

In battle against far-right extremists, an old strategy re-emerges: Bankrupt them

A lawsuit against the Proud Boys and the Oath Keepers follows similar litigation that was successful against the organizers of a far-right rally in Charlottesville, Va., in 2017.



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By Erik Ortiz

A [federal lawsuit filed last month](#) seeking monetary damages from two far-right groups, the Proud Boys and the Oath Keepers, and their senior members linked to the [Jan. 6 Capitol riot](#) was designed with an ambitious goal in mind: to impinge on their financial earnings and snuff out their operations.

"If it so happens we bankrupt them, that's a good day," Karl Racine, the attorney general of Washington, D.C., who is [partnering with other organizations](#) in the suit, said at a news conference last month.

Now, the civil case is taking shape as the federal government's sprawling criminal investigation into the Capitol attack ensnared a prominent figure of the movement on Thursday, [Oath Keepers leader and founder Stewart Rhodes](#), who was arrested on a charge of seditious conspiracy.

Whether the group will survive in its current form remains to be seen, but the objective in Racine's suit will test the limits in the fight against far-right extremists. The legal strategy behind it was used as recently as last November [in the civil trial in Charlottesville, Virginia](#), against organizers of the far-right rally that erupted in deadly violence in 2017.

And it's a tactic that has worked before.

In the 1980s, the Southern Poverty Law Center [took the United Klans of America to court](#) after two Klansmen lynched a 19-year-old Black man, Michael Donald, in Mobile, Alabama. A jury awarded his family \$7 million. The white supremacist group, however, could not scrounge together the payment and had to turn over the deed to their Tuscaloosa headquarters – their lone asset – to Donald's mother.

In 1990, the Southern Poverty Law Center and the Anti-Defamation League [successfully sued](#) the leader of another white supremacist group, the White Aryan Resistance, for his part in inciting the 1988 fatal beating of an Ethiopian man in Portland, Oregon. The family of Mulugeta Seraw was awarded \$12.5 million in damages, and the head of the group, Tom Metzger, found himself in financial ruins over the litigation, losing his home and filing for bankruptcy protection.

Like the case against the White Aryan Resistance, the suit targeting the Proud Boys and the Oath Keepers hinges on proving at trial that they violated the Ku Klux Klan Act, a [rarely used federal law](#) codified after the Civil War to protect civil rights. The litigation has a good chance of succeeding, experts on hate and extremism in the U.S. say, because it sources the information that's being collected as part of the [congressional investigation](#) into what [role](#) the two groups played in the planning and execution of the assault on the Capitol.

"That's pretty damning – it's coming from the federal government," Randy Blazak, a sociologist at the University of Oregon who is involved in efforts in the Portland area to combat hate speech and extremist activity, said of the lawsuit.

Racine's lawsuit alleges that the two groups and their leaders "worked together to plot, publicize, recruit for, and finance their planned attack" on Jan. 6, 2021, by conspiring to overturn the results of the 2020 election in order to secure Donald Trump's second term as president.

Similar litigation has been launched by [U.S. Capitol Police officers](#) and, separately, by the NAACP, although those suits also name Trump and his allies as defendants. Trump is attempting to get those lawsuits tossed, citing his immunity as then-president.

Racine's suit – joined by the ADL; States United Democracy Center, a nonpartisan voting-rights and election-security think tank; and two large law firms – is not focusing on the former president. If successful, the suit would pry open the financial earnings and assets of the Proud Boys and the Oath Keepers and some of their top members.

Since the Jan. 6 riot, at least one member of the Proud Boys has pleaded guilty to conspiring with fellow members to stop the certification of the 2020 election. Federal authorities allege more than three dozen people accused of storming the Capitol are affiliated with the Proud Boys, a [combative](#), far-right group of self-described "Western chauvinists."

Some members appear to be in need of financial help. An online campaign on behalf of Nicholas Ochs, a self-proclaimed Proud Boy leader from Hawaii who was [arrested on a charge of conspiracy](#) and other counts last year, raised nearly \$20,000. Ochs has [pleaded not guilty](#). He could not immediately be reached for comment.

The Oath Keepers, a paramilitary anti-government group founded in 2009, has had at least 10 members or affiliates charged with conspiracy in the aftermath of Jan. 6. Its finances have been under tight control by its leader, [Rhodes](#), an avowed Trump supporter and former Army paratrooper who studied law at Yale University. Before his arrest, Rhodes, 56, had been [subpoenaed to testify](#) as part of the congressional investigation.

