EXHIBIT 2C

LEXSTAT TORTS SECOND SEC. 623A

Restatement of the Law, Second, Torts

Case Citations

Rules and Principles

Division 6 - Injurious Falsehood

Chapter 28 - Injurious Falsehood (Including Slander of Title and Trade Libel)

Topic 1 - General Principle

Restat 2d of Torts, § 623A

§ 623A Liability for Publication of Injurious Falsehood -- General Principle

One who publishes a false statement harmful to the interests of another is subject to liability for pecuniary loss resulting to the other if

(a) he intends for publication of the statement to result in harm to interests of the other having a pecuniary value, or either recognizes or should recognize that it is likely to do so, and

(b) he knows that the statement is false or acts in reckless disregard of its truth or falsity.

CAVEAT: Caveats:

The Institute takes no position on the questions of:

(1) Whether, instead of showing the publisher's knowledge or reckless disregard of the falsity of the statement, as indicated in Clause (b), the other may recover by showing that the publisher had either
(a) a motive of ill will toward him, or
(b) an intent to interfere in an unprivileged manner with his interests; or

(2) Whether either of these alternate bases, if not alone sufficient, would be made sufficient by being combined with a showing of negligence regarding the truth or falsity of the statement.

COMMENTS & ILLUSTRATIONS: Comment:

a. Injurious falsehood. The general principle stated in this Section is applied chiefly in cases of the disparagement of property in land, chattels or intangible things or of their quality. These cases are covered by the specific applications of the principle stated in §§ 624 and 626. The rule is not, however, limited to them. It is equally applicable to other

publications of false statements that do harm to interests of another having pecuniary value and so result in pecuniary loss. The following Illustrations, while not exclusive, indicate some of the types of situations to which the principle may apply.

Illustrations:

1. A, knowing his statement to be false, tells immigration authorities that B does not have sufficient assets for admission to the United States under its immigration rules. As a result B is detained for a week at the immigration station, and suffers pecuniary loss. A is subject to liability to B.

2. A, an employer, knowing his statement to be false, reports to income tax authorities that he has paid B, his employee, a salary of $ 10,000 for the year. As a result B, who has in fact received a salary of $ 5,000 and has so reported, is prosecuted by the United States government for tax evasion and suffers pecuniary loss in the defense of the suit. A is subject to liability to B.

3. A, knowing his statement to be false, tells C that B has died. As a result C, who had intended to purchase goods from B, buys them elsewhere. A is subject to liability to B.

4. A, knowing his statement to be false, tells C that B, an importer of wood, does not deal in mahogany. As a result C, who had intended to buy mahogany from B, buys it elsewhere. A is subject to liability to B.

5. A, a physician employed by B Company, examines C, a workman employed by the Company after an accident. Knowing that his statement is false, A reports to B Company that C is not seriously injured, as a result of which C is compelled to bring suit to recover his workmen's compensation and suffers pecuniary loss through the expenses of suit. A is subject to liability to C.

b. Intent or likelihood that publication will result in harm to pecuniary interests of another. A false statement ordinarily results in harm to pecuniary interests of another through the action of third persons in reliance upon the statement. To make the publisher subject to liability under the rules stated in this and succeeding Sections, it is not necessary that his statement be published for the purpose of influencing the conduct of some third person or with knowledge that it is certain or substantially certain to do so. The publisher must, however, know enough of the circumstances so that he should as a reasonable man recognize the likelihood that some third person will act in reliance upon his statement, or that it will otherwise cause harm to the pecuniary interests of the other because of the reliance. This is true, for example, if the statement casts a cloud upon the title to the thing in question and prevents its sale or lease to third persons. (See § 632, Comment *c*). Thus the publisher is not liable if he has no reason to anticipate that the publication of his statement will in any way affect the conduct of any third person; and this is true although the publisher knows that the matter that he asserts is false.

