

Basic Terms regarding Libel

Defamation - making a false statement of fact that injures someone's reputation, includes both libel and slander.

Slander - spreading a falsehood that harms another person through strictly oral means, e.g. gossip. May be punished as a form of defamation, but less serious than libel.

Libel - the publication or broadcasting of a falsehood that harms another person. More serious than slander because of capacity for broader distribution.

Civil libel - laws permitting private action demanding compensation for harm suffered as a result of libel. Must show not only falsity of statements, but also measurable harm as result.

Criminal libel - law which provides for criminal sanctions for individuals engaging in libelous activity. Currently on books in 17 states, including Utah, but very rarely used.

Concepts in Modern Libel Doctrine and Cases in which they Originate

Actual malice - knowledge that statements were false or reckless disregard of whether they were false. *New York Times v. Sullivan* (1963)

Public Figure - Individuals who are prominent in public life, including government, sports, and entertainment, have a reduced expectation of privacy, and must demonstrate actual malice. *Time, Inc. v. Hill* (1967)

Individuals involved in public affairs as private persons (such as attorneys or jurors in important trials) are not public figures. *Gertz v. Robert Welch* (1974)

Public Concern - If speech is of "purely private concern," plaintiffs do not have to show actual malice. *Dun and Bradstreet v. Greenmoss Builders* (1985)

Emotional Distress - Public figures may not sue for compensation for "emotional distress" because of cruelty of representation if there is no false statement of fact. *Hustler v. Falwell* (1988)

Fact v. Opinion - Expressions of opinion may be libelous if they imply an assertion of objective fact. *Milkovich v. Lorain Journal* (1990)

Fabricating Quotations - writers may be liable for false quotations if such quotations result in a "material change in the meaning." *Masson v. New Yorker Magazine* (1991).