

AMA Manual of Style

You are looking at 1-10 of 11 items for: **med-9780195176339-div1-66**

Defamation, Libel

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

Publisher: Oxford University Press

ISBN: eISBN:

DOI: 10.1093/jama/9780195176339.021.77

Item type: section

Truth is generally the best vindication against slander. Abraham Lincoln Defamation is the act of harming another's reputation by libel or slander and thereby exposing that person to public hatred, contempt, ridicule, or financial loss. Libel is false and negligent or malicious publication involving words, pictures, or signs., Technically and historically, libel has differed from slander in that slander was defined as defamation by oral expressions or gestures and libel was defined as defamation in print. With both libel and slander, resulting liability depends on a third party reading or hearing the defamatory words. With the advent of modern forms of

Groups of Individuals

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

Publisher: Oxford University Press

ISBN: eISBN:

DOI: 10.1093/jama/9780195176339.022.219

Item type: section

Defamatory statements about groups of individuals are usually not legally actionable if the group is so large that no individual can be identified in the statements., For example, broad statements about specific groups (eg, physicians) or entities (eg, the pharmaceutical industry) are not at risk for libel actions because no single individual or company is identifiable. |

Public and Private Figures

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

Publisher: Oxford University Press

ISBN: eISBN:

DOI: 10.1093/jama/9780195176339.022.218

Item type: section

A public figure is a person who assumes a role of prominence in society, such as an elected official, a celebrity, or an infamous criminal. In cases of alleged libel, public figures are afforded less legal protection than private individuals., In a 1964 case, *New York Times Co v Sullivan*, the US Supreme Court determined that for a public official to prove defamation,

the official must demonstrate that the alleged defamatory statement was made with “actual malice” (ie, with knowledge that the statement was false or with disregard for the truth of the statement) (see also , Defamation, Libel). A

Statements of Opinion

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

Publisher: Oxford University Press

ISBN: eISBN:

DOI: 10.1093/jama/9780195176339.022.220

Item type: section

Statements that contain pure opinion (ie, purely subjective judgment without assertion of fact) are not legally actionable because opinions cannot be proven true or false.(§5.08),, However, an opinion that includes, asserts, or implies facts that are false and defamatory could result in liability. As noted previously, publication of an expression of opinion about a public figure may be protected under the “fair comment” doctrine (see also , Public and Private Figures)., Fischer et al(§5.08) offer the following questions to help distinguish statements of fact from statements of opinion: # Can the statement be proved true or false? # Are the

Republication and News Reporting

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

Publisher: Oxford University Press

ISBN: eISBN:

DOI: 10.1093/jama/9780195176339.022.222

Item type: section

A publisher can be held liable for republishing a defamatory statement. For example, if a publisher reprinted a defamatory statement about a public figure knowing that the statement was false, the publisher could be held liable. Similarly, if the republished false statement was about a private figure, the publisher could be held liable for defamation even if the statement was published without knowledge of its falsity (ie, through negligence). Under the privilege of “fair reporting,” an author can repeat a previously published defamatory statement if it is part of official proceedings (eg, a congressional debate or press conference) as long

Defense Against Libel

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

Publisher: Oxford University Press

ISBN: eISBN:

DOI: 10.1093/jama/9780195176339.022.223

Item type: section

In the United States, truth is a defense against claims of libel in most cases (see also , Defamation, Libel). Aside from consideration of truth of damaging statements, some jurisdictions also consider whether damaging statements were made with intent to harm.§(5.09), As a result, editors should query authors about any statements that criticize or

imply criticism of individuals or corporate entities and ask the authors to provide evidence or documentation to support such statements. If an editor is concerned about the risk vs benefit of publishing such statements, obtaining a legal review as part of the process of peer review

Other Liability Concerns

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

ISBN: eISBN:

Item type: section

Publisher: Oxford University Press

DOI: 10.1093/jama/9780195176339.022.226

There are other sources of legal problems for publishers and editors that are beyond the scope of this manual. Perle and Williams on Publishing Law and Law of the Web: A Field Guide to Internet Publishing are good resources for information that address many of these problems, including issues related to copyright, patent, and trademark (see , Intellectual Property: Ownership, Access, Rights, and Management), privacy (see , Protecting Research Participants' and Patients' Rights in Scientific Publication), advertising and liability (see , Advertisements, Advertorials, Sponsorship, Supplements, Reprints, and E-prints), circulation audits, subscription list fraud, taxation and accounting issues, and employment issues.

Living Persons and Existing Entities

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

ISBN: eISBN:

Item type: section

Publisher: Oxford University Press

DOI: 10.1093/jama/9780195176339.022.217

A statement generally cannot be libelous unless it is “of and concerning” a living person or existing entity (eg, corporation, institution, or organization)., According to a 1992 case, *Gugliuzza v KCMC, Inc*, “once a person is dead, there is not extant reputation to injure or for the law to protect.” Even when the living person or entity is not named in the statement, if the person’s or corporation’s identity can be determined from other published facts, a case for libel can be made.(p150) |

Works of Fiction

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

ISBN: eISBN:

Item type: section

Publisher: Oxford University Press

DOI: 10.1093/jama/9780195176339.022.221

Fictional accounts are not actionable for defamation unless a reasonable reader believes that the story is depicting factual events and can identify the person bringing suit in the story. Humor, satire, and parody may be exempt from defamation suits as long as they are clearly works of fiction., |

Minimizing the Risk of Libel

Annette Flanagin

Print Publication Year: 2007 Published Online: 2009

ISBN: eISBN:

Item type: section

Publisher: Oxford University Press

DOI: 10.1093/jama/9780195176339.022.224

The suggestions in this section are offered to help authors, editors, and publishers reduce the risk of libel in biomedical publication. All statements of fact about individuals or commercial entities should be supported or documented and verified to be accurate in the context in which they were and are made. Similarly, statements of opinion should be supported, or based on documented facts, and should not be malicious. In addition, authors should disclose any conflicts of interest or concerns about the potential reactions of those criticized to the editor so that the editor and author work together to ensure responsible publication