



What is Libel?

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Libel and slander are legal claims for false statements of fact about a person that are printed, broadcast, spoken or otherwise communicated to others. Libel generally refers to statements or visual depictions in written or other permanent form, while slander refers to verbal statements and gestures. The term defamation is often used to encompass both libel and slander.

In order for the person about whom a statement is made to recover for libel, the false statement must be defamatory, meaning that it actually harms the reputation of the other person, as opposed to being merely insulting or offensive.

The statement(s) alleged to be defamatory must have been published to at least one other person (other than the subject of the statement) and must be "of and concerning" the plaintiff. That is, those hearing or reading the statement must identify it specifically with the plaintiff.

The statement(s) alleged to be defamatory must also be a false statement of fact. That which is name-calling, hyperbole, or, however characterized, cannot be proven true or false, cannot be the subject of a libel or slander claim.

The defamatory statement must also have been made with fault. The extent of the fault depends primarily on the status of the plaintiff. Public figures, such as government officials, celebrities, well-known individuals, and people involved in specific public controversies, are required to prove actual malice, a legal term which means the defendant knew his statement was false or recklessly disregarded the truth or falsity of his statement. In general, in most jurisdictions private individuals must show only that the defendant was negligent, that he failed to act with due care in the situation.

A defamation claim will likely fail if any of these elements are not met.

While on many of these issues the burden of proof is on the plaintiff, the primary defenses to a defamation claim are that the statements are true, are not statements of fact, or are privileged. Some defamatory statements may be protected by privilege, meaning that in certain circumstances the interest in communicating a statement outweighs the interest in protecting reputation. For example, most, if not all, jurisdictions recognize a privilege for fair reports of government and judicial proceedings, and for reports of misconduct to the proper authorities or to those who share a common interest (such as within a family or an association). Privileges do vary somewhat from state to state in their scope and requirements. They often apply to non-media defendants to the same degree as to media defendants.

A successful defamation plaintiff may be entitled to a jury award of money damages. In some instances, the plaintiff may also be awarded punitive damages for particularly reprehensible conduct. The parties to the claim are entitled to appeal and cases are carefully scrutinized on review to protect the defendant's First Amendment rights.

Defamation claims can be brought by living persons and legal entities such as corporations, unincorporated businesses, associations and unions that are considered "persons" under the law. Governmental entities cannot maintain actions for libel or slander, although a government official can bring suit for statements about the official individually.

Libel and slander are civil claims, but a handful of the states recognize an action for criminal defamation. Prosecutions are rare, especially against the media.

Under the American federal law system, defamation claims are largely governed by state law, subject to the limitations imposed by the free speech and press provisions of the First Amendment to the U.S. Constitution as interpreted and applied by the Supreme Court and other courts. While the elements of defamation are largely identical throughout the country, because defamation is a matter of state law there can be important differences on substantive and procedural details of the claim in the separate jurisdictions. And as a result of the application of First Amendment requirements to the claims, the specific elements as well as the burdens of proof with respect to those elements may be different, depending upon whether the plaintiff is a public or private figure, whether the defendant is media or non-media, and the character of the statement(s) at issue.

More detailed information on libel and slander in each American jurisdiction, and in Canada and England, is available in our [50-State Survey of Media Libel Law](#). We also publish a [50-State Survey of Media Privacy and Related Law](#). Our [50-State Survey of Employment Libel and Privacy Law](#) discusses these issues in the context of the workplace.