

Internet Defamation Guide

Publication

The statement is made to another about you.



Defamatory

The statement tends to lower your view in the community, making you appear “odious, infamous, or ridiculous.”
Chapin v. Knight-Ridder, Inc. (4th Circuit).



False

The statement is materially false, or not substantially true.
Masson v. New Yorker Magazine (U.S. Supreme Court).



Factual (not opinion)

The statement is capable of being proven true or false.
Milkovich v. Lorain Journal Co. (U.S. Supreme Court).



Damages

The statement results in reputational harm or monetary damages. Per se defamatory statements—accusations of crimes or immoral or unprofessional conduct—can lead to presumed damages.



Fault

The statement is made with actual malice (public figure) or negligence (private figure). Actual malice means with knowledge of falsity or in reckless disregard of truth.
New York Times Co. v. Sullivan (U.S. Supreme Court).



BASIC REQUIREMENTS



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Statute of Limitations

The statement is outside the statutory (short) period before the lawsuit commenced.



Website Immunity

“No provider or user of an interactive computer service [e.g., social media website] shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U.S.C. § 230.



Absolute Privilege

The statement is made in connection with judicial, legislative, or church proceedings.



BASIC DEFENSES

Anonymity

The statement is made by someone whose identity is protected under the First Amendment.



Anti-SLAPP (Strategic Lawsuit Against Public Participation)

The statement concerns the public interest and lacks merit, entitling defendant to fees and costs.



Qualified Privilege

The statement is made in connection with law enforcement investigations, fair reporting on public records, or employment matters; provided that the statement is not made maliciously.



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