

**OTHER INFORMATION REGARDING MY LAW SUIT THAT YOU MAY
FIND HELPFUL:**

My official website statement:

OFFICIAL STATEMENT:

5-29-2008:

27 **Almost 2 years ago, someone wrote false and defamatory statements about me and my company online. I spent much money and time trying to trace the person, but unfortunately was not able to find justice.**

I had a business coach at this time (Dec 2006) who advised me on simply leaving the posts and moving on with my life so I did, or at least tried.

2007 was an incredible year for me! I traveled to the Dominican Republic several times (once on a private jet), was flown in a helicopter twice by the President of the Dominican Republic Congress, visited the Bahamas, Europe (Italy and Spain), Connecticut, Massachusetts, New York, South Beach (I even stayed at The Shore Club), Los Angeles ending in me establishing a residence in LA in November 2007. I learned many valuable lessons in 2007, read at least 100 books, made and lost some friends, attended prestigious lectures, ran on the beach often at sunrise, lifted heavy weights, got in immaculate shape, rode a motorcycle (Ninja 2007) and bought a brand new Audi TT 2008.

I felt like I was just on top of the mountain of life – ready to get to the top, but there was something

stopping me. I felt paralyzed by the comments online made about me – comments, which were painful, false, misleading and outright mean. Every time someone asked me about them or googled my name, I would fall right back into the time these posts were made, a time of great pain for me; a time of loss of innocence and beliefs about the good in people. I felt that my income was affected by these posts as people were judging me upon these false statements. I spent many, many days thinking upon this problem of mine, rather than working and I felt immobilized by lies. My reputation felt shattered and I ran out of resources to keep fighting. The words “cyberlibel” utter a sense of great loss in me; pain that I have tucked away deep in the bottom of my heart, pain that hurts less now, 1.5 years later, but pain like a ghost who continues to haunt me both in my dreams and my awake life.

28 Once I attempted to move on with my life, I did extremely well, but not as good as I thought I could. After all, what do we have if our good name and reputation is damaged? Perception is reality and if perceived as a bad person, a bad person we are in the eyes of others. Did some people give me fewer chances because of these statements? Was I dismissed more easily? Did they believe that I had HIV and that I was an awful person?

I TURNED A VERY BAD EVENT INTO A GOOD, PURE AND POSITIVE ONE: Cyberlibel Organization, Inc. www.cyberlibel.org. I started a non-profit wanting to help others in my situation – others who were damaged by false posts and could not remove them because of lack of funds, time or resources. I have received some replies, but so far have not felt like I can help others properly. I need funding for my non-profit so I can hire an attorney on staff and investigators. I need time to learn about cyberlibel and lobby lawmakers for changes – time, which will still require that I pay my bills and the bills of those who provide me with essential resources. **I TURNED A VERY BAD EVENT INTO A GOOD, PURE AND POSITIVE ONE.** I am going to lead and create essential changes when it comes to internet defamation and I HOPE TO HAVE YOUR SUPPORT. Donations can be sent to: Cyberlibel Organization, Inc. PO BOX 4111, Los Angeles, CA 90078.

As for the actual posts: **For those of you who question my innocence, simply look at my HIV test result.** The posts originated with false claims that I have HIV. The validity of the posts is clearly false because I am HIV negative. The test posted on this site reveals this as of the date the test took place immediately after the posts began. I even have a follow up test that I took recently to prove my case. And honestly, if someone still has concerns, come with me to the testing center and watch me test negative again. There is a testing center right here in Tarzana, CA (while I am in this area at least) – come with me; be my guest. HIV and other sexually transmitted diseases are **NO JOKE!** They can kill or severely impede human life. Get tested before engaging in any sexual activity with another person! Health should be #1 in everyone's life!!

29

As for the “Mind Games of Anna Kubit” posts, the statements are **unsubstantiated.** They are statements that anyone could make about any other person simply to try to ruin their good name.

As for any business statement concerning my honesty or good intentions in business, they are once again **unsubstantiated.** I try to provide the best service I can when it comes to consulting, marketing and sales. Because I am human, I can make mistakes and have in the past – haven't you? “Hindsight is always 20/20.” If anything, I am guilty of going above and beyond with clients and doing everything I can to make them more profitable, to where I start incurring a loss myself!!

