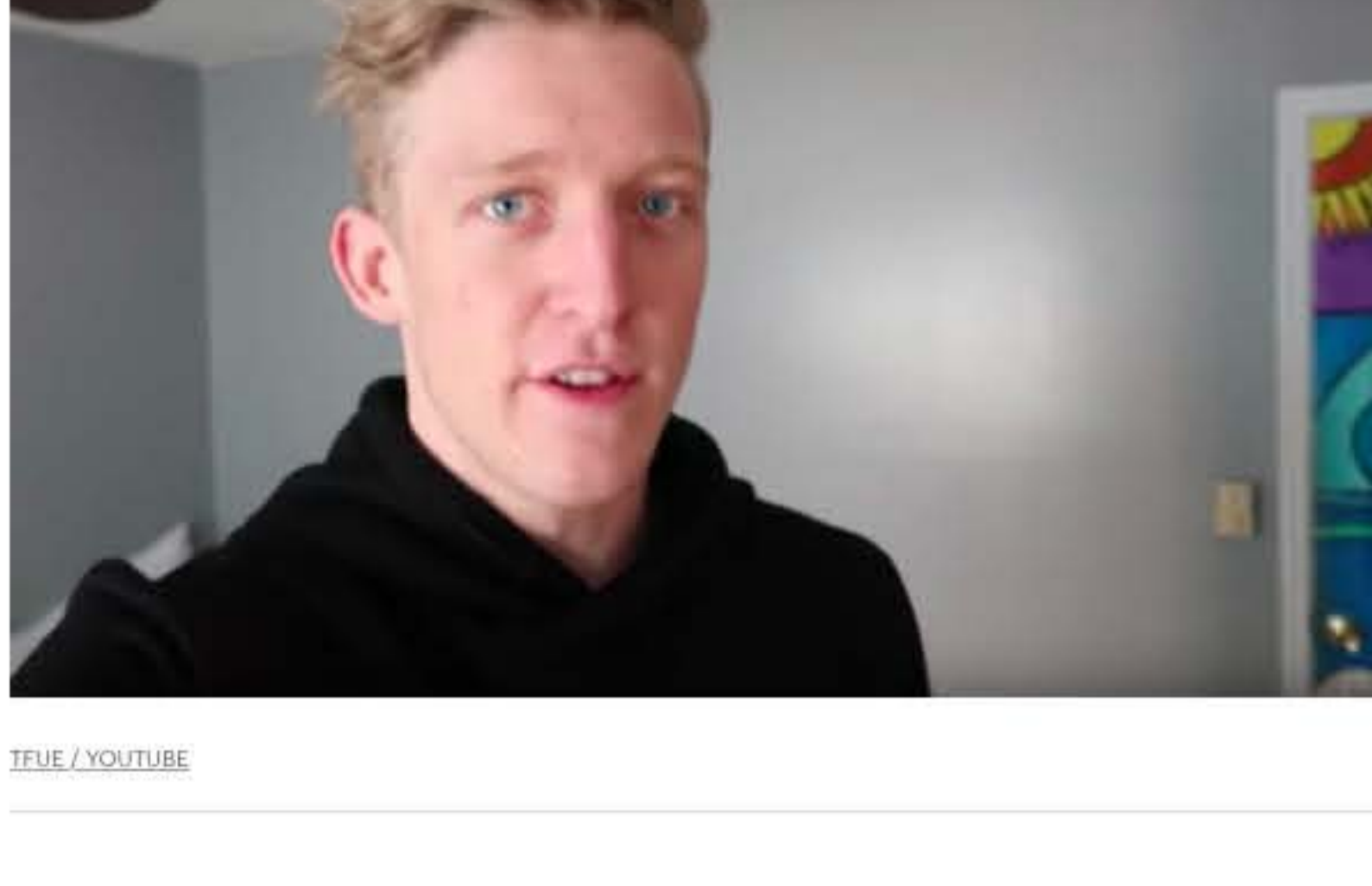


TECHNOLOGY

A New Lawsuit Could Transform How the Influencer Industry Is Regulated

The plaintiff's lawyer says that "the time is now for content creators, gamers and streamers to stop being taken advantage of through oppressive, unfair and illegal agreements."

TAYLOR LORENZ MAY 21, 2019



TFUE / YOUTUBE

Turner Tenney makes his living playing video games. More specifically, he's a celebrity on the video-game-streaming platform Twitch, where he streams as a member of the video-game and online-creator collective FaZe Clan.

But now the 21-year-old Tenney, who goes by the handle Tfue, is suing FaZe Clan for allegedly exploiting him, taking up to 80 percent of his earnings and violating California law by illegally operating as a talent agency. The lawsuit could dramatically reshape how millions of online-content creators and influencers structure deals going forward.

