

Chapter 1 : PA: The Fair Report Privilege | Legal Malpractice Law Review

The fair report privilege may protect you from liability -- even if you publish something that is defamatory -- if you relied upon a official public document or statement by a public official for the false information, made clear that the document or statement was your source, and fairly and accurately used the source.

Uniform Single Publication Act 42 Pa. As a general rule, no one may have more than one cause of action grounds for a lawsuit for damages for libel, or invasion of privacy founded upon any single publication, such as any one edition of a newspaper. Recovery in any libel or invasion of privacy claim shall include all damages suffered by the person and, in some cases, punitive damages. If a newspaper publishes similar defamatory stories on two consecutive days, even if the subject matter is basically the same, there will be two causes of action. Likewise, if a publisher publishes the same identical story in two separate publications such as a daily and a weekly newspaper , the plaintiff will have two separate causes of action. Burden of Proof 42 Pa. The defamatory character of the communication including printed statements. Its publication by the defendant. Its application to the plaintiff. The understanding by the recipient such as a reader of its defamatory meaning. The understanding by the recipient of it as intended to be applied to the plaintiff. Special harm resulting to the plaintiff because of its publication such as impairment of reputation and standing in community, personal humiliation, mental anguish and suffering, and any other injury of which libel is legal cause. The defendant must prove at least one the following to avoid liability for libel: The [substantial] truth of the defamatory communication. First Lehigh Bank v. The character of the subject matter of defamatory comment as of public concern an interest of social importance. Malice or negligence necessary to support award of damages 42 Pa. When malice or negligence appears, the jury may award damages as they deem proper. Justification a defense 42 Pa. If a publication is substantially true, is of public interest some interest of social importance such as termination of public employees or other political disputes , and is not maliciously or negligently made knowing it was false or with serious doubts about its truth then a defense exists to any libel claims. However, the publication must be within the scope of the consent given by the defamed person. Consent of another to the publication of defamatory matter concerning him is a complete defense to his action for defamation. The privilege conferred by the consent of the person about whom the defamatory matter is published is absolute. The protection given by it is complete, and it is not affected by the ill will or personal hostility of the publisher or by any improper purpose for which he may make the publication. A case-law privilege has evolved in Pennsylvania courts that permits the press to publish accounts of official proceedings or reports even when they contain defamatory statements so long as the accounts present a fair and accurate summary of the proceedings. Reporters can publish accounts of court documents such as complaints and search warrants used in public investigations. The privilege will be upheld if the published account produces the same effect on the mind of the reader that the precise truth would have produced. If the published account is a fair and accurate rendition of the document used to base the story upon and does not carry a greater "sting" than the document itself, the privilege protects the newspaper from any liability for libel. Libel lawsuits in Pennsylvania and also in federal courts when a Pennsylvania libel suit is being decided affect a newspapers right to protect confidential information. It does not matter whether the newspaper or reporter is a party to the lawsuit. They can still be compelled to disclose this information in a lawsuit between two other unrelated parties. A historical summary of U. Supreme Court libel cases Although every libel case is different and depends on the facts in each case, there are some general rules that the Supreme Court has adopted and modified in past decisions. An understanding of these evolving rules may prove helpful to reporters, ad executives, editors and publishers making difficult decisions on potentially libelous material. Remember, both Pennsylvania and federal law apply to libel. If there is a conflict between Pennsylvania and federal law, federal law will be controlling. In New York Times v. These cases make clear that reckless conduct is not measured by whether a reasonably prudent man would have published, or would have investigated before publishing. There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication. Publishing with such doubt shows reckless disregard for truth

