

How Quinn Emanuel Team Beat \$190M Defamation Suit Against Elon Musk by British Caver

By Jenna Greene
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A team from Quinn Emanuel Urquhart & Sullivan led by Alex Spiro and William Price delivered a huge win to Elon Musk on Friday when a jury in Los Angeles federal court rejected a \$190 million defamation suit by British caver Vernon Unsworth.

How did the Quinn Emanuel lawyers do it? After all, there was no question the Tesla and Space X co-founder in a tweet to his 22.5 million followers called Unsworth a “pedo guy.” And if you falsely accuse someone of being a pedophile—that would certainly seem to be defamatory.

But the Quinn Emanuel team did a masterful job reframing the case as “an argument between two men,” as Spiro said in his opening, according to a transcript of the proceedings. “An argument punctuated by insults. Insults understood as insults not literal statements of fact.”

Moreover, the defense team (which also included Robert Schwartz, Michael Lifrak, Ellyde Thompson, Jeanine Zalduendo, Alex Bergjans, Aubrey Jones and Douglas Post) stressed that there was scant evidence that Unsworth’s reputation was actually damaged by Musk’s taunt.

The killer blow may have been Price’s cross examination, where he skillfully coaxed admission after admission from Unsworth designed to make the supposed hero look greedy, egotistical and disingenuous.

Price is known for his cross examinations (once described by a federal judge as both a “symphony” and a “bloodletting”) and this one is worth dissecting.

But first, some background: The case, you may recall, stemmed from an incident in June of 2018, when 12 Thai boys ages 11 to 16 and their soccer coach got



Photo: Courtesy Photo

Quinn Emanuel, William Price and Alex Spiro.

trapped by rising floodwaters deep in the Tham Luang cave system in Chiang Rai, Thailand.

Since 2012, Unsworth (who visits Thailand frequently to see his significant other) had been mapping and exploring the caves. When the boys didn’t come home, local authorities promptly called him for help.

He wasn’t one of the divers who ultimately rescued the boys, but he helped figure out where they might be located and how to get them out. He also helped transport the boys by stretcher in the final, post-dive portion of the rescue.

It wasn’t obvious up front that the dive plan would work, and that’s where Musk got involved.

Musk (who is the father of five boys of similar ages) assembled a team of engineers who dropped everything to go to Thailand and volunteer their services. They came up with the idea of building a mini sub—a rescue pod and tube. By the time the pod was ready, eight of the 12 boys had already been rescued and the pod wasn’t needed.

Musk in a tweet congratulated the “outstanding rescue team!” and was quick to note “We’ve not done anything useful yet. It is all other people.”

A few days later, Unsworth was interviewed by CNN, where he said Musk's plan was "a PR stunt" that "had absolutely no chance of working." He also said that Musk "had no conception of what the cave passage was like," adding that "[Musk] can stick his submarine where it hurts."

Musk hit back. "It was an attack not just on him, but on all of the people who worked with him. This can't go unanswered," Spiro told the jury. "So Elon Musk Googles Chiang Rai. What's with this guy? Looks like some creepy guy trying to put himself on TV and boost himself up by claiming credit and lying about me, insulting my team... This guy is talking about shoving this tube up my butt and so he responds and he throws some insults in."

Musk in a series of tweets wrote that he never saw "this British expat guy who lives in Thailand (sus) at any point when we were in the caves" ("sus" is short for suspicious), that the water level in the cave was "actually very low" and that he'd make a video of the mini-sub/pod going all the way to the cave where the boys were, "no problemo. Sorry pedo guy, you really did ask for it."

Wince.

Spiro (who along with Quinn Emanuel partner William Burck earlier this year shut down charges against New England Patriots owner Robert Kraft of soliciting prostitution) led Musk through a series of questions, stressing that his client deleted the tweets within hours and apologized multiple times.

"My comments caused grief to—to a lot, of people, the—it was definitely hurtful to my team," Musk said. "And, you know, obviously hurtful to Mr. Unsworth. It was—it was not helpful... it's kind of like, you know, my mom used to say, somebody insults you, just let—let it go."

