

# EXPOSED DEALER SUES D+AS EDITOR AND IDA PRESIDENT

Lawsuit yields lessons for the industry

*Editor's Note: The information in this article is based on Tom Wadsworth's personal experience. If you are ever confronted with a legal issue, please consult your legal counsel, as every situation is unique.*



Wadsworth



Pettiette

**O**n Dec. 7, 2018, Charan Gohlwar of Precision Door of Phoenix filed a lawsuit against Tom Wadsworth (the retiring editor of Door + Access Systems magazine), Kevin Pettiette (the new president of the International Door Association), and Smokey's Garage Door (Pettiette's door business in the Phoenix area). The dispute stems from the investigation involved in "Precision Door of Phoenix exposed," the cover story of our winter 2018 issue, which uncovered several questionable business practices by Gohlwar.

The legal battle could be described as a "perfect storm" that collides three notable entities involved in the industry's ongoing war against predatory practices by garage door dealers. The details of the lawsuit bring some important lessons for dealers, manufacturers, and the industry associations.

Gohlwar voluntarily dismissed the lawsuit in February. To dig out the helpful details of this battle, here are questions and answers from Tom Wadsworth, our former editor, who was at the center of the dispute.

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**Your winter cover story, “Precision Door of Phoenix exposed,” mentioned that Gohlwar threatened to sue you and Pettiette. Was the actual lawsuit related to the threatened lawsuit?**

**TW:** For the most part, yes. The actual lawsuit essentially had three accusations: (1) interference with contract and business expectancy, (2) unfair competition and unfair trade practices, and (3) civil conspiracy.

**How did you learn about the lawsuit?**

**TW:** On Sunday, Dec. 16, my wife and I were coming home from church when a car pulled up in our driveway behind us. It was a courier who served me with the lawsuit documents. I then learned that it had been filed on Dec. 7, over a week earlier.

**Had you ever been sued before?**

**TW:** I had never been sued. I’ve received *threats* of lawsuits from another company that we’ve exposed in the magazine. But we take great care to ensure that our stories are well documented and supported by multiple credible sources.

Any journalist who exposes bad practices knows that such lawsuits are possible. But I admit that it was disturbing. As much as I’ve mentally prepared for a lawsuit for several years, it still made me retrace my steps and double-check everything I did.

**So, you knew the risks involved.**

**TW:** Yes, and this is an important point: *It was a risk worth taking.*

Some companies use these legal threats to intimidate the opponent into backing down. I know of honest door dealers who objected to “Bad Bob”-type practices in their markets. But when Bad Bob threatened legal action, the honest dealer often shies away.

**Do you have reason to believe that Gohlwar uses legal threats often?**

**TW:** You be the judge. On July 7, 2017, he sued a competitor and eight of his former employees who had left to work for that competitor. On Oct. 16, 2018, Gohlwar sued his former general manager. On Dec. 7, 2018, he sued me and Pettiette. On Jan. 11, 2019, Gohlwar sued Precision Door Service.

During my investigation, several employees told me that Gohlwar had often threatened

them with legal action. One employee said, “(Gohlwar) will waste endless time and money to tie things up in court even when he is in the wrong, just to drain his opponent, using his deep pockets as a weapon.”

Another employee said, “Threatening legal ... action is what defines (Gohlwar’s) management.” A third said, “Charan always used his attorney to scare the techs.” A fourth admitted that he was “terrified” of Charan suing him. A fifth said he was “concerned about Charan making up charges and coming after us.”

In addition, I discovered online evidence

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of nearly 20 legal cases involving Gohlwar as either plaintiff or defendant over the last 20 years.

**When you see all that history of legal threats, do you think that you’re at a disadvantage?**

**TW:** I think that’s the general idea. In my opinion, it’s “legal bullying” to get you to back down.

But, in my mind, somebody, somewhere, must take the risk and stand up to these tactics. Somebody needs to fight to protect innocent customers, especially seniors who are most vulnerable to their schemes. When we fight, we’re also defending the reputations of thousands of honest door dealers everywhere.

**But that’s expensive.**

**TW:** Right. The bigger Bad Bobs know that, and they keep a healthy line item in their budgets for legal expenses every year. Most honest dealers don’t budget for legal costs, so they often back down when faced with a legal threat. Bad Bob is betting that you’ll immediately grab your wallet, turn tail, and run.