And the news that you did not know about: Many of my replies to the attacker I never made – the attacker created an identity to look like it was mine (it's not hard to do, considering you can create any email/name with Google or Yahoo mail). **THIS LETTER IS MY OFFICIAL STATEMENT AND REPLY, NOT THE REPLIES ON THE WEBSITES.**

The posts proliferated and exist in cyberspace in high numbers because they were made in newsgroups, which ensured they would repost to other supposed “news” forums. It's unfair that information which is

false can spread so vastly and quickly.

I will file a lawsuit on August 1, 2008. I am requesting a cease and desist from all websites out there in cyberspace that include my name used in a negative light. This IS your notice, websites. If you do not remove the posts prior to August 1, 2008 that include my name (Anna Kubit, or my company name Konsultar or Konsultar Corporation), you WILL face a costly and timely lawsuit. This includes mainly (but not only) Google Groups, who has failed to permanently remove defamatory posts about me for 1.5 years (!!!!!), after I asked time and time again to clear my name. I offered you numerous proofs of defamation and my innocence and you did nothing. Shame on you, Google for allowing the innocent to be victimized like this – please, please make your posting rules and privileges more strict. I did not deserve this and neither does anyone else.

30

“Live and let live.” I believe we all have the right to live our lives, to work, to make money, to be happy, to smile at life, to be optimistic, to have fun, to make friends. My ability to make friends and to make money has been injured by these posts and I ask that I once again have a chance to live my life innocently and happily. I ask to have my good name back. I want to be the change I want to see in the world – how can I, with this name, in this world, with these people who judge? How?

Best wishes to all of you! Please call me or email with any comments or questions that you may have. I will be glad to personally answer.

Thank you!

Anna Kubit

CASES AND RESEARCH (IMPORTANT PARTS HIGHLIGHTED):

"It is the policy of the United States -- to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer".
(see 47 U.S.C. § 230(b)(5))

520 S.E.2d 603

United States Supreme Court has defined "actual malice" as publication of a statement with knowledge that it was false or with reckless disregard as to whether it was false. New York Times Co. at 279-80, 11 L. Ed. 2d at 706.

Per website: <http://www.dba->

[oracle.com/internet_cyberlibel_usa_cases_message_boards_forums.htm](http://www.dba-oracle.com/internet_cyberlibel_usa_cases_message_boards_forums.htm)

31

North Carolina Libel Per Se

516 S.E.2d 907

This Court has defined libel per se as a publication which, when considered alone without explanatory circumstances: (1) charges that a person has committed an infamous crime; (2) charges a person with having an infectious disease; (3) tends to impeach a person in that person's trade or profession; or (4) otherwise tends to subject one to ridicule, contempt or disgrace.

Past Cases:

Varian v. Delfino and Day, (Santa Clara Cty, 2001). In one of the first Silicon Valley Internet libel cases to reach trial, a jury awarded \$425,000 to Varian, the former employer of two disgruntled workers. The two former employees had libeled Varian executives by posting more than 14,000 defamatory messages on over 100 different websites. The jury found the defendants liable for defamation as well as misappropriation of the executives names.

Stratton Oakmont, Inc. et al. v. Prodigy Services Company, et al., 1995 N.Y. Misc. Lexis 229, (N.Y. Sup. Ct. Nassau Co., 1995). motion for renewal denied 1995 WL 805178 (Dec. 11, 1995). The plaintiffs alleged that defamatory statements had been posted by a third party on a bulletin board maintained on Prodigy. The plaintiffs sought to have Prodigy's liability tested by the standards applicable to publishers of information, as opposed to distributors. The significance of this differential was explained by the court: "one who repeats or otherwise republishes a libel is subject to liability as if he had originally published it. In contrast, distributors such as book stores and libraries may be liable for defamatory statements of others only if they knew or had reason to know of the defamatory statement at issue. A distributor, or deliverer of defamatory material is considered a passive conduit and will not be found liable in the absence of fault." The court concluded that Prodigy, based on the manner in which it had in the past conducted its business operations, was a publisher and not a distributor for defamation purposes. The court, in reaching this conclusion, relied on a number of factors, including: 1) Public pronouncements by Prodigy that it was different from other services because it exercised efforts to control the content of what was published on its bulletin boards; 2) Prodigy's promulgation of content guidelines; 3) Prodigy's use of software screening programs to automatically prescreen bulletin boards for certain offensive language; and 4) Retention of Board Leaders to enforce the content

guidelines with respect to particular bulletin boards. By attempting to exercise such editorial control over the content of its bulletin boards, (even though such attempts were by no means comprehensive or covering all messages posted to bulletin boards), the court held that Prodigy was subject to liability as a publisher, rather than a distributor. The decision recites that Prodigy contends that it changed its method of operation sometime after 1993.

