

# Index

## **ABSOLUTE**

Privileges and defenses, this index

## **AESTHETIC AND OTHER CRITICISM**

Fact versus opinion, § 8:40

## **ARRESTS**

Fair report and neutral reportage, § 3:8

## **ATTORNEYS**

Privileges and defenses, § 2:11

## **AUTHORS**

Categories of public figures  
Public Status, § 5:17

## **BOOTSTRAPPING**

Public status  
Vortex or limited purpose public figure  
preexistence requirement, rejection of media, § 5:9

## **BUSINESSPERSONS**

Categories of public figures  
Public Status, § 5:19

## **CANDIDATES FOR PUBLIC OFFICE**

Homeowner's association office candidates, § 5:3  
Labor union, credit union, or corporate office, § 5:23  
Public status, § 5:3

## **CHURCH EMPLOYEES**

Categories of public figures  
Public Status, § 5:27

## **CHURCHES**

Categories of public figures  
Public Status, § 5:27

## **COMMON LAW MALICE**

Constitution actual Malice  
constitutional, § 7:3

## **COMMUNICATIONS**

Privileges and defenses, § 2:18

## **COMPARABLE**

Publication, § 1:21

## **CONSENT**

Privileges and defenses, § 2:2

## **CONSTITUTION ACTUAL MALICE**

Generally, § 7:1 *et seq.*  
Common law malice, constitutional,  
§ 7:3  
Subjective standard, § 7:2

## **CONSTITUTIONAL ACTUAL MALICE**

Applicability of the New York Times standard  
public person-non-media defendant cases, § 7:4

Common law foreseeable republication rule, § 7:8

Declaratory judgments, § 7:6  
Denial by plaintiffs superior, § 7:17

Denials by the source(s) relied on,  
§ 7:16

Distorted accounts, § 7:13

Distorted headlines as evidence,  
§ 7:15

Duties of a syndicator  
columns of syndicated columnist,  
§ 7:10

Fabricated quotations  
Masson v. New Yorker Magazine,  
§ 7:14

Failure to contact plaintiff, allow review by plaintiff  
pose questions to plaintiff as the most obvious source, § 7:18

**CONSTITUTIONAL ACTUAL MALICE—Cont'd**  
Failure to have delayed broadcast apparatus, § 7:20  
Liability of book publishers, § 7:11  
Libel by implication, ambiguous terminology, satire, humor or fiction, ambiguous words capable, construction as fact or opinion, § 7:25  
Nature of the defamatory matter, evidence, § 7:24  
Neutral reportage, § 7:23  
Provision of or failure to provide a retraction or correction, § 7:19  
Publication in the face of known contradictory information, § 7:12  
Publications after plaintiffs denial, § 7:17  
Rational Interpretation Rule of Time, Inc. v Pape, § 7:22  
Requirement of clear and convincing evidence, § 7:5  
Summary judgment, § 7:6  
Temporal requirement, § 7:7  
Vicarious liability, § 7:9  
Wire service defense, § 7:21

**CONSTITUTIONAL LIMITS**  
Generally, § 4:1 *et seq.*  
Brief introduction to federal preemption, § 4:8  
Burden of proof of fault and falsity private individuals, § 4:4  
Public persons, § 4:3  
Burden of proving status, § 4:2  
Court and jury functions, § 4:2  
Criminal libel, § 4:5  
Defamation and church disciplinary proceedings, § 4:7  
personnel terminations, § 4:7  
Independent appellate review of constitutional facts, § 4:1  
Libel and labor disputes, § 4:8  
Libel and petition clause, § 4:6  
Procedural protections, § 4:1  
Supreme Courts jurisprudence, § 4:1