I’m greatly encouraged that DASMA and IDA are both taking a stronger stance against this threat, and they’re willing to do battle. I

think more dealers and manufacturers need to do the same.

**Are you saying people shouldn’t fear a lawsuit?**

**TW:** If you’re doing the right thing, you have nothing to fear.

People tend to think that the world will end if you’re sued. But that’s often when the real battle is just beginning.

Personally, I would be glad to take such battles into a courtroom, stand before a judge and jury, and present all my evidence of what these Bad Bobs are doing. Any jury of my peers would be disgusted at such contemptible behavior, and Bad Bob would lose—big time.

Plus, if a case goes to court, it gives even more publicity to these predatory practices. And then, there will be a court record permanently on file to show what they’re doing. That record will be visible to citizens, journalists, prosecutors, and to advertising companies like Google and coupon mailers.

**Was your Precision Phoenix story reviewed by legal counsel?**

**TW:** Three attorneys closely reviewed the Phoenix story. Two were DASMA attorneys, and one was my personal attorney, who is an expert in First Amendment rights and issues related to freedom of the press.

**Let’s take a closer look at the lawsuit’s allegations. Can you explain Gohlwar’s contention about contract interference?**

**TW:** In October, Gohlwar’s attorney sent to me and to Pettiette a copy of a nondisclosure, noncompete agreement, implying that all of “Gohlwar’s former and current employees” had signed such an agreement.

The nondisclosure part seeks to restrain his employees, “both during and for 24 months post-employment, from disclosing Protected Information about Gohlwar’s business.” The noncompete part seeks to prevent them from competing against Gohlwar in that market area for the same period of time.

**So, Gohlwar was claiming that you interfered with that contract when you talked to his employees?**

**TW:** Yes, that’s the claim. He alleged that my activity constituted “tortious interference.” But this claim ignores many important factors.

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First, it ignores my First Amendment rights as a journalist, especially when his employees want to share information about wrongful practices of vital interest to the public. Second, I never saw a single nondisclosure agreement that was signed by an employee. A number of employees told me that they refused to sign it.

Even if they had signed it, Gohlwar's "protected information" does not include knowledge of predatory business practices that defraud the public. As my attorney's formal response to Gohlwar stated, "Evidence of such practices is not a protectable property interest under Arizona law."

...THIS CLAIM MAY HAVE BEEN MEANT TO FRIGHTEN US INTO NOT PUBLISHING THE ARTICLE ...

### What did he mean by "protected information"? Is he talking about trade secrets?

**TW:** This phrase usually refers to proprietary information like financial data and customer lists. But I had no interest in any of these competitive advantages. I think Gohlwar may have known that, and that's why the lawsuit failed to allege precisely what protected information I supposedly collected.

In short, I think that this claim may have been meant to frighten us into not publishing the article, which exposed many details of an orchestrated scheme to take advantage of customers.

### Is there a lesson here for other dealers who might require their employees to sign nondisclosure agreements?

**TW:** First, check your state law to see if such agreements are legal. But if you are engaged in fraudulent activity, a nondisclosure or confidentiality agreement is not likely to protect you.

For years, I've taught this principle: "The best defense against bad publicity is good behavior." If you do what is best for your

customers and your employees, you have no reason to worry about your behavior becoming public knowledge.

### What about the lawsuit's second allegation? What did they mean by "unfair competition"?

**TW:** This count was targeted toward Kevin Pettiette, since he competes with Gohlwar in the Phoenix market.

The suit claimed that Pettiette "sought ... to gain access to Gohlwar's Protected Information and gain damaging insider information on Precision by contacting Gohlwar's current and former employees to persuade them to disclose the Protected Information." It claimed that he tried to get this information "on (his) own and through Wadsworth."

### Was any of that true?

**TW:** I never saw Kevin engage in anything that might be viewed as unfair competition. Kevin is a busy door dealer who spends a ton of time in the field doing his own installs and repair work. He doesn't have the time or the interest to probe into Gohlwar's alleged "protected information."

### So, you know Kevin?

**TW:** I've known Kevin for perhaps 25 years. We both served on the IDEA board back in the 1990s, and we've had sporadic contact over the years. Currently, he and I serve together on the joint IDA/DASMA Task Force on Industry Reputation.