Libel Lawsuits against USENET rise:

http://www.dba-oracle.com/oracle_news/2006_11_07_libel_usenet_lawsuits.htm

This article notes that reality that the USENET Newsgroups (comp.database.oracle.server for example), are rife with mean people who freely commit libel and defamation.

33

Libel Lawyers Descend on USENET

There has been a huge increase in litigation as web publishers are being held to the same rules as any other journalist. Also see the book on protection from Cyberstalkers.

The article notes that people are starting to fight back.

"Friends were asking me if I'd seen what was being said about me in the newsgroups. About the only thing I wasn't accused of (it can be only a matter of time before I am!) was pedophilia.

My professional achievements evaporated. My intelligence was independently assessed at around the level of one of the higher primates, and my knowledge, competence and judgment were all described in terms that, if any of my clients took them seriously, would have ended my

income.

For someone who actually inhabits the flame-basted wastes of Usenet, however, such libels can be very serious.

As a result, despite years of traditional restraint, the Usenetizens are starting to abandon their quaint old-fashioned beliefs in ultimate freedom of speech, and are taking their antagonists to Court." . . .

Cases will increase. You can be sued in Canada for a libel you posted when you lived in Hong Kong or Venezuela. The libelous reach of the internet means you could find yourself arraigned under the repressive laws of a country you have never heard of, for saying something you thought was "fair comment" in the UK, or covered by the free speech amendment in the US.

34

Internet Libeler gets 23 years in Prison:

http://www.dba-oracle.com/oracle_news/2006_08_28_criminal_web_libeler_sentenced.htm

In a highly lauded decision, a Colorado court has sentenced an internet Libeler to more than 20 years in prison. This is a major move towards making anyone who publishes on the web fully responsible for what they write on web sites and blogs.

This Durango Colorado article notes that a Colorado man was sentenced to 23 years in prison for criminal libel for acts relating to defamation on the web, for "*spreading lies over the Internet*":

http://www.durangoherald.com/asp-bin/article_generation.asp?article_type=news&article_path=/news/06/news060408_5.htm

Stephenson instilled fear and terror into his victims' lives by spreading lies over the Internet, creating fake posters and sending phony letters. . .

One example of how he victimized was creating a Web site in a professor's name identifying her as a sexual deviant and asking anyone reading to come rape her. He then posted the professor's home address.

He also sent a fake obituary to an Alaskan newspaper announcing that a jail guard had died of AIDS. The guard was actually alive and well.

35

We see an increase in criminal libel charges as citizens lose their tolerance for malicious lies being published on the web. In this article, the criminal offender was jailed for publishing that some of his victims were "sluts":

A Milford teen spent seven days in a juvenile detention center and was forced to leave the state after being charged with criminal libel for statements he made on his personal Web site.

Ian Lake will face a misdemeanor charge of criminal libel for referring to his principal as "the town drunk," naming girls at his high school as "sluts" and making derogatory remarks about the intelligence of several teachers.

In typical civil libel suits, if an individual is libeled that person can only recover monetary

damages from the person who defamed him or her. In the rarely used criminal libel charge, the state can prosecute a person for libel and impose jail time.

Also see [the book on protection from Cyberstalkers](#)

The 2008 Florida Statutes

Title XLIV

Chapter 760

View Entire

CIVIL DISCRIMINATION IN THE TREATMENT OF PERSONS; MINORITY
RIGHTS REPRESENTATION

Chapter

36

760.51 Violations of constitutional rights, civil action by the Attorney General; civil penalty.--

(1) Whenever any person, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any other person of rights secured by the State Constitution or laws of this state, the Attorney General may bring a civil or administrative action for damages, and for injunctive or other appropriate relief for violations of the rights secured. Any damages recovered under this section shall accrue to the injured person. The civil action shall be brought in the name of the state and may be brought on behalf of the injured person. The Attorney General is entitled to an award of reasonable attorney's fees and costs if the Department of Legal Affairs prevails in an action brought under this section.

(2) Any person who interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any other person of rights secured by the State Constitution or laws of this state is liable for a civil penalty of not more than \$10,000 for each violation. This

penalty may be recovered in any action brought under this section by the Attorney General. A civil penalty so collected shall accrue to the state and shall be deposited as received into the General Revenue Fund unallocated.