It is not enough that the publisher knows that there is some remote possibility that a reasonable man would not take into account, that some third person might be influenced by his publication. He does not take the risk that by some unlikely possibility his casual statement may prevent a sale or lease of land or goods. He must know of some circumstances that would lead a reasonable man to realize that the publication of the falsehood would be likely to cause the pecuniary loss to the other. It is not enough to make him liable that he could be reasonable diligence have discovered the likelihood that it would do so.

Illustration:

6. A, in the presence of a circle of his friends, casually says that Blackacre is owned by B. A knows that his statement is false and that Blackacre is owned by C. As a result of the statement one of A's friends who had intended to buy Blackacre from C does not do so. Unless A knew that a prospective purchaser was present or that the statement was likely to reach him, A is not liable to C.

c. Effect of the Constitution on an action for injurious falsehood. Beginning in 1964, with the decision of *New York Times Co. v. Sullivan (1964) 376 U.S. 254,* the United States Supreme Court has held that an action for defamation is subject to certain restrictions and limitations as a result of the free-speech and free-press provisions of the First Amendment to the Constitution. (See *Special Note on the Impact of the First Amendment on the Law of Defamation, supra page 151).* Thus, a public official or a public figure who is defamed in his public capacity must prove that the publisher knew of the falsity of the statement or acted with reckless disregard as to it. (See § 580A). A private individual must prove that the publisher acted with knowledge, reckless disregard or negligence regarding truth or falsity. (See § 580B). A plaintiff's recovery is limited to "compensation for actual injury." (See § 621). There is no recovery in defamation for the expression of a mere opinion that does not carry by implication the allegation of defamatory facts. (See § 566). The conditional privileges for defamation are not abused and lost by mere negligence regarding truth or falsity but only by knowledge or reckless disregard in this respect. (See § 600). There are similar restrictions in the tort action for invasion of the right of privacy. (See §§ 652D, 652E).

In the absence of any indications from the Supreme Court on the extent, if any, to which the elements of the tort of injurious falsehood will be affected by the free-speech and free-press provisions of the First Amendment, it is not presently feasible to make predictions with assurance. Most publications that would be actionable at common law as an injurious falsehood come within the category designated as "commercial speech." Repudiating certain earlier decisions to the effect that commercial speech is not entitled to protection under the First Amendment, the Supreme Court held in *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc., (1976) 425 U.S. 748,* that the Amendment does apply to commercial speech, because it does disseminate information. The Court added, however, that there are "commonsense differences" between it and other varieties of speech, with the result that a different balance may be struck in adjusting the general interest in freedom of speech against the interest of the State in protecting its citizens against pecuniary loss from the publication of a falsehood. It remains to be seen exactly where this balance will be established.

For these reasons, the statement in blackletter for this Section has been confined to those bases of the tort of injurious falsehood for which the constitutionality is substantially certain to be sustained. The alternate bases for the tort at common law, for which constitutionality is not entirely clear, have been treated by way of Caveat, and the Institute takes no position as to their present validity.

d. Knowledge, malice, intent. A principal basis for liability for injurious falsehood has been that the publisher knew that the statement was false or that he did not have the basis of knowledge or belief professed by his assertion. This is the same test as that for scienter in the tort of deceit. (See § 526). It was borrowed by the Supreme Court and applied to defamation actions brought by public officials (with public figures later included), in *New York Times Co. v. Sullivan (1964) 376 U.S. 254,* where the Court first gave it the title of "actual malice." In recent cases the Court has been less inclined to use that appellation and has posed the requirement in terms of knowledge of falsity or reckless disregard as to truth or falsity. The test remains the same. (See discussion in § 580A). The common law of injurious falsehood and the constitutional limitations on the action for defamation therefore coincide on this basis for liability, which is therefore expressed in Clause (b) of the blackletter.