**CONTRACTORS**  
Categories of public figures  
Churches, church employees and religious figures, § 5:22

**CORPORATE BOARDS**  
Candidates as public figures, § 5:23

**CORPORATIONS**  
Categories of public figures  
Public Status, § 5:18

**CREDIT UNIONS**  
Candidates for office as public figures, § 5:23

**CRIME**  
Prima facie case  
slander, § 1:16

**DAMAGES**  
Remedies, this index

**DECLARATORY JUDGMENTS**  
Constitutional actual malice, § 7:6

**DEFAMATION**  
Prima Facie case, this index

**DEFAMATORY MATTER**  
Publication  
failure to remove, § 1:24

**DISCRIMINATORY ANIMUS**  
Fact versus opinion, § 8:31

**DISHONESTY**  
Prima facie case  
Libel, § 1:12

**DISTORTED ACCOUNTS**  
Constitutional actual malice, § 7:13

**ENTERTAINERS**  
Categories of public figures  
Public Status, § 5:21

**EXPUNGEMENT STATUTES**  
Proposals, § 3:23.1

**FACT VERSUS OPINION**  
Generally, § 8:1 *et seq.*  
Aesthetic and other criticism, § 8:40

## INDEX

**FACT VERSUS OPINION—Cont'd**

Analysis of Milkovich  
Actionable factual implications, § 8:16  
Political Arena Doctrine  
Milkovich v. Lorain Journal Co, § 8:18  
prefatory comment, § 8:14  
Suggested implications for existing law, Court and jury functions, § 8:17  
Suggested implications for existing law, Criterion for provability as factually false, § 8:19  
Suggested implications for existing law, Imputations of criminality, § 8:20  
Suggested implications for existing law, Milkovich and state constitutions, § 8:23  
Cartoons, § 8:45  
Discriminatory animus, § 8:31  
Entertainers, § 8:48  
Evaluative comments concerning pending or completed legal proceedings, § 8:44  
Fantasy, opinion-fact, § 8:41  
Humor, opinion-fact, § 8:41  
Imputations of unprofessionalism, unethical behavior, and incompetence, § 8:32  
Attorneys, § 8:33  
Businesspersons and businesses, § 8:36  
Educators and educational institutions, § 8:35  
Other employee cases, § 8:38  
Parents and those acting in loco parentis, § 8:39  
Physicians and other medical service personnel, § 8:34  
Sports figures, § 8:37  
Irony, opinion-fact, § 8:41  
Labor controversies, § 8:43  
Milkovich v. Lorain Journal Co, Supreme Court Decision, § 8:13

**FACT VERSUS OPINION—Cont'd**

Milkovich v. Lorain Journal Co., § 8:49  
Comment on Tortured Legacy of, § 8:49  
Milkovich v. Lorain Journal Co, analysis  
Suggested implications for existing law  
Aspersions on motivation, § 8:22  
honesty, or integrity, § 8:22  
Imputations of incompetence, § 8:21  
Milkovich v. Lorain Journal Co, The Ohio Supreme Court Decisions, § 8:12  
Ollman v. Evans, Development and expansion  
Chief Judge Robinsons Opinion, § 8:6  
Dissents from denial of certiorari, § 8:10  
Judge Borks Opinion, § 8:4  
Judge Edwardss Opinion, § 8:8  
Judge Mackinnons Opinion, § 8:5  
Judge Scalias Opinion, § 8:9  
Judge Starrs Opinion, § 8:3  
Judge Walds Opinion, § 8:7  
Opinion fact, Illustrative categories, public and political arena, § 8:26  
Imputations of criminality, § 8:27  
Imputations of discriminatory animus, § 8:31  
Imputations of psychiatric disturbance or insanity, § 8:30  
Imputing prevarication, § 8:29  
psychiatric disturbance or insanity, discriminatory animus  
Impugning motivation, § 8:28  
Statements impugning motivation, imputing prevarication, § 8:28  
Opinion v. Fact and the purely private arena, § 8:25  
Parody, opinion-fact, § 8:41