The complaint, filed in Los Angeles County Superior Court, argues that e-sports players' representatives should be regulated like agents of film and TV stars. It alleges that FaZe Clan violated California law by not allowing Tenney to pursue business opportunities, and that it withheld Tenney's sponsorship earnings and forced him to pass on a lucrative brand deal because of conflict of interest.

On top of all this, Tenney's suit also says that FaZe pressured him to live in one of the collective's dedicated homes in the Hollywood Hills. Such houses are like fraternities for young YouTubers, gamers, and influencers, where residents often pull long hours creating content for millions of fans, then let off steam by partying. Tenney alleges in the lawsuit that FaZe Clan encouraged him to drink while underage.

"Not only does FaZe Clan take advantage of these young artists, it jeopardizes their health, safety and welfare," Tenney's lawyer, Bryan Freedman of Freedman + Taitelman, wrote in the filing. FaZe Clan also pressured Tenney to engage in dangerous stunts for YouTube videos. "During one video, Tenney suffered an injury to his arm while skateboarding which resulted in permanent disfigurement," the claim reads.

FaZe Clan did not respond to a request for comment on Monday. But it did issue a statement via Twitter, saying, "We're shocked and disappointed to see the news of Tfue's press article and lawsuit ... We have only collected a total \$60,000 from our partnership, while Tfue has earned millions as a member of FaZe Clan. While contracts are different with each player, all of them—including Tfue's—have a maximum of 20% to FaZe Clan in both tournament winnings as well as content revenue, with 80% to the player. In Turner's case, neither of those have been collected by FaZe Clan. We're proud of what we've accomplished together of the past year with Turner and will continue to support him."

FaZe Banks, the founder of FaZe Clan, also responded to the lawsuit on Monday via Twitter. "At the end of the day this is all about money," he tweeted. "More and more and more money. Clearly Tfue felt he deserved millions of dollars in salary in the addition to all the millions he earns on his platforms. He was unhappy and this was his attempt at getting out of the contract."

Tenney is one of many gamers who have become immensely popular because of Fortnite, a video game that exploded in popularity over the past year. Tenney's Twitch channel was the eighth most watched channel on the platform in 2018. He currently has more than 10 million subscribers on YouTube and more than 5.6 million followers on Instagram. Tenney joined FaZe Clan last April, just as his star was rising.

Tenney was just 20 years old when he signed a contract with FaZe Clan stating that the group is entitled to 80 percent of all revenue that Tenney makes through sponsored videos on Twitch and YouTube.

Freedman said that deals like these show just how easily young online-content creators can be exploited. Many young creators are unfamiliar with legal minutiae and can end up signing predatory agreements that can cripple their earnings during their peak years. (Tenney's suit claims that at one point FaZe Clan signed an 11-year-old gamer and pressured him and his family to lie about his age.) Influencers like Tenney are also not subject to standard worker protections offered to talent in the traditional entertainment industry: They don't receive paid time off or have a cap on the number of hours they can work in a day. "Because the esports industry is so new, there is little to no regulation or oversight," Freedman wrote in the complaint. "There are no real organizations such as unions guilds to help protect the content creators/streamers that drive the industry."

But, Freedman argued, these online-content creators are providing a valuable service and deserve to be fairly compensated for their work. "In no uncertain terms, these gamers are artists, entertainers and content creators — they perform, they act, they direct, they edit and they stream," the complaint reads.

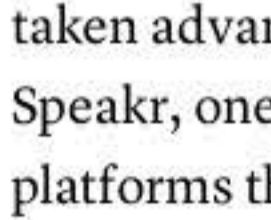
And there's no lack of money swirling around the industry. *Forbes* reported in 2018 that e-sports revenues could reach \$1.65 billion by 2021. The influencer-marketing industry is set to reach up to \$10 billion by 2020, according to *Adweek*.

Tenney's lawsuit comes at a time when more creators are speaking out about the varying ways the system is stacked against them. In November, a slew of top YouTubers filed lawsuits against Defy Media, a prominent multichannel network that acted as a middleman between creators and brands, after the now-defunct company failed to pay them ad revenue from their videos. Anthony Padilla, a popular YouTuber, says he sold his channel, Smosh, which had 20 million subscribers, to Defy Media for what turned out to be zero dollars because he didn't read the contract closely enough. "We had no representation. We didn't understand," he said in a video last year. "I don't know if we were purposely taken advantage of, but we were taken advantage of, and that's my bad." In 2018, I reported that Speakr, one of the oldest and largest influencer-management platforms that acts as a bridge between brands and influencers, failed to pay at least 20 influencers for work they had done on behalf of brands such as Walmart and 23andMe. Instagram memers have also sought to unionize.

Tenney and his lawyer argued that the lawsuit is about "sending a message" about internet workers' rights.

"The time is now for content creators, gamers and streamers to stop being taken advantage of through oppressive, unfair and illegal agreements," Freedman said on Monday. "The significant legal actions taken today will be a wake up call that this behavior will no longer be tolerated. The gaming community deserves a safe environment that allows gamers the freedom to control their own careers."

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