The strict liability as to the issue of falsity imposed by the common law of defamation was never applied to injurious falsehood. Nor was liability imposed when the publisher was merely negligent regarding the falsity of his statement, without more. The decision of *Gertz v. Robert Welch, Inc., (1974) 418 U.S. 323,* holding the strict liability rule of defamation to be unconstitutional and requiring proof of negligence in regard to falsity, apparently does not affect this common law rule of injurious falsehood. (See § 580B).

Two common law bases of liability for injurious falsehood do raise a constitutional question. In addition to the knowledge-or-reckless-disregard basis for liability set out in Clause (b), the common law recognized two others as alternatives. At common law, the publisher of an injurious falsehood was also held subject to liability, (1) if he was motivated by ill will toward the other (malice, in the factual sense), or (2) if he intended to interfere with the interests of the other in an unprivileged manner (intent to harm). Knowledge or reckless disregard as to falsity has not been a

requirement for these other two bases of liability at common law. The Supreme Court decisions make clear that neither of these bases would be constitutionally sustainable in an action for defamation. (See §§ 580A, 580B). It therefore remains to be determined whether the principle of these decisions will be applied to an action for injurious falsehood. If it does, neither of these grounds is sustainable as a sole basis for liability.

In case of a plaintiff who is a private individual (neither a public official nor a public figure), the Constitution is held in defamation cases not to require greater fault than negligence regarding the falsity of the defamatory statement. In an action for injurious falsehood, negligence in this regard has not been a sufficient basis at common law to impose liability. But if the Constitution should be held to vitiate the two alternative bases for liability, of ill will and intent to harm, it may be that the state courts would decide to continue to use these two bases to impose liability whenever the publisher was negligent as to the falsity of the statement and liability could constitutionally be imposed. This problem has not arisen before the courts and there are no indications as to the course that would be taken. The matter is therefore left in the form of a Caveat on which the Institute takes no position.

Illustrations:

7. A, advertising his cigarettes, broadcasts over television a listing and rating of the ten most popular tunes of the week. In doing so he omits songs published by B, which are in fact among the ten most popular. As a result B loses customers for his songs. A believes that his rating is correct and that he has made a sufficient investigation to justify it, although a reasonably diligent investigation would have disclosed the facts. A is not liable to B.

8. The same facts as in Illustration 7, except that A, although he believes that his rating is correct and that he has a sufficient basis for it, broadcasts it out of motives of ill will toward B, and a desire to injure B's business. The Institute expresses no opinion on whether A can constitutionally be held subject to liability to B.

9. The same facts as in Illustration 7, except that A, although he believes that his rating is correct and that he has a sufficient basis for it, and has no personal ill will toward B, broadcasts for the purpose of creating a public impression that B's music business is unsuccessful, so that he can buy stock in B's company at a lower price. A knows and intends that the publication will damage B's sales. The Instituteexpresses no opinion on whether A can constitutionally be held subject to liability to B.

10. The same facts as in Illustration 7, except that A has either ill will toward B as in Illustration 8 or an intent to affect his interests as in Illustration 9, and he knows that he has not made a sufficient investigation to justify his rating. The Institute expresses no opinion on whether A is subject to liability to B.

e. Nature of statement. The statement that contains the injurious falsehood must be published to a third party. It may be in writing or it may be oral. It may also be implied from conduct and not expressed in words.

The common law rule has been that the injurious statement might be one of fact or one of opinion. In this regard it was similar to the common law rule for defamation. The defamation rule has now been changed, and an expression of mere opinion is no longer actionable unless it is found to imply the existence of undisclosed defamatory facts justifying the opinion. (See § 566). This new rule is held to derive from the Constitution. (See Comment *c*). A similar rule may now apply to injurious falsehood, either because the Constitution requires it or through decisions of the state courts by way of analogy to the similar tort of defamation. The blackletter to this Section does not purport to lay down a specific rule on this issue. It uses the single word, "statement," without indicating whether the term is confined to a statement of fact or includes both fact and opinion.