**FACT VERSUS OPINION—Cont'd**

Pre-Milkovich Supreme Court precedent, **§ 8:11**  
Pure v Mixed Opinion, **§ 8:2**  
Rating system, restaurant reviews, opinion-fact, **§ 8:42**  
Religions, religious figures, and religious controversies, **§ 8:46**  
Republication and the Opinion Rule, **§ 8:24**  
Responses to and interpretations of Milkovich, **§ 8:15**  
Restaurant reviews, opinion-fact, **§ 8:42**  
Ridicule, opinion-fact, **§ 8:41**  
Satire, opinion-fact, **§ 8:41**  
Verbal abuse, **§ 8:47**

**FAIR REPORT AND NEUTRAL REPORTAGE**

Generally, **§ 3:1 et seq.**  
Acts of executive and administrative agencies, **§ 3:6**  
Federal, state, and local legislative proceedings, **§ 3:5**  
Informal official reports, press conferences statements of important executive officers, **§ 3:7**  
Arrests, **§ 3:8**  
Judicial proceedings panoply of fair report coverage, **§ 3:4**  
Local legislative proceedings, **§ 3:5**  
Neutral reportage doctrine, **§ 3:33**  
New York Times v. Sullivan, **§ 3:33**  
Official proceedings, reports and acts of executive and administrative agencies officers and municipal corporations, **§ 3:6**  
Press conferences, **§ 3:7**  
Source attribution, **§ 3:3**  
Source reliance, **§ 3:2**  
St. Amant v. Thomson, **§ 3:27-3:33**

**FANTASY**

Fact versus opinion, opinion-fact, **§ 8:41**

**FAULT STANDARDS**

Generally, **§ 6:1 et seq.**  
Application of negligence standard, **§ 6:4**  
Journalistic malpractice minority view, **§ 6:5**  
Minority view Adoption of the Rosenbloom v. Metromedia, Inc. standard in private person cases, **§ 6:9**  
Negligence, defamatory character of actionable matter, **§ 6:6**  
New York, gross irresponsibility standard, **§ 6:10**  
Private figure plaintiffs matters of purely private concern, **§ 6:11**  
Private individuals and the non-media-media dichotomy, **§ 6:3**  
Private persons, Gertz v. Robert Welch, Inc. repudiation of Rosenbloom v. Metromedia, Inc., **§ 6:1**  
Quantum of evidence required in negligence cases, **§ 6:7**  
Response of the states to Gertz and adoption minimal constitutional requirements, **§ 6:2**  
Wire service defense, **§ 6:8**

**FICTION**

Prima facie case, **§ 1:36**

**FILM**

Prima facie case, movies based on actual events, **§ 1:36**

**FIRST AMENDMENT**

Privileges and defenses, **§ 2:3**

**FOREIGN POLITICAL FIGURES AND OFFICIALS**

Categories of public figures  
Public Status, **§ 5:26**

**HOMEOWNER'S ASSOCIATION**

Candidates for office in homeowner's association, **§ 5:3**

**HUMOR**

Fact versus opinion, **§ 8:41**

## INDEX

### **IMMORALITY**

Prima facie case  
Libel, § 1:13

### **IMPUTATIONS OF UNPROFESSIONALISM**

Fact versus opinion, § 8:32

### **INCOMPETENCE**

Fact versus opinion, § 8:32

### **INJUNCTIVE RELIEF**

Remedies, § 9:9

### **INSANITY**

Privileges and defenses, § 2:21

### **INTENTIONAL TORT**

Prima facie case, § 1:9  
Defamation, § 1:9

### **INTERNET**

Anonymous defamers, actions against, § 1:28.1  
Publication, § 1:28.1  
Suits against anonymous, internet posters or bloggers  
other anonymous defamers, § 1:28.1  
Retraction by internet libelers, § 1:29  
Service providers as publishers, § 1:28