In the days before [the Capitol riot](#), Rhodes put out a call on the group's website for "all patriots who can be in DC" to travel to the capital for a "security mission" to "stand tall in support of President Trump's fight."

Rhodes on Friday pleaded not guilty during his first appearance in a federal court in Texas. He faces up to 20 years in prison if convicted on the seditious conspiracy charge.

Kellye SoRelle, a Texas attorney representing the Oath Keepers, told reporters outside of the courthouse that he is "not guilty of any of the outlandish charges and the organization stands with Mr. Rhodes."

Sam Jackson, an assistant professor in the College of Emergency Preparedness, Homeland Security and Cybersecurity at the University at Albany in New York, said the Oath Keepers was claiming as many as 35,000 dues-paying members several years ago, although the actual number of active members is [reportedly far smaller](#). The fallout from Jan. 6 has likely only stymied recruitment of people who don't want to be caught up in criminal investigations, he added.

A victory in the latest suit involving the Oath Keepers would be significant, but it's not a "silver bullet" against the far-right movement, said Jackson, the author of "Oath Keepers: Patriotism and the Edge of Violence in a Right-Wing Antigovernment Group."

"It might be possible that civil lawsuits result in organizations collapsing," he said, "but I don't think a single organization's collapse would change the landscape of anti-government extremism in the U.S."

Eileen Hershenov, the ADL's senior vice president of policy, said the suit against the Proud Boys and the Oath Keepers will have its own set of challenges.

The suit is the first time a state or municipal government agency is suing using the Ku Klux Klan Act of 1871, she said. Also complicating efforts: The litigation involves a web of more than 30 individually named defendants, some of whom face criminal charges related to Jan. 6 and are in jail.

Hershenov said the coalition of legal teams will seek to examine the flow of money and where it came from.

"They fund-raised, recruited, planned and so forth in the weeks and days leading up to Jan. 6, so we know they talked about some of the ways they tried to finance getting people to Washington and getting different paraphernalia," she said.

Ultimately, any potential compensatory and punitive damages against the defendants will require the suit's plaintiff, the D.C. government, to determine how it was harmed. Hershenov said that could include the physical desecration to the Capitol, the cost of medical bills associated with the bodily injuries and [mental trauma](#) on members of the Metropolitan Police Department, as well as the economic harm to D.C. when businesses were temporarily closed.

The financial toll on defendants could conceivably be in the millions, if not tens of millions, of dollars, Hershenov said.



— Pro-Trump protesters gather in front of the U.S. Capitol on Jan. 6, 2021.

Jon Cherry / Getty Images file

In the Charlottesville trial, nine plaintiffs won more than \$25 million in financial compensation from about two dozen white supremacists, neo-Nazis and key organizers of the [2017 "Unite the](#)

[Right" rally.](#)

While the jury in Charlottesville was deadlocked on whether the defendants engaged in a federal conspiracy as outlined under the Ku Klux Klan Act, the suit was successful in [shutting down or hindering facets](#) of their activities.

One defendant, white nationalist [Richard Spencer](#), said the suit had been "financially crippling" and he was "in a very difficult situation in terms of getting funds." A leader of another defendant, the League of the South, said the suit stalled its effort to fundraise for a new building in Alabama.

Some defendants have said that they're leaving the white supremacist movement altogether, although there remains skepticism that will happen, said Amy Spitalnick, the executive director of Integrity First for America, the nonprofit civil rights organization that funded the Charlottesville suit.

The suit's aim – to hold the defendants liable for the violence at the "Unite the Right" rally – was also effective when it came to going to trial because it forced white supremacists and white nationalists to appear in court and answer for what transpired.

"Others can see how they've been held accountable," Spitalnick said, "and they'll know that a lawsuit like ours will follow these defendants to the ends of the Earth to collect on them, to place liens on their homes, garnish their wages and seize their assets, whatever it takes."

The Jan. 6 lawsuit, she said, can similarly highlight questions surrounding the groups' finances and flush out sources of income that may not have previously been known to the public. The timing of a potential trial remains unclear.

The Charlottesville lawsuit was filed in 2017, but a trial took four years, impeded in part by the pandemic.

"This is about making clear the consequences," Spitalnick said of litigation that is successful. "We may not change the hearts and minds of those radicalized, but this can be a crucial tool in deterring extremism down the road."



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