

Amid tougher repercussions for campus sex assault, more men sue accusers

By Darcy Costello September 24

SACRAMENTO, Calif. — As Yee Xiong prepared to leave the sentencing hearing for a man she said sexually assaulted her at an off-campus apartment when they were students, she felt ready to finally put the case behind her after four years. Then, she was handed a \$4 million defamation lawsuit.

The lawsuit from Lang Her, who pleaded no contest to felony assault, stated that Xiong and three of her siblings colluded to alienate him from the close-knit ethnic Hmong community and called him a rapist on Facebook.

In an interview with the Associated Press, Xiong said it was like a “slap to the face,” what she saw as a way for Her to “continue to harass my family and me.”

While such lawsuits have long been a legal strategy, experts say, some of the accused may feel they must seek to clear their names in court at a time of increased focus on campus sex assaults and more serious consequences at schools.

“Being labeled ‘rapist’ now has more power than it did 10 years ago,” said Emily Austin of the California Coalition Against Sexual Assault. “The impact could be, if these become more common, that survivors are going to double-think reporting, afraid anything they’re saying could be grounds for a lawsuit against them personally.”

Eric Rosenberg, an Ohio lawyer who has represented clients suing their accusers and universities, said many of the accused suffer damaged reputations and lost educational and career prospects.

“There is no bigger stain on a person in this culture than being labeled as a sexual assailant, and that’s what they’re labeled as,” said Rosenberg, who has filed or acted as a consultant for more than half a dozen such lawsuits in the past five years.

He said the number of such lawsuits have increased as the consequences for those accused at schools have intensified. “They can’t get into school, they can’t get into the military. A lawsuit’s their only way out,” he said.

Tracking such cases can be difficult, as defamation lawsuits are often filed in state courts and many are settled.

Regardless of the venue, Laura Dunn, executive director of SurvJustice, a nonprofit victim rights group, discourages potential clients from naming perpetrators outside of formal channels.

In Xiong's case, according to court documents, she told police she woke in the early hours of July 10, 2012, after a night of drinking in an off-campus apartment, with her arms pinned by Her. She said he was having sexual intercourse with her.

Both were then students at the University of California at Davis.

After his semen was found during a rape-kit evaluation, Her maintained that no penetration occurred and testified that he believed Xiong wanted to have sex with him. Her's attorneys questioned why Xiong stayed the rest of the night in the apartment if she had been raped.

Her did not respond to repeated phone calls and letters from the AP at phone numbers and addresses connected to him through public records. His attorney, David Collins, did not respond to multiple requests for comment through phone messages and letters delivered to his law office.

The lawsuit cites May 21, 2015, as the date the Facebook postings began: The final day of the first criminal trial, when Xiong learned it had ended in a mistrial. Though Xiong and her siblings were angry and frustrated, she said, they never hatched a plot to ruin his reputation.

A second trial in February 2016 also ended in a hung jury.

Xiong and her attorney, McGregor Scott, declined to discuss the details of the postings, which have since been taken down, but said in a formal response to the lawsuit that the posts were true or believed by the defendants to be true.

Local Politics Alerts

[Sign up](#)

Breaking news about local government in D.C., Md., Va.

The saga has divided their small, tightknit Hmong community, Xiong said, with members choosing which family to side with and whom to believe. Among U.S. states, California has one of the largest populations of Hmong, many of whom live in the Central Valley.

"It was very lonely," Xiong said. "I've had to hold off on so many things just because of the trial, like I failed so many classes. Just all of that is putting a hold on my future."

Rather than endure a third trial, Xiong and Her agreed to a plea deal that includes a year of jail time and five years of probation, during which Her must also register as a sex offender and complete a minimum of three months of sex-offender counseling.

Her also was expelled from UC Davis. He reported to jail in Yolo County last month.

Campaign 2016

×