or falsity and demonstrates actual malice. The finder of fact must determine whether the publication was indeed made in good faith. Professions of good faith will be unlikely to prove persuasive, for example, where a story is fabricated by the Defendant, is the product of his imagination, or is based wholly on an unverified anonymous telephone call. Likewise, recklessness may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports. In *Curtis Publishing Co. v. Eddy*, the Supreme Court found in *Firestone v. Time*. In the *Firestone* case, Time had published a short note on the divorce proceeding of Mrs. Firestone, a prominent Florida socialite who, during her divorce proceedings, had held a press conference. Likewise, in *Gertz v. Robert & John Dale Co.* However, in order to obtain punitive damages, a private plaintiff must meet the *New York Times* standard by proving that the defamation was published either with actual knowledge of its falsity, or with reckless disregard as to its truth or falsity. Finally, in *Gertz*, the court distinguished between false statements of facts and opinions. In *Hustler Magazine, Inc. v. Falwell*, a newspaper column accusing a wrestling coach of perjury, the Court decided that a person who published an opinion that the coach lied implied that he had knowledge of facts that led him to the conclusion that the coach lied. The court found that merely expressing such statements in terms of an opinion did not dispel the implication that it was based on fact. Thus, such a statement could be considered defamatory. More recently, in *Mason v. New Yorker Magazine, Inc.* In other words, to be found libelous a defendant must have acted with knowledge or reckless disregard of any differences between what had been said and what was quoted. Remember, defamation law is an ever-evolving subject area. State and federal courts continue to make decisions that affect the rights of plaintiffs and defendants in libel cases. Any questions concerning the publication of possibly defamatory information should be directed to an attorney.

Chapter 2 : Fair report privilege reaffirmed in federal court - ConvergenceRI

Fair report privilege Definition. A protection that immunizes a party from liability for publishing defamatory matter that appears in an accurate and complete report of an official action or proceeding, unless the publisher acted with the sole purpose of harming the defamed party.

This free resource culls from all Reporters Committee resources and includes exclusive content on digital media law issues. Reporting false facts Page Number: But the source behind the inaccurate reports was a press release from the local police department. Texas news organizations are immune from liability under the fair report privilege, which allows journalists to report incorrect information if it comes directly from an official source. Questions also remain about whether the fair report privilege should be absolute or qualified -- meaning it can be overcome in certain situations -- and even where that is settled, some media attorneys have begun to question whether formally asserting the privilege is the most effective means of ensuring such cases are dismissed before media companies spend time and resources fighting them. A Texas appellate court, in *Freedom Communications, Inc. v. Sotelo*, applied state law in finding in June that journalists were protected by a qualified privilege because they reported without reckless disregard for the truth or knowledge of falsity. In the Texas case, two media organizations incorrectly identified a man as a sex offender because they accurately reported what police officials told them. Under Texas law, "the qualified privilege is lost when the communication is made with malice, and here [the media companies] negated malice," said Charles Babcock, a Texas media attorney. Both cases cited the Restatement of Torts section , the leading summary of the legal standard on the issue, which reads, "the publication of defamatory matter concerning another in a report of an official action or proceeding or of a meeting open to the public that deals with a matter of public concern is privileged if the report is accurate and complete or a fair abridgment of the occurrence reported. States such as New York and California have passed laws establishing an absolute privilege for fair reportage. Texas, on the other hand, offers a qualified privilege based on statute, which does not extend to statements made with knowledge of or reckless disregard for falsity. Illinois now has affirmed a common law privilege. Journalists in some states also face an unusual twist, where diligence in following up on uncertain allegations can increase, rather than lessen, the potential for liability. *Crookston Times Printing Co.* To media attorneys, that criticism misses the point. John Bussian, an attorney representing *Freedom Communications* in the Texas case, said the factual determination of whether actual malice exists often results in long periods of deposition taking, document productions and even jury trials. Babcock agreed that the advantage of an absolute privilege is the elimination of the threat of costly and time-consuming litigation, a guarantee that press freedoms will not be chilled by a bad court decision. One issue on which courts split nationally but on which Illinois found for the media defendants is on the question of lawsuits that have been filed but have not yet gone before a judge. States including Colorado, Massachusetts, and Minnesota do not extend the privilege to accusations contained in pleadings for cases that have not been filed with the court. New York, Washington, D. In the Illinois case, Justice Charles E. Hemeryck said the absolute privilege is crucial. The effect is the same protection as the "fair report" privilege without requiring judges to rule that journalists are offered a special privilege. *Felder*, the Texas Court of Appeals ruled that the "report" in a libel or defamation case is merely that allegations were made and are under investigation, and that the media company must prove only the substantial truth of the fact that the allegations were made. *Murphy* wrote for the court. Such an approach would encompass the spirit of the fair report privilege but avoids the use of "privilege" and also makes malice irrelevant, as the state of mind in reporting on the truth that allegations were made would be irrelevant. *Abdel-Hafiz* sued, and Babcock, representing ABC, used the "substantial truth that an allegation was made" approach in arguing successfully for summary judgment.