### **INTERSPOUSAL PRIVILEGE**

Privileges and defenses, § 2:20

### **INTRACORPORATE**

Publication, § 1:21

### **INVOLUNTARY PUBLIC FIGUREDOM**

High school athletes, § 5:8  
Public status, § 5:8

### **IRONY**

Fact versus opinion, opinion-fact, § 8:41

### **JOURNALISTIC MALPRACTICE**

Fault standards  
minority view, § 6:5

### **JOURNALISTS**

Categories of public figures  
Public Status, § 5:17

### **JUDGES**

Privileges and defenses, § 2:6

### **JUDICIAL PROCEEDINGS**

Privileges and defenses, § 2:5

### **JURORS**

Privileges and defenses, § 2:7

### **LABOR UNION OFFICE**

Candidates as public figures, § 5:23

### **LACK OF INTEGRITY**

Prima facie case  
Libel, § 1:12

### **LEGISLATIVE IMMUNITY**

Privileges and defenses, § 2:16

### **LEGISLATORS**

Privileges and defenses, § 2:16

### **LIABILITY**

Publication, republisher, § 1:26

### **LIBEL**

Prima Facie case, this index

### **LIBEL PROOF PLAINTIFF DOCTRINE**

Remedies, § 9:8

### **LIBEL V SLANDER**

Prima facie case, § 1:8

### **LOATHSOME DISEASE**

Prima facie case  
slander, § 1:18

### **MEDIA ENTITIES**

Categories of public figures  
Public Status, § 5:17

### **MILKOVICH V. LORAIN JOURNAL CO**

Analysis, implications for existing law  
Political Arena Doctrine  
Milkovich v. Lorain Journal Co, § 8:18

**MINORITY VIEW**

Fault standards, § 6:9

**MOVIES**

Prima facie case, movies based on actual events, § 1:36

**NAME CALLING**

Prima facie case  
slander, § 1:19

**NEUTRAL REPORTAGE**

Constitutional actual malice, § 7:23  
Fair report and neutral reportage, § 3:33

**NEW YORK TIMES**

Prima facie case, § 1:34

**NEW YORK TIMES V. SULLIVAN**

Fair report and neutral reportage, § 3:33  
Reconsideration, § 5:1.50

**NEXUS REQUIREMENT**

Privileges and defenses, § 2:15

**NOMINAL DAMAGES**

Remedies, § 9:1

**PARODY**

Fact versus opinion, § 8:41

**PARTIES**

Privileges and defenses, § 2:9

**PLAINTIFFS AGENT**

Publication, § 1:23

**PRESS CONFERENCES**

Fair report and neutral reportage, § 3:7

**PRIMA FACIE CASE**

Generally, § 1:1 et seq.

Defamation, general considerations  
What is defamatory, overview, § 1:7

Defamation, intentional tort, § 1:9

Defamatory  
generally, § 1:6

Fiction, § 1:36

Group defamation  
of and concerning, § 1:36

**PRIMA FACIE CASE—Cont'd**

Libel

generally, § 1:10 et seq.  
affecting business, trade, office or profession  
imputations, § 1:11  
broad residual coverage of the libel action, § 1:14  
immorality  
imputations, § 1:13  
imputations of criminality, § 1:10  
untruthfulness or dishonesty, lack of integrity  
imputations, § 1:12

Name calling  
generally, § 1:19

Publication  
generally, § 1:20 et seq.  
Compelled self-publication, § 1:25  
failure to remove defamatory matter, § 1:24  
internet, § 1:28  
Internet service providers as publishers, § 1:28  
Intracorporate and comparable, § 1:21  
Liability of a republisher, § 1:26  
Liability of original publisher  
subsequent republications, § 1:27  
plaintiffs agent, § 1:23  
Retraction by internet libelers, § 1:29  
stenographer, secretary, typist, § 1:22

Reference to plaintiff  
generally, § 1:30 et seq.  
Colloquium requirement, § 1:30  
Group defamation  
of and concerning and works of fiction, § 1:36  
Disparagement of less than all of a small group, § 1:33  
large, § 1:31  
Libels of government and governmental entities, § 1:35