Turns out, it was advice Unsworth should have heeded as well.

Opposing counsel L. Lin Wood, who runs his own firm in Atlanta (and is also representing the MAGA-hat wearing Covington Catholic teen in multiple libel suits), didn't do much damage when he questioned Musk. In fact, Musk on the stand made some solid points in his defense.

"Pedo guy," Musk said, "is more obviously just an insult, as if you said, like, that, you know, 'mother F' or you know, that's like, you don't literally mean incest ... I mean, I want to be clear. I did not accuse Mr. Unsworth of being a pedophile."

And then it was Price's turn to question Unsworth. Last month, the firm posted a 22-minute video on YouTube where he shared his approach to cross examination, and it's fascinating to see him put theory into practice.

Price in the video cautioned against coming in "like an avenging angel" at the start of a cross. That might work if you're a criminal prosecutor who has already developed a rapport with the jury and put on a compelling case. "In those circumstances, a jury can enjoy a hostile cross," he said.

But other times, if you show indignation or contempt for the witness right off the bat, jurors "won't hear you because they'll be offended on behalf of the witness. They'll be asking themselves, 'Why are you being so mean to this person?'"

Sure enough, Price began courteously. But things quickly got interesting when Unsworth purported to have never heard of CNN, and then denied he insulted Musk.

Q – Did you know who you were interviewing with during the rescue?

No.

Q- You do know that CNN is a large international news organization, correct?

I do now. I didn't at the time.

Q- You said you've been a financial advisor for how many years?

Since 1987.

Q – And you lived in the UK?

Correct.

Q – And there is a CNN station that broadcasts in the UK, broadcasts news 24 hours a day, right?

I don't watch much television, sir...

Q – Well, certainly as you were giving your answers, you knew that you were in front of the camera, correct?

Correct.

Q – And you knew that if you attacked Elon Musk, that it was going to make headlines, right?

I did not attack Elon Musk.

Q – Mr. Unsworth, you said that this was just—just a PR stunt, correct?

Correct.

Q – And that communicates that Mr. Musk wasn't trying to help save these kids and just wanted to get publicity, doesn't it?

Correct.

Q – Don't you find that to be insulting to say someone is coldhearted, that they would do a PR stunt when there are children to be saved? Don't you find that to be an insult?

My insult was to the tube and not to Mr. Musk personally.

The line of questioning continued.

Q – Right now do you think that Mr. Musk was so coldhearted that he was sending over this sub only as a PR stunt and with no regard for the safety of those children?

I don't think it was cold-hearted, but I still believe it was a PR stunt.

Q – But you believe it would be coldhearted if you sent over this sub and you did not have the intention of trying to help these children escape death, right?

Right

Q – And that's basically what you're saying here, is that he was coldhearted.

Price added, "And so to be clear, you're not willing to apologize to Mr. Musk for saying that sending that sub over there was a PR stunt, right?"

"I'm not sure how I—how I need to apologize," Unsworth said.

Price pressed him on whether the sub was even such a bad idea, getting Unsworth to acknowledge that "We were very lucky with mother nature. If it had rained on those three or four days, it would have been a different scenario."

Price followed with, "Isn't it your understanding that the rescue pod, that sub was built in case it might be needed because of flooding, changes in the weather, not being able to find a mask that fit the smallest child?"

That's my understanding, yes.

Q – And with that understanding, knowing that that was the reason that the sub was requested, is it

still, sitting here today, your opinion that—that the effort of creating that sub was just a PR stunt?

It is, yes.

The takeaway? Unsworth seems irrationally stubborn and unwilling to admit anything he said might have been less than perfect.

Price in his video on cross examinations also advised making the significance of admissions obvious on the spot, not saving them up for a "brilliant closing."

"You're wasting your time. It's almost impossible for a juror to keep an open mind for the length of a trial. Jurors—anybody—start to reach conclusions early on," Price said. "And then they hear the additional evidence and arguments through the conclusions that have already reached."

At trial, there was nothing subtle about how Price showed Unsworth suffered no tangible damage from Musk's insulting tweet.