f. Damages. Compensatory damages in an action for injurious falsehood have consistently been limited to harm to interests of the plaintiff having pecuniary value, and to proved pecuniary loss. (See § 633). This is a stricter rule than the constitutional restriction to "actual damages" imposed by the Supreme Court for defamation in *Gertz v. Robert Welch, Inc., (1974) 418 U.S. 323.* (See § 621). The Constitution will therefore not make any changes in the rule as to compensatory damages for injurious falsehood. On punitive damages, compare § 621, particularly Comment *d*.

g. Relationship of injurious falsehood to defamation. The action for injurious falsehood is obviously similar in many respects to the action for defamation. Both involve the imposition of liability for injuries sustained through publication to third parties of a false statement affecting the plaintiff. Despite their similarities, however, the two torts protect different interests and have entirely different origins in history. The action for defamation is to protect the personal reputation of the injured party; it arose out of the old actions for libel and slander. The action for injurious falsehood is to protect economic interests of the injured party against pecuniary loss; it arose as an action on the case for the special damage resulting from the publication.

From the beginning, more stringent requirements were imposed upon the plaintiff seeking to recover for injurious falsehood in three important respects -- falsity of the statement, fault of the defendant and proof of damage. At common law a defamatory statement was presumed to be false and truth was a matter to be proved by the defendant; in an action for injurious falsehood, the plaintiff must plead and prove that the statement is false. At common law, a defendant in a defamation action was held to strict liability insofar as falsity of the statement was concerned; in an action for injurious falsehood he was subject to liability only if he knew of the falsity oracted with reckless disregard concerning it, or if he acted with ill will or intended to interfere in the economic interests of the plaintiff in an unprivileged fashion. In defamation, it was only in limited number of situations that a plaintiff was required to prove special damages; in injurious falsehood, pecuniary loss to the plaintiff must always be proved. The recent changes in the law of defamation produced by the First Amendment described in preceding Comments have narrowed the distinctions set forth above, but they still retain some significance. The extent of this significance will be determined by future Supreme Court cases.

Although the torts of defamation and injurious falsehood protect different interests, they may overlap in some fact situations. This happens particularly in cases of disparagement of the plaintiff's business or product. If the statement reflects merely upon the quality of what the plaintiff has to sell or solely on the character of his business, then it is injurious falsehood alone. Although it might be possible to imply some accusation of personal incompetence or inefficiency in nearly every imputation directed against a business or a product, the courts have insisted that something more direct than this is required for defamation. On the other hand, if the imputation fairly implied is that the plaintiff is dishonest or lacking in integrity or that he is perpetrating a fraud upon the public by selling something that he knows to be defective, the personal defamation may be found. In this case, it is common to sue in defamation because the damages are more comprehensive. Action may be brought in the same suit for both torts, however, so long as the damages are not duplicated.

h. Cross references. For special application of the general principle in this Section to disparagement of property, see § 624. For special application to disparagement of quality, see § 627. Disparagement is defined in § 629.

On what constitutes publication, see § 630. On what constitutes pecuniary loss, see § 633. On causation of pecuniary loss, see § 632. On liability for pecuniary loss caused by repetition of the false matter, see § 631. On the effect of the truth or correctness of the false matter, see § 634.

On the circumstances that create a privilege to publish false matter injurious to another's interests, see §§ 635-650A.

REPORTERS NOTES: This Section has been added to the first Restatement. It replaces §§ 625, 627 and 628, which are now omitted. It partially replaces §§ 624 and 626, which are now treated merely as special applications of this Section.

The change has been made in order to broaden this Chapter beyond disparagement of title or quality and to include other forms of injurious falsehood. Also to reverse the position on strict liability for innocent statements formerly taken by §§ 625 and 628, and to raise constitutional problems arising by implication from the Supreme Court cases on defamation and privacy.