Chapter 3 : Fair report privilege applies to police reports, court says | Big Bear Observation Post

The amicus brief supports Bloomberg's argument that the Second Circuit should rehear the case and affirm the dismissal of the lawsuit on the grounds that the allegedly defamatory statement is protected by New York's fair report privilege, New York Civil Rights Law Â§

District Court Judge John J. At a time when the news media is increasingly under attack for its reporting on President Donald Trump, attempting to hold him accountable for what he says and for his frequent distortions of the truth, the ruling by U. District Court Judge John J. The questions that need to be asked Why has news coverage about this important ruling reinforcing freedom of the press protections been absent? For that matter, why has the ruling by Judge McConnell not received any comment from the usual suspects in defending freedom of the press “ from the R. Does the ruling also create some protection from Rhode Islanders in recovery to tell their stories at public events without being subject to attempts to challenge their right to speak? At the worst, it can lead to debilitating mental health issues, as recently documented by freelance journalist Phil Eil. There is also the tendency to put work ahead of family and relationships. There are also the vices that have often accompanied deadline pressures “ the over-consumption of alcohol and drugs and in previous decades, cigarettes. At its heart, I believe, is a kind of narcissism that demands recognition from an adoring audience “ a personality disorder not unlike that which afflicts our current President. The balance, of course, is to recognize that what is important is not to shout out your story, per se, or point to your success. It had a lot of wisdom to share. The same is true in the art of journalism, where the goal is to recognize that the greatest good we can do for others is not just to share our riches with them but to reveal theirs to themselves. That said, it is still a welcome relief that Judge McConnell ruled in favor of including the journalism of ConvergenceRI within the privilege of fair report. And, thanks to my legal team of Rajaram Suryanarayan and Michael B. The ruling by McConnell, issued on Monday, Aug. As ConvergenceRI reported in its Aug. On July 26, four women incarcerated at the Gloria McDonald Facility told their stories of drug addiction and their hopes for recovery through a new program of medication assisted treatment at the jail. Four mothers in drab khaki and blue prison garb told their brutal tales of survival on the street, often forced to go cold turkey in their jail cells. Sprawled out before them, sitting on the visiting room floor, were a number of TV and radio reporters: A photograph by Providence Journal photographer Steve Szydlowski, published on Page 4 of the July 27 edition of the daily newspaper, captured this surreal prison scene. The stories that the women told were part of an effort to champion the new strategies now underway at the prison to provide prisoners with medication-assisted treatment to help them with their addictions, instead of forcing them to go cold turkey in their jail cells, with the promise of access to treatment following their release from prison. The moving stories by the four women was timed to coincide with a visit by Michael Botticelli, the White House director of National Drug Control Policy, who himself is in recovery. What prompted the lawsuit The lawsuit against The Providence Journal, its former reporter Lynn Ardit, ConvergenceRI, and editor and publisher Richard Asinof, focused on what Crystal Olsen, the first prisoner to tell her story at the July 26, , event, said in sharing her own personal story of how she said she became a heroin addict. Her father, Philip Olsen, alleged that the reporting of what his daughter said amounted to defamation. The lawyers for the defendants successfully moved to dismiss the lawsuits, citing the fair report privilege. What the judge said The ruling reinforced freedom-of-the-press protections for the news media when reporting on what is said by participants at a government-organized news conference under the fair report privilege. The ruling also upheld the inclusion of ConvergenceRI within the fair report privilege in its ability to ask questions of authorities, based upon what was accurately reported about what participants said during the news conference. Here are extensive excerpts from the page ruling by Judge McConnell. In his ruling dismissing the lawsuit, McConnell wrote: Olsen does not challenge “ and this Court determines “ that the articles were a fair and accurate report of the official proceeding. The articles discussed the medication-assisted drug-treatment program and Ms. Olsen challenges the applicability of the fair report privilege to the reports on Ms. Olsen has not cited authority for this proposition “ that the privilege binds itself to a speaker, not a proceeding. This distinction is made patently

