

Libel - the publication of material that causes financial loss, damages a person's reputation or exposes the person to shame and humiliation.

Four Elements of Libel--all must be proven

Publication—Libelous statement must be seen by a third party.

Identification—Person libeled must be readily identifiable.

Defamation—A person's reputation must be damaged in some way.

Fault—(one of two standards) (1) Negligence—failure to exercise ordinary care. A private person must prove this. (2) Actual malice—knowledge of false or reckless disregard for the truth. A public person or public official must prove this.

Three Types of Public Persons

Public official—His or her position must invite scrutiny.

All-purpose public official—Must prove actual malice in all instances. His or her life is completely before the public eye.

Limited public official—This person voluntarily steps into the limelight. An example is a person who supports or does not support a controversial proposal. If he or she tried to sue for libel on this issue, he or she would have to prove actual malice.

Libel Defenses

Plaintiff fails to prove one of the four elements of libel.

Statute of limitations runs out in one to two years in most states.

Truth, unless malice is involved. If malice is involved, the defendant may need to prove truth with good motives.

Qualified Privilege—If story is based on public record or a public meeting, the reporter has the right to report the proceedings.

Absolute Privilege—written consent—not likely to occur

Fair Comment and Criticism—Those who rely on the public for a livelihood may have their performance evaluated fairly.

How To Avoid

Confirm or verify all defamatory material as being the truth.

Make sure questionable material is true.

Be especially careful of arrest reports, damage suits and criminal proceedings.

Watch out for charges, assertions, claims.

Words such as alleged and reported are not protections against libel.

When charges and accusations are made in a privileged situation, it is a good idea to check with the person defamed.

Watch out for red-flag words like thief, shoplifter, cheat, bankrupt, prostitute, incompetent and communist.