Comment a: Illustration 1 is based on *Al Raschid v. News Syndicate Co., 265 N.Y. 1, 191 N.E. 713 (1934).*

Illustration 2 is taken from *Gale v. Ryan, 263 A.D. 76, 31 N. Y.S.2d 732 (1941).*

In accord is *Penn-Ohio Steel Corp. v. Allis-Chalmers Mfg. Co., 7 A.D.2d 441, 184 N.Y.S.2d 58 (1959),* modified, *8 A.D.2d 808, 187 N.Y.S.2d 476.*

Illustration 3 is taken from *Ratcliffe v. Evans, [1892] Q.B. 524.*

In accord are *American Ins. Co. v. France, 111 Ill.App. 382 (1903); Dudley v. Briggs, 141 Mass. 582, 6 N.E. 717 (1886); Davis v. New England Railway Pub. Co., 203 Mass. 470, 89 N.E. 565 (1909); McRoberts Protective Agency, Inc. v. Lansdell Protective Agency, Inc., 61 A.D.2d 652, 403 N.Y.S.2d 511 (1978)* (report that plaintiff going out of business).

Illustration 4 is taken from *Jarrahdale Timber Co. v. Temperley, 11 T.L.R. 119 (1894).*

Cf. *House of Directories v. Lane Directory Co., 182 Ky. 384, 206 S.W. 475 (1918); Shell Oil Co. v. Parker, 265 Md. 631, 291 A.2d 64 (1972);* Sheppard Pub. Co. v. Press Pub. Co., 10 Ont.L. Rep. 243 (1905).

Illustration 5 is taken from *Owens v. Mench, 81 Pa.D. & C. 314 (1952).*

In accord is *Felis v. Greenberg, 51 Misc.2d 441, 273 N.Y.S.2d 288 (1966).*

See also: *Bartlett v. Federal Outfitting Co., 133 Cal.App. 747, 24 P.2d 877 (1933)* (forgery of assignment of commissions, leading to plaintiff's discharge); *Freeman v. Busch Jewelry Co., 98 F.Supp. 963 (N.D.Ga.1951)* (breaking up of a marriage); *Cooper v. Weissblatt, 154 Misc. 522, 277 N.Y.S. 709 (1935)* (false statements to church authorities that compelled plaintiff to defend a suit); *Balden v. Shorter, [1933] Ch. 427* (statement plaintiff employed by defendant, as a result of which he lost a sale and a commission); *Shepherd v. Wakeman, 1 Sid. 79, 82 Eng.Rep. 982 (1662)* (expectancy of a profitable marriage).

Comment b: See *Big O Tire Dealers, Inc. v. Goodyear Tire & Rubber Co., 408 F.Supp. 1219 (D.Colo.1976),* remanded, *561 F.2d 1365* (10 Cir.), certiorari denied, *434 U.S. 1052, 98 S.Ct. 905, 54 L.Ed.2d 805; Goldstein v. Garlick, 65 Misc.2d 538, 318 N.Y.S.2d 370 (1971); Felis v. Greenberg, 51 Misc.2d 441, 273 N.Y.S.2d 288 (1966).*

Expression of opinion based on undisclosed facts: *Aerosonic v. Trodyne, 402 F.2d 223 (5 Cir. 1968)* (exact copy claimed "superior"); *System Operations, Inc. v. Scientific Games Dev. Corp., 555 F.2d 1131 (3 Cir. 1977)* (lottery tickets "insecure"); *Harris Diamond Co., Inc. v. Army Times Pub. Co., 280 F.Supp. 273 (S.D. N.Y.1968)* ("poor quality").