### Did Kevin help you in your investigation of Precision/Phoenix?

**TW:** No. But we did have brief contact.

On Oct. 11, 2018, Gohlwar's recently terminated general manager sent an email to Kevin. The email said that the GM was no longer employed by Precision and that he wanted to talk. Kevin told the GM to contact me if he wanted to discuss Gohlwar and his operations. But the email clearly indicates that Kevin had no interest in discussing his competitor with the GM.

After that, I exchanged emails with Gohlwar's terminated GM. But Kevin had no involvement.

Like any dealer, Kevin is free to mention my name to anyone at any time. But he didn't help my investigation, nor did he ever ask to

know anything about my investigation, before, during, or after it.

### So, why did Gohlwar think that you two were working together on this?

**TW:** Gohlwar may have obtained access to the email exchange between me and his GM. Since Kevin's email was in the email string, he may have assumed that Kevin and I were working together.

But there is no evidence anywhere to support Gohlwar's allegation.

### Is there anything wrong with you talking to another dealer in town?

**TW:** There is no law that prevents any competitor from talking to me or vice versa. Over the years, I have gathered information about hundreds of dealers, and a good source of information is often the other dealers in that market.

In my Phoenix investigation, I talked to at least three dealers in the area. But they were not as useful as the employees. Employees on the inside know vastly more than competitors on the outside.

### Is it a good idea for door dealers to require their employees to sign noncompete and nondisclosure agreements?

**TW:** It depends on your management style, but I personally don't think they're very productive. They say to your employees, "I don't trust you. I will control what you can say, and I will

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control where you can work." Where's the incentive in that?

I understand that noncompete contracts are hard to enforce, but state laws vary. Naomi Angel, DASMA's legal counsel, summed it up well in an article years ago.

"The courts disfavor noncompete provisions," she wrote. "Some states prohibit them."

**The lawsuit's final count alleged that you and Pettiette were guilty of "civil conspiracy." That sounds like a restatement of the earlier charges.**

**TW:** I thought so, too. The suit actually claims, "Defendants knowingly provided substantial assistance to one another in carrying out each another's (sic) respective tortious acts."

But the claim is simply false. There was no "assistance," certainly not "substantial assistance," and there were no "tortious acts."

**It seems that the lawsuit was an exercise in futility.**

**TW:** An expensive futility ... for both parties. As is often said about lawsuits, "The only people who win are the attorneys." My attorney, for example, was an expensive, seasoned pro who is among the most experienced First Amendment lawyers in the nation.

In my view, the lawsuit felt like harassment and possibly an attempt to silence legitimate reporting of his controversial business practices.

**So, how did the lawsuit end?**

**TW:** On Feb. 20, Gohlwar filed a "voluntary dismissal" of the suit "with prejudice," which means that Gohlwar is barred from filing another case on the same claims.

Yet, in dismissing the suit, Gohlwar's attorney said, "The dismissal is not an

admission in any way about the merits of the claims."

So, neither side had a formal opportunity to argue the case before a judge or jury. Gohlwar may still feel that his claims were justified. Yet, it should be noted that, to settle the case, he paid \$9,000 of my legal expenses.

**It seems that he backed down fairly quickly.**

**TW:** Mike Brickner of PDS told me that PDS demanded that Gohlwar dismiss his suits against me and Pettiette. That demand was

a part of PDS's settlement agreement with Gohlwar, which had just become official on Feb. 18.

Precision Door's official statement announced that Gohlwar's Precision franchise in Phoenix and Tucson will cease operating within 180 days, and his franchises in Dallas, Fort Worth, and Central Maryland will cease operating within 365 days. ■

*To comment on this story, send an email to the editor at [vicki@vjonesmedia.com](mailto:vicki@vjonesmedia.com).*

## WHAT ARE THE LESSONS OR TAKEAWAYS FROM THIS EXPERIENCE?

1. If you want to sue someone, make sure you've got your facts straight, and make sure your charges are legally sound. Otherwise, you're just making enemies and fattening the wallets of attorneys.
2. Don't let legal threats scare you from fighting a "Bad Bob." Make sure you're on firm legal ground; then move forward, not backward.
3. Bullies win if you don't stand up to them.
4. If your company is defrauding customers, don't think that a nondisclosure contract will silence your employees from talking to the press.
5. Treat your employees right. Inspire them to be your allies, not your enemies.
6. The best defense against bad publicity is good behavior.

-Tom Wadsworth



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