History.--s. 4, ch. 91-74.

<u>Title</u>	<u>Chapter 836</u>	<u>View Entire</u>
<u>XLVI</u>	DEFAMATION; LIBEL; THREATENING LETTERS AND SIMILAR	<u>Chapter</u>
CRIMES	OFFENSES	

836.08 Correction, apology, or retraction by newspaper.--

37 (1) If it appears upon the trial that said article was published in good faith; that its falsity was due to an honest mistake of the facts; that there were reasonable grounds for believing that the statements in said article were true; and that, within the period of time specified in subsection (2), a full and fair correction, apology, and retraction was published in the same editions or corresponding issues of the newspaper or periodical in which said article appeared, and in as conspicuous place and type as was said original article, then any criminal proceeding charging libel based on an article so retracted shall be discontinued and barred.

(2) Full and fair correction, apology, or retraction shall be made:

- (a) In the case of a broadcast or a daily or weekly newspaper or periodical, within 10 days after service of notice;
- (b) In the case of a newspaper or periodical published semimonthly, within 20 days after service of notice;
- (c) In the case of a newspaper or periodical published monthly, within 45 days after service of notice; and
- (d) In the case of a newspaper or periodical published less frequently than monthly, in the next issue, provided that notice is served no later than 45 days prior to such publication.

History.--s. 2, ch. 16070, 1933; CGL 1940 Supp. 7064(2); s. 993, ch. 71-136; s. 2, ch. 80-34.

<u>Title</u>	<u>Chapter 836</u>	<u>View Entire</u>
<u>XLVI</u>	DEFAMATION; LIBEL; THREATENING LETTERS AND SIMILAR	<u>Chapter</u>
CRIMES	OFFENSES	

836.09 Communicating libelous matter to newspapers; penalty.—If any person shall state, deliver, or transmit by any means whatever, to the manager, editor, publisher or reporter of any newspaper or periodical for publication therein any false and libelous statement concerning any person, then and there known by such person to be false or libelous, and thereby secure the publication of the same he or she shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

38

SPLC Legal Brief

Libel Law

<http://www.splc.org/legalresearch.asp?id=27>

© 2001 Student Press Law Center

[View Foot Notes](#)

Libel is the publication - in words, photos, pictures or symbols - of false statements of fact that harm another's reputation. (Libel is a form of defamation. Slander is the spoken version of

defamation.) Reprinting or re-broadcasting a libelous statement made by someone else (such as a quote or a letter to the editor) can also subject a publication to a libel lawsuit. However, if a statement is true, it cannot be the basis of a successful libel claim.

THE PIHF CHECKLIST

There are four elements a person must establish in order to prove he or she has been defamed: (1) Publication, (2) Identification, (3) Harm and (4) Fault. *Each of the four elements must be proven.* For example, even if a story you have written meets the publication, harm and fault elements, a libel claim will still fail if you have not identified the claimant.

39

I. Publication

- A statement is "published" if it is communicated to someone other than the person whom the statement is about.
- Publication can take many forms and does not simply mean that the statement has been printed in a newspaper or other document. For example, a defamatory statement's presence on a computer screen in the newsroom where it is read by other students could constitute publication.

II. Identification

A statement "identifies" a person if it is shown that it is "of and concerning" that person.

Disguising a Subject's Identity

Where you successfully omit or alter a subject's identity, they cannot successfully sue you for

libel. Care should be taken that: (1) the subject's identity has been disguised enough so that no one can reasonably make an identification and (2) the disguised subject does not resemble some third party who would then have cause for complaint. Every story should clearly state what facts have been altered.

Group Libel

40 Individuals can be defamed; groups of people cannot be. The key question is whether a statement about a group can reasonably be interpreted to refer to a specific individual in the group. While there is no hard rule, several courts have indicated that individual members of a group larger than 25 will have a difficult time proving that they have suffered individual harm. On the other hand, individuals in a smaller group may be able to claim that their reputation has been damaged. For example, the generic statement, "the tennis team is being investigated for substance abuse" *could* subject a publication to a libel suit if the team consists of just 12 members.

Corporation or Entity Libel

Corporations and other business entities, including private schools and religious organizations, can be defamed. Like individuals, their reputations affect their ability to conduct their affairs in a community.

III. Harm

A statement is harmful if it seriously shames, ridicules, disgraces or injures a person's reputation or causes others to do so. Statements that are mildly embarrassing or merely confusing or inaccurate will not meet the "harm" test.