Comment d: Illustration 7 is based on *Advance Music Corp. v. American Tobacco Co., 296 N.Y. 79, 70 N.E.2d 401 (1946).*

See also *Remick Music Corp. v. American Tobacco Co., 57 F.Supp. 475 (S.D.N.Y.1944); Dale System v. General Teleradio, Inc., 105 F.Supp. 745 (S.D.N.Y.1952); Hahn v. Duveen, 133 Misc. 871, 234 N.Y.S. 185 (1929); Balden v. Shorter, [1933] Ch. 427.*

Illustrations 8, 9, & 10 represent fact situations in which A has been held subject to liability at common law but in which unsettled constitutional questions make it impossible for the Institute to take a position at this time. Earlier cases indicating liability include: *First Security Bank of Bozeman v. Tholkes, 169 Mont. 422, 547 P.2d 1328 (1976); Henry V. Vaccaro Constr. Co. v. A. J. DePace, Inc., 137 N.J.Super. 512, 349 A.2d 570 (1975); Menefee v. Columbia Broadcasting System, Inc., 458 Pa. 46, 329 A.2d 216 (1974).*

Injurious-falsehood situations: *Dooling v. Budget Pub. Co., 144 Mass. 258, 10 N.E. 809 (1887); Fowler v. Curtis Pub. Co., 182 F.2d 377 (D.C.Cir.1950); National Dynamics Corp. v. Petersen Pub. Co., 185 F.Supp. 573 (S.D.N.Y. 1960); National Refining Co. v. Benzo Gas Motor Fuel Co., 20 F.2d 763 (8 Cir. 1927),* certiorari denied, *275 U.S. 570,*

48 S.Ct. 157, 72 L.Ed. 431; Shaw Cleaners & Dyers v. Des Moines Dress Club, 215 Iowa 1130, 245 N.W. 231 (1932); Hopkins Chemical Co. v. Read Drug & Chemical Co., 124 Md. 210, 92 A. 478 (1914); Dust Sprayer Mfg. Co. v. Western Fruit Grower, 126 Mo.App. 139, 103 S.W. 566 (1907); Drug Research Corp. v. Curtis Pub. Co., 7 N.Y.2d 435, 199 N.Y.S.2d 33, 166 N.E.2d 319 (1960); Blens Chemicals v. Wyandotte Chemical Corp., 197 Misc. 1066, 96 N.Y.S.2d 47 (1950); Marlin Fire Arms Co. v. Shields, 171 N.Y. 384, 64 N.E. 163 (1902); Adolf Phillip Co. v. New Yorker Staats-Zeitung Co., 165 App.Div. 377, 150 N.Y.S. 1044 (1914); Cleveland Leader Printing Co. v. Nethersole, 84 Ohio St. 118, 95 N.E. 735 (1911).

Comment g: Recent cases disclosing the difference between injurious falsehood and defamation: *El Meson Espanol v. NYM Corp., 521 F.2d 737 (2 Cir. 1975)* (New York law); *Midwest Glass Co. v. Stanford Dev. Co., 34 Ill.App.3d 130, 339 N.E.2d 274 (1975).*

Defamation situations: *Vitagraph Co. of America v. Ford, 241 F. 681 (S.D.N.Y.1917); Puget Sound Nav. Co. v. Carter, 233 F. 832 (W.D.Wash.1916); Rosenberg v. J. C. Penney Co., 30 Cal. App.2d 609, 86 P.2d 696 (1939); Craig v. Pueblo Press Pub. Co., 5 Colo.App. 208, 37 P. 945 (1894); Holmes v. Clisby, 118 Ga. 820, 45 S.E. 684 (1903); Harwood Pharmacal Co. v. National Broadcasting Co., 9 N.Y.2d 460, 214 N.Y.S.2d 725, 174 N.E.2d 602 (1961); Tobin v. Alfred M. Best Co., 120 App.Div. 387, 105 N.Y.S. 294 (1907).*

See Hibschman, Defamation or Disparagement, *24 Minn.L.Rev. 625 (1940).*

Difference between injurious falsehood and unfair competition: *Aerosonic Corp. v. Trodyne Corp., 402 F.2d 223 (5 Cir. 1968).*

Illustration 8 is based on *A. B. Farquhar Co. v. National Harrow Co., 102 F. 714 (3 Cir. 1900).*