clear by the policy consideration underlying the privilege: In essence, the rule supports a social good “allowing the whole public to attend the official proceeding without actually having to be present at the proceeding. This would hold true for a requirement that the speaker be a public official as well. As described above, the fair report privilege is rooted in access to accurate information, rather than indicia of reliability. Olsen may be able to impugn the reliability of the speaker is, therefore, beside the point, as is the fact [that] Ms. Olsen was not a public official. Olsen was very much a part of the proceeding. Olsen makes one final plea for why the fair report privilege should not attach to a report on Ms. Though, in cobbling together this argument, Mr. Olsen does not challenge “and this Court finds “ that a government-sponsored drug-treatment program for prisoners is a matter of public concern. Olsen concludes that Ms. She discussed her experience with the government program, and in doing so, she talked about the origin of her drug problems. Olsen also claimed that Asinof, in his reporting in ConvergenceRI, had forfeited the fair report privilege. In this chord, Mr. Olsen hits two notes: The relevant portions of the ConvergenceRI article are reproduced below: Her father, a heroin addict, shot her up when she was just 14, and then forced her to become a prostitute to support his habit. I used drugs a lot because of the trauma I had been through. I lost my fiance to an opiates overdose," she continued, sharing that she had two you[ng] daughters, ages 6 and 9. Where were the authorities “ from school, from the police, from the community “ who somehow failed to protect a girl of 14 from being turned out on the street as a prostitute by her father? Olsen, at the press conference, said that her father shot her up with heroin when she was fourteen years old and prostituted her to sustain his addiction. This part of the article takes Ms. Asinof walks a tight rope, where one misstep, such as treating Ms. Asinof did not abuse the privilege.

Chapter 4 : Ruling upholds fair-report privilege for news media “ Minnesota Lawyer

fair report privilege a privilege claimed by journalists who report events on the basis of official records, the report must fairly and accurately reflect the content of the records; this is the condition that sometimes leads to this privilege being called conditional privilege.

Chapter 5 : Fair report privilege | Reporters Committee for Freedom of the Press

The fair report privilege is a broad privilege afforded to the press to publish defamatory statements so long as the report relies on official public documents or statements by public officials and the report fairly and accurately uses those sources.

Chapter 6 : Legal Information for Pennsylvania Newspapers about Libel

Here, the Court went one step further and held that Pennsylvania's "fair report privilege" would apply even to those statements that the party intends to make during the course of judicial proceedings.

Chapter 7 : Reporting false facts | Reporters Committee for Freedom of the Press

Home / All News / Ruling upholds fair-report privilege for news media Cold Spring Police Chief Bill Jones, right, and Stearns County Sheriff John Sanner answer questions at a news conference at Cold Spring City Hall on Friday, Nov. 30, , the day after Officer Tom Decker was shot and killed.

Chapter 8 : Fair report privilege legal definition - Quimbee

The fair report privilege is a qualified privilege that shields the media from liability for their coverage of any official government action or proceeding, provided the report is accurate and either complete or fairly abridged.