

# EXHIBIT C

Superior Court of Delaware  
Online Civil Pattern Jury Instructions, Complete & Annotated  
2000 Edition  
11. INTENTIONAL TORTS - Defamatory/Privacy Torts

**Defamation - Defense of a Conditional Privilege § 11.17**

**DEFAMATION -- DEFENSE OF A CONDITIONAL PRIVILEGE**

I have determined, as a matter of law, that [*defendant's name*] was privileged to publish false and defamatory communications. But a person with this privilege may not abuse it. You must determine whether [*defendant's name*] abused [*his/her/its*] privilege. If you find that [*he/she/it*] did, you may return a verdict in favor of [*plaintiff's name*] and against [*defendant's name*].

The privilege that applies to [*defendant's name*] is [\_\_state privilege\_\_]. This privilege is abused, however, if [*defendant's name*] made or published the false and defamatory communication intentionally, that is, with knowledge of its falsity; or recklessly, that is, disregarding whether it was true or false. The privilege is also abused when asserted outside [*defendant's name*]'s performance of [*his/her/its*] duties or functions that give rise to the privilege.

{ **Comment:** *Examples of such conditional privileges include: Communications among persons with a common interest in a particular subject, such as work-related matters; intercommunications among immediate family members; good-faith communications intended to prevent a crime or to apprehend a criminal.* }

Source:

[Burr v. Atlantic Aviation, Del. Supr., 348 A.2d 179 \(1975\); Klein v. Sunbeam Corp., Del. Supr., 94 A.2d 385 \(1953\); Battista v. Chrysler Corp., Del. Super., 454 A.2d 286 \(1982\). See also Restatement of Torts § 593-598A \(1965\).](#)

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