See also *Sinclair Refining Co. v. Jones Super Service Station, 188 Ark. 1075, 70 S.W.2d 562 (1934); Swan v. Tappan, 59 Mass. (5 Cush.) 104 (1849).*

Illustration 9 is based on *Royal Baking Powder Co. v. Wright, Crossley & Co., 18 Rep.Pat.Cas. 95 (1900).*

See also *Gudger v. Manton, 21 Cal.2d 537, 134 P.2d 217 (1943); Linville v. Rhoades, 73 Mo.App. 217 (1897); Continental Supply Co. v. Price, 126 Mont. 363, 251 P.2d 553 (1952); Kingkade v. Plummer, 111 Okl. 197, 239 P. 628 (1925); First Nat. Bank v. Moore, 7 S.W.2d 145 (Tex.Civ. App.1928),* error dismissed; *Olsen v. Kidman, 120 Utah 443, 235 P.2d 510 (1951); Earl of Northumberland v. Byrt, Cro.Jac. 163, 79 Eng.Rep. 143 (1607).*

Illustration 10 is based on *Remick Music Corp. v. American Tobacco Co., 57 F.Supp. 475 (S. D.N.Y.1944).*

See also *Gale v. Ryan, 263 App.Div. 76, 31 N.Y.S.2d 732 (1941); Penn-Ohio Steel Corp. v. Allis-Chalmers Mfg. Co., 7 A.D.2d 441, 184 N.Y.S.2d 58,* modified, *8 A.D.2d 808, 187 N.Y.S.2d 476 (1959); Felis v. Greenberg, 51 Misc.2d 441, 273 N.Y.S.2d 288 (1966);* Manitoba Free Press v. Nagy, 39 Can.S.C. 340, *9 Ann. Cas. 816 (1907);* cf. *Paramount Pictures v. Leader Press, 106 F.2d 229 (10 Cir. 1939); Bartlett v. Federal Outfitting Co., 133 Cal.App. 747, 24 P.2d 877 (1933); Morrison v. National Broadcasting Co., 24 A.D.2d 284, 266 N.Y. S.2d 406 (1965).*

For more recent cases treating these issues see: *Proctor v. Gissendaner, 579 F.2d 876 (5 Cir. 1978),* supplemented, *587 F.2d 182* (Alabama Law); *Collier County Pub. Co., Inc. v. Chapman, 318 So.2d 492 (Fla.App. 1975); Horning v. Hardy, 36 Md.App. 419, 373 A.2d 1273 (1977); Annbar Assocs. v. American Express Co., 565 S.W.2d 701 (Mo.App.1978); Bivas v. State, 97 Misc.2d 524, 411 N.Y.S.2d 854 (1978); Direct Import Buyer's Ass'n v. K. S. L., Inc., 572 P.2d 692* (Utah, 1977).

For general treatment see the following: Prosser, Injurious Falsehood: The Basis of Liability, *59 Colum.L.Rev. 425 (1959);* Smith, Disparagement of Property, *13 Colum.L.Rev. 13 & 121 (1913);* Wham, Disparagement of Property, *21 Ill.L.Rev. 26 (1926);* Hibshman, Defamation or Disparagement, *24 Minn.L. Rev. 625 (1945);* Wolff, Unfair Competition

by Truthful Disparagement, *47 Yale L.J. 1304 (1938);* Comment, Law of Commercial Disparagement: Business Defamation's Impotent Ally, *63 Yale L.J. 65 (1953);* Note, Corporate Defamation and Product Disparagement: Narrowing The Analogy to Personal Defamation, *75 Colum.L.Rev. 963 (1975);* Woods, Disparagement of Title and Quality, *29 Can.Bar.Rev. 296 & 430 (1942).*

CROSS REFERENCES: ALR Annotations:

Liability of public accountant. *54 A.L.R.2d 324.*

Digest System Key Numbers:

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