

Burden—Burden of proof shifts from defendant to plaintiff in all libel cases. In a libel per quod action, the burden rests initially on the plaintiff for he or she needs to prove that statement that appears harmless is in fact not. In libel per se action, the burden rests initially on the defendant because he or she needs to prove that the word which appears to be libelous is in fact not.

Defamation—any statement which tends to harm a person.

General or Compensatory Damages—dollars awarded to compensate the plaintiff for injury to reputation. Malice does not have to be proven.

Identification—A complete identification would include name, address, age and occupation. However, it is possible to identify a person with only one of these present. If you libel the principal of your school, you don't have to give his name, just his position, as there is usually only one principal.

Liability—the persons liable for a libel. In most cases it will be the publisher, but anyone connected with the story could be named in a lawsuit. At the scholastic level, it is usually the school district, the publication and the adviser, but students of legal age could also be named.

Libel—Any false statement, written or broadcast, which tends to: (1) bring any person into public hatred, contempt or ridicule; (2) cause him to be shunned or avoided; or (3) injure him in his business or profession.

Libel per se—A word which appears libelous at face value, such as “crook.”

Libel per quod—A word or statement which does not appear libelous, but with background information, it might be. For example, you could say someone played an excellent game of baseball last Sunday. However, if he did not play baseball, and if his religion forbids him to play baseball, then such a statement could be damaging.

Malice—the desire to harm others or to see others suffer. The intent, without just cause or reason to commit an unlawful act which will result in injury to another or others.

Primary Defenses—Truth; Truth with good motives; Qualified Privilege; Absolute Privilege; Fair Comment and Criticism

Publication—publication occurs when a third party sees or hears the defamatory material.

Punitive or Exemplary Damages—damages awarded to the plaintiff for malice. Malice must be proven.

Secondary Defenses—Retraction and apology; settlement (out of court); reliance on a usually reliable source; reply (when the defendant can show that the defamatory material was printed in reply to some original statement and that the reply was made without malice); proof of previous bad reputation.

Single Publication Rule—A person can be sued only once for a libelous statement, not for each issue the libelous statement appeared in.

Special or Actual Damages—damages awarded to the plaintiff for financial loss. Must be proven.

Statute of Limitations—States have set limits on how long a person has to file a lawsuit following the libelous statement. In most states, it is one to two years.

Tort—a civil action. Libel cases are civil cases—not criminal ones.