In opening arguments, G. Taylor Wilson for Unsworth promised the jury would "hear from Mr. Unsworth about what it meant to him to be called a pedophile by a man of Mr. Musk's stature on Twitter to the world. You'll hear about the shame, mortification and the worry and the distress that he suffered as a result of being branded a pedophile."

Or not.

For example, Price noted that Unsworth got to stand right next to the Prime Minister of England in photos after an awards ceremony.

"You would agree that the Prime Minister of England would not want to be seen with someone who is widely believed to be a pedophile?" Price said. "And the head of England, the Prime Minister, agreed to take a picture with you, honoring you, after Mr. Musk's tweets, right?"

Price noted Unsworth was also feted at the Bangkok Royal Plaza. "At this event, did anyone suggest to you that you were a pedophile?" he asked.

"No," Unsworth answered.

Q – Now, continuing along this line of people coming to you to want to honor you or tell your story. There were also people, again, after Mr. Musk's tweets, who wanted to come and tell your story in the rescue, correct? And is it fair to say that it would not be a

very valuable story if the public thought you were a pedophile?

I was—I was part of a huge operation, and people wanted to know the story.

Price's point: that nothing Musk tweeted ever got in the way of Unsworth receiving any honor, or from anyone wanting to tell his story to the public. Indeed, Unsworth started demanding to be paid for interviews or appearances.

"Three to four film companies had tried to contact you for your story, and you told them to 'piss off' because they weren't going to pay," Price reminded Unsworth. "So, as of that time, you thought that even after Mr. Musk's tweets, your story was valuable, the public would want to hear about you, correct?"

About the story in general, yes.

Q – Well, specifically about your story, about Vernon Unsworth, correct?

Correct.

Q – And at this time, in about September 2018, you had heard that they were going to make a movie that involved only the Thai Navy seals, correct?

I don't recall that....

Q – You told Mr. Thanet: "How can they make a movie involving only the stupid Thais?"

I didn't say "stupid Thais."

Q – You said "Thais Kwaai," K-W-A-A-I. That's a word we discussed yesterday. Do you remember?

Correct.

Q – And that's a colloquialism in Thailand for "stupid."

"Buffalo."

Q – Well, you said literally it meant "buffalo," but didn't you tell us yesterday it meant as a slang word, "stupid"?

I don't recall saying that yesterday. I only recall saying "buffalo."

Q – Okay. Well, were you referring to Navy Seals as being "buffalo"?

It's what we have—it's a slang word. Yes.

Q – Is it a complimentary slang word?

No.

Q – What is the meaning, then, of it being uncomplimentary about the Thais?

I don't exactly know the full definition, but it's something that is, it's—it's a slang word for—not—not good.

Price noted that Unsworth was also unhappy about other projects that didn't include him, citing an email where he wrote, "What I don't like about all this is that everyone is trying to do deals that won't work. I am the KEY,' all caps, 'I am the big piece in the jigsaw.' Do you see that?"

"Correct," Unsworth admitted.

Price also pointed out that Unsworth had an agent. "Did you discuss whether or not your story was less value or had no value because Mr. Musk had made a tweet saying, you know: 'Sorry, pedo guy'?"

Unsworth replied, "I don't recall any type of conversation of that nature with him, no."

There were small digs too, like how Unsworth published an Instagram photo after the rescue showing injuries to his back, even though the injuries were not sustained in the rescue.

In addition, Price noted that when Unsworth previously dealt with emotional stress, such as when he separated from his wife in England, he sought professional help.

Q – You have not seen a doctor or therapist in connection with stress in this case correct?

Correct as I've said before, I've dealt with this myself. I bottled it up and dealt with it as best I can on my own terms.

Q – Yes you have said that, but in the other situation in your life when you had emotional distress, you went to a doctor; right?

May have gone to a doctor. I can't recall.

Finally, Price noted, "In connection with lawsuit, sir, did you ever tell anyone that Mr. Musk should get his big checkbook out?"

"I can't recall that exact conversation or message," Unsworth said.

As it turns out, Musk won't need his checkbook—except to pay his lawyers a well-earned fee. It took the jury less than 30 minutes to side with him across the board.