'yes, may send sext messages,' things like that," he said in his recorded statement, adding: "I've been pretty open about my sex life. None of the girls, besides this, have ever said a thing."

When reached for comment for this article, Brettler, Portnoy's attorney, argued that Kayla's account lacked credibility because she continued to send Portnoy messages of a sexual nature two years after their last sexual encounter. He also characterized a second woman with whom Insider spoke as "unstable." Brettler pointed to a yearslong history of sexual texts between his client and this woman, who was 18 when she first had sex with Portnoy, as evidence she couldn't be telling the truth.

B.J. Cling, a clinical and forensic psychologist who specializes in sexualized violence, told Insider that after trauma, people often remain in touch with those who inflicted harm.

"By trying to contact the person who hurt you, you're trying to undo in your own mind what really happened and make it into something else that actually it wasn't because it feels better," Cling said.

Following Portnoy's publication of his attorney's letter on Twitter, the woman who was 18 at the beginning of her relationship with Portnoy said she no longer wanted her experience detailed in the piece. "He has humiliated me and I can't be part of it," she wrote to Insider, expressing fear of what he might do if she continued to speak out.

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In total, five women have now told Insider that Portnoy filmed them during sex without seeking permission.

Four of them said the sex that was recorded started consensually but then turned violent and frightening beyond what they would have agreed to had they been asked.

One of these five women had a different experience. She said the sex with Portnoy was rough, but consensual throughout. However, she told Insider that she never consented to Portnoy filming her during sex.

She said she saw the iPhone filming only when Portnoy yanked her hair back and repositioned his camera to capture her face in the moment. "I felt very anxious and embarrassed," this woman said, adding that she tried to move her face out of the frame. She told Insider she asked Portnoy to delete the video but couldn't say for certain whether he did.

She is certain that Portnoy has filmed other women during sex, though. She said he often sent her videos of himself having sex with different women, and she described some of the videos as "so awful" and "so degrading." Eventually, she said, "I just stopped responding to him."

In one of the videos viewed by Insider, Portnoy chokes a woman with both hands. One photo he sent, also viewed by Insider, shows a

woman's partially nude body covered in red marks. In an accompanying message, he claimed responsibility for the injuries.

Another woman told Insider she first sent Portnoy a direct message on Instagram in 2017 when she was 20 years old. After some flirtatious back-and-forth, she said, the conversation moved to Snapchat, where it became sexually explicit. Portnoy wrote that he wanted to have sex with her with "my hands pushing your face down into pillow so hard you can barely breathe."

In another series of Snapchat messages viewed by Insider, Portnoy sent this woman a photograph of what appears to be his penis positioned in front of a woman's face. In the photo he appears to be using his left hand to angle the woman's face toward the camera. The woman has her hand over her face in an apparent attempt to block it from being photographed. "I dominated this girl," he wrote. "Hahah," he continued, adding: "I made her send this to all her friends while we were ducking."

The woman who received the messages said that over several months Portnoy also sent her videos of him having sex with other women.

One video clip from Portnoy that this woman shared with Insider shows a close-up of an unidentified woman, who is red in the face and appears to be in pain, being choked. On several occasions, Portnoy offered to fly the woman he Snapchatted with to New York to have sex but she told Insider that, being as young as she was, she worried about what would happen. "I just made the decision not to. I had a gut feeling," she said.

"When I saw your story come out I audibly gasped," she wrote in an email to Insider. "It's terrifying to know that I was one step away from potentially having that be a reality for me."

Kayla says she's fearful that Portnoy may still have videos of her, and of how he might use them if he does. She suspects there may be other women out there who share this fear.

"I can't even imagine how many videos he has — how many girls have been through the same thing and they either don't want to say



anything about it because they're scared or maybe they haven't realized how messed up it really is," Kayla said. "I'm sure a lot of them are younger girls, because that's his type. So it might take those younger women time to come to terms with what actually happened."

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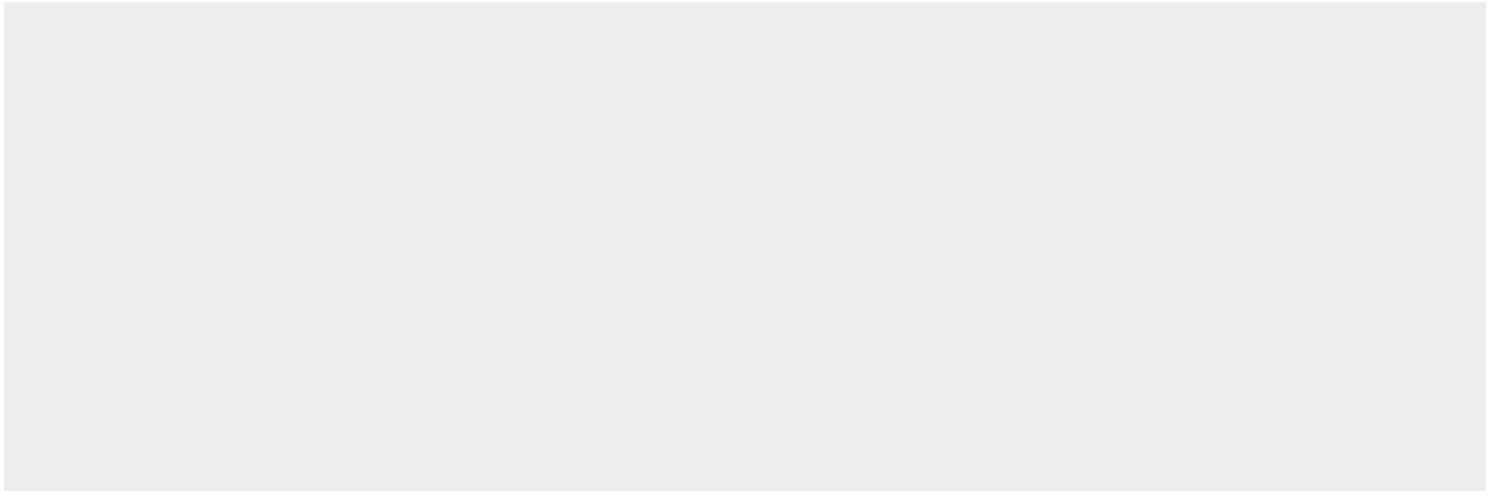
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
David Portnoy
(b) County of Residence of First Listed Plaintiff Nantucket
(c) Attorneys (Firm Name, Address, and Telephone Number) Howard M. Cooper, Todd & Weld LLP

DEFENDANTS
Insider, Inc., Henry Blodget, Nicholas Carlson, Julia Black, Melkorka Licea
County of Residence of First Listed Defendant New York County, NY
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known) Michael T. Kingfield, Insider, Inc.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation - Transfer
7 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332
Brief description of cause:
Action for defamation arising from online publications by defendant Insider, Inc.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ 75,000+
CHECK YES only if demanded in complaint:
JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 2/7/2022 SIGNATURE OF ATTORNEY OF RECORD /s/ Howard M. Cooper

FOR OFFICE USE ONLY
RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) David Portnoy v. Insider, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 400, 410, 441, 535, 830\*, 835\*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820\*, 840\*, 895, 896, 899.
- III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.  
\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES  NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division  Central Division  Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S OR PRO SE'S NAME Howard M. Cooper, Esq. and Christian G. Kiely, Esq.

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TELEPHONE NO. 617-720-2626

EMAIL ADDRESS hcooper@toddweld.com and ckiely@toddweld.com