Blog Gives Superheroes and Supervillains Their Day in Court

Would the Second Amendment protect Superman? Ask Law and the Multiverse.

By JOHN SCHWARTZ
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Is Superman’s heat vision a weapon? If so, would the Second Amendment protect his right to melt pistols and cook hamburgers with it?

You might not have thought to ask these questions. You might have, in other words, a life. But a new blog and the interest it is generating shows that there are people who look at an epic battle between superheroes and supervillains and really, really want to know who should be found liable for the broken buildings and shattered streets.

Those people now have a blog called Law and the Multiverse: Superheroes, supervillains, and the law. Kicked off on Nov. 30, it addresses questions like: “What if someone is convicted for murder, and then the victim comes back to life?” And whether mutants are a legally recognizable class entitled to constitutional protection from discrimination.

Law and the Multiverse is the deadpan creation of two lawyers, James Daily, in Missouri, and Ryan Davidson in...
Indiana. Both are 28; they have only met online but collaborate like old friends.

Mr. Daily said the inspiration for the blog came, as so many great ideas do, over dinner with his wife and friends. They began discussing whether the parallel-dimension versions of a supervillain could somehow be brought to justice in a single trial. Alcohol, he insisted, was not involved. Once he discussed his plans for the blog on Metafilter, a collaborative site where people hash out projects, Mr. Davidson got in touch to offer his ideas and support — or, as he put it: “Hey, this looks awesome! Do you want a collaborator?”

In the weeks that the site has been active it has attracted a great deal of online attention, with enthusiastic posts about it on popular sites like Slashdot, BoingBoing and the Volokh Conspiracy, a blog run by law professors. The comments section is especially lively, as participants debate how many superheroes could dance on the theoretical head of a statutory pin.

The site thus suggests that in the grand Venn diagram of life, there appears to be substantial overlap between lawyers and the people Mr. Daily lovingly refers to as “comic book nerds.”

“We look for something that has a good legal hook and a good in-universe hook” and then rev up the cultural blender, Mr. Daily explained. “We start from the premise that the comic book universe — most comic book universes — seem to be pretty similar to the real world,” with their police and courts and prisons.

And so Mr. Daily and Mr. Davidson asked whether it was possible to reconcile the imaginary and the real, things like immortal superheroes and estate law. “To our surprise often it is reconcilable,” Mr. Daily said, whether in modern legal doctrines or centuries-old legal arcana like the British common-law rule against perpetuities and the law of outlawry.

Other topics include the admissibility of evidence obtained through mind reading by Professor X of the X-men and whether the RICO Act could be effectively used by prosecutors against the Legion of Doom.

The answers are dry, technical and funny in their earnestness. The Second Amendment, Mr. Daily suggested, would protect many powers, but “at least some superpowers would qualify as dangerous or unusual weapons (e.g., Cyclops’ optic blasts, Havok’s plasma blasts)” that are “well beyond the power of weapons allowed even by permit.” Those super-duper powers would be tightly regulated, if not banned outright.

Then there’s this jurisprudential nugget: When Batman, the DC Comics hero, nabs crooks, is the evidence gathered against the bad guys admissible in court? Not if he is working so closely with Commissioner Gordon that his feats fall under the “state actor” doctrine, in which a person is deemed to be acting on behalf of government and thus is subject to the restrictions on government power. In fact, he might be courting a lawsuit claiming violations of civil rights from those who were nabbed.

“Either all of the criminals in Gotham have incompetent attorneys, the state action doctrine in the DC universe is weaker than it is in the real world, or Gordon has actually managed to keep his reliance on Batman a secret,” Mr. Daily wrote. “I’m going to opt for the second explanation.”

Ilya Somin, a constitutional law scholar at George Mason University, applauded the new blog, which deals with topics that he has occasionally touched on in his own posts for the
Volokh Conspiracy. “I got many more hits on my post on federalism in Star Trek’s Federation than I get on my posts about real-world federalism,” he said.

Professor Somin added that debating the legal ramifications of superpowers might bring a smile, but might also prove the foundation for something more important some day. “Over the next several decades we’re going to see technology and powers emerge that today only exist in science fiction and comic books,” he said, citing Arthur C. Clarke’s famous saying that “any sufficiently advanced technology is indistinguishable from magic.”

“It may be reasonable to ask,” Professor Somin said, “how should the law treat those kinds of issues when they emerge?”

Mr. Daily acknowledged that he and Mr. Davidson have a semi-serious purpose. “I think we both hope that the blog has a certain educational component,” he said, adding that it could show “how lawyers think about problems.”

Does that mean they would like to see more young people apply to law school? “Oh, I hope not,” Mr. Davidson said. “Not with the market the way it is.”