

Libel, defamation, slander

Selling Your Work · By Simon Townsend · 2 min read

Defamation: slander and libel

If you as a journalist defame someone, you do them the wrong of injuring their reputation without good reason or justification. If published, this defamation is called LIBEL. If spoken it's called defamation by slander.

Defamation has been traditionally divided into two separate categories - libel and slander. The major practical difference between them is that in an action for libel, the plaintiff does not need to show financial loss to recover but in an action for slander (with the exception of statements concerning some criminal offences, contagious disease, unchastity or adultery of a woman, and unfitness for a profession) the plaintiff must suffer actual pecuniary (monetary) damage. The distinction has been abolished in Queensland, Tasmania, and the A.C.T. While New South Wales preserves the distinction, slander is actionable without any special damages. Victoria, South Australia, Western Australia and the Northern Territory retain the common law position.

To be honest with you, my student, this is a huge subject area. Whole university courses are devoted to the topic, and big thick textbooks written about it, with some barristers specialising in it all their working lives.

The topic is too vast to cover in your journalism journey.

If you become a working journalist, you'll learn something about it. Meanwhile, there is just one rule to follow. If you even slightly SUSPECT that something you've written is libellous, bring it to your editor's attention. Thereafter, it's his/her responsibility. - Simon Townsend

Here's a recent comment by a law firm in its newsletter:

Defamation

A quick apology may be the best option

Defamation laws have been simplified. A model being adopted across all states and territories means that, for the first time, people who publish or broadcast will face just one defamation law, not eight.

Under new laws introduced in NSW in 2006, compensation has been capped at \$250,000 unless the court awards aggravated damages, though historically very few awards reached anywhere near \$250,000 for non-economic loss alone.

Action must be taken within one year of publication, but this can be increased to three if the court is satisfied that it was not reasonable for someone to have begun proceedings within a year.

A company's right to protect its reputation is now significantly reduced. Except for not-for-profit organisations and small companies with less than 10 employees, companies cannot sue media outlets for misleading or deceptive conduct, unless the defamation is seen as injurious falsehood, which requires proving malice-a notoriously difficult task.

Publishers can lessen the compensation they may have to pay by printing or broadcasting an apology or correction before trial. An apology does not constitute an admission of liability.

Those with no control over the content, such as printers, libraries, newsagents and ISPs, have a defence of innocent dissemination, but only where they 'neither knew nor ought to have known' of the defamatory content. Where such a party is notified of such content and ignores it, such defence will no longer apply.

Reprinted from The Wonderful World of Journalism. Written in the spirit of Simon Townsend's journalism craft advice. Visit simontownsendjournalist.com for the full archive.