The following are examples of "Red Flag" statements that could cause significant harm to a person's reputation; extra caution is advised:

- Statements regarding improper sexual conduct. (For example, printing that an unmarried student is pregnant.)
- Statements that associate someone with a vile disease.
- Statements that accuse someone of illegal behavior.
- Statements that hurt someone's livelihood.
- Statements that allege racial or religious bigotry.

IV. Fault

41

In order to be "at fault" in publishing a statement, the person suing must prove that the reporter either did something they should not have done or that they failed to do something that they should have done. If the reporter did everything a "reasonable reporter" should have done to verify the information in his or her story before publishing it - for example, talked to all sides, obtained and read all relevant documents, took accurate notes, etc. - the reporter is not legally "at fault."

People suing for libel who are either public officials or public figures will often have to prove a higher level of fault than an ordinary person.

The Public Official/Public Figure Standard

New York Times Company v. Sullivan, 376 U.S. 254 (1964).

In order for a public official or a public figure to prove defamation, they must prove actual

malice. Actual malice requires that the person suing prove that the challenged statement was published by those who either knew it was false or were reckless in verifying its accuracy.

Who is a Public Official?

The Supreme Court has said that a public official is one who, at the very least, has or appears to the public to have, a substantial responsibility for or control over governmental affairs.

Who is a Public Figure? There are two categories:

(1) General Purpose Public Figure: a "celebrity," whose pervasive fame or notoriety has made his or her name a "household word."

(2) Limited Purpose Public Figure: someone who has voluntarily assumed a leading role in a particular public controversy.

42

Standard for Private Persons (everyone else)

In most states, a private person need only prove that a reporter was negligent, that is, that the reporter made a mistake - perhaps an innocent one - that a "reasonable" reporter should not have made.

SPLC HINT: Don't get bogged down trying to decide whether your subject is a public or private figure. That is a game best left to media lawyers. As a practical matter, it is safest to assume that every one of your subjects is a private person and that you will be held to the lowest fault standard if you publish inaccurate information. Remember, if you do everything a reasonable reporter would do for every story that you publish you will never be successfully sued for libel.

DEFENSES TO LIBEL CLAIMS

If a libel plaintiff proves each of the four PIHF elements, the burden then shifts to the publication to offer one of the following defenses:

(1) Consent

A person who consents to the media's use of a libelous statement about him cannot later sue if the statement does, in fact, injure his or her reputation. Note that special issues can arise when dealing with a younger person's ability to provide valid consent. (See discussion at: [SPLC Legal Brief: Invasion of Privacy.](#))

(2) Truth

Truth, while it must still be proven, is an absolute defense to libel. In many cases involving media defendants the burden is actually on the person suing - not on the publication - to prove the falsity of specific statements.

(3) Privilege

Subject to several requirements, *which may vary by state*, the media is protected from liability when they publish *fair* and *accurate* accounts of *official* public proceedings and reports even if the information reported later turns out to be false. For example, if a police report states that "Jack Smith was arrested" and a newspaper accurately reports the information, the newspaper will not be held liable even if it is later revealed that police actually arrested Jack *Brown* and officers made a mistake when they wrote down his name. To qualify for the privilege:

- The information must be obtained from a record or proceeding recognized by the state as "official".
- The media report must be fair and accurate. A "fair" report is one that is balanced and presented in context.
- The source of the statement should be clearly noted in the media report.

Other privileges exist, but vary from jurisdiction to jurisdiction.

(4) Opinion Versus Fact

Statements of pure opinion cannot be libelous. However, simply leading off an article with "In my opinion...", publishing something on the opinion page or using the word "alleged" provides no automatic protection from a libel charge. The test is whether the expression is capable of being proven true or false. Pure opinions, by their very nature, cannot be proven true or false.

Milkovich v. Lorain Journal Co., 497 U.S. 1 (1990)

Satire and Cartoons

If a statement cannot reasonably be interpreted by readers to be one of express or implied fact, it cannot be libelous. In *Walko v. Kean College of New Jersey*, 561 A.2d 680 (N.J. Super.L. 1988) a case involving an ad that associated a college assistant dean with a telephone sex service, the court stated that "A parody or spoof that no *reasonable person* would read as a factual statement, or as anything other than a joke - albeit a bad joke - cannot be actionable as a defamation."

Thank you in advance for your help in my defamation law suit/clearing my good name.

45