## INDEX

### **PRIMA FACIE CASE—Cont'd**

Reference to plaintiff—Cont'd  
Group defamation—Cont'd  
    New York Times and the issue  
        of group defamation,  
        § 1:34  
    small, § 1:32  
Slander  
    generally, § 1:15 *et seq.*  
    business, trade, office or profes-  
        sion, § 1:15 *et seq.*  
    charges of sexual misconduct,  
        § 1:17  
    imputation of crime, § 1:16  
    imputations of loathsome disease,  
        § 1:18  
Slander versus libel  
    Criteria underlying the dichotomy,  
        § 1:8  
What is defamatory, § 1:7  
Who may sue  
    Corporations  
        Non-profit, § 1:5  
        Profit-making, § 1:4  
    Defamation, Partnership,  
        unicorporated association  
        generally, § 1:6  
    Personal mature of the action in  
        defamation  
        Libel of dead, § 1:1  
        non-relational nature, § 1:2  
        Survival, § 1:3

### **PRIVATE PERSONS**

Fault Standards, this index

### **PRIVILEGES AND DEFENSES**

Generally, § 2:1 *et seq.*  
Absolute  
    generally, § 2:2 *et seq.*  
    affirmative defense of truth  
        First amendment, § 2:3  
    consent, § 2:2  
    Judicial proceedings, § 2:5  
        Judges, § 2:6  
        Jurors, § 2:7  
        Witnesses, § 2:8  
    Truth, common law, § 2:4  
    Attorneys, § 2:11

### **PRIVILEGES AND DEFENSES**

#### **—Cont'd**

Charges of criminality made to  
    prosecutors and police, § 2:10  
Common interest, § 2:24  
Communications required by law,  
    § 2:18  
Communications unprivileged  
    absolute  
        judicial proceedings immunity,  
        § 2:12  
Insanity, § 2:21  
Interspousal privilege, § 2:20  
Legislative immunity  
    Legislators, § 2:16  
Nexus Requirement, § 2:15  
Parties, § 2:9  
Qualified Privileges  
    generally, § 2:23 *et seq.*  
    Abuse of qualified privilege,  
        § 2:31  
    Communications to a person who  
        may act in the public interest,  
        § 2:26  
    Excessive publication, § 2:34  
    Family relationships, § 2:27  
    Inferior state and federal officials,  
        § 2:28  
    Knowledge of falsity or reckless  
        disregard of Truth v. Absence  
        of reasonable grounds for  
        belief in truth, § 2:33  
    Excessive publication, § 2:34  
    Matter unnecessary to implement  
        the privilege, § 2:35  
    Protection of interest of recipient  
        or a third person, § 2:25  
    Publication of defamatory rumor,  
        § 2:30  
    Publications, improper motive or  
        purpose, § 2:32  
    special privilege applicable to  
        defendants  
        means of publication, § 2:29  
State and federal officials  
    Absolute or qualified immunity  
        Barr v. Matteo Doctrine, § 2:13  
States and executive official  
    immunity, § 2:14

**PRIVILEGES AND DEFENSES**

—Cont'd

- Survival statutes, § 2:22
- United States sovereign immunity as to libel and slander, § 2:19
- Witness or testimonial privilege, § 2:17

**PROFESSIONALS**

- Categories of public figures
- Public Status, § 5:16

**PUBLICATION**

- Prima Facie case, this index

**PUBLIC CONTROVERSY REQUIREMENT**

- Public status, § 5:11

**PUBLIC EMPLOYEES AND APPOINTEES**

- Categories of public figures
- Public Status, § 5:24

**PUBLIC FIGURES**

- Officers or candidates for labor union office, company credit unions, or corporate boards, § 5:23

**PUBLIC STATUS**

- Generally, § 5:1 *et seq.*
- Access to the means of rebuttal or response, § 5:10
- All purpose or general public figure status, § 5:6
- Categories of public figures
  - Businesspersons, § 5:19
  - Churches, church employees and religious figures, § 5:27
  - Contractors and recipients of governmental moneys or grants, § 5:22
  - Corporations, § 5:18
  - Entertainers, § 5:21
  - Foreign political figures and officials, § 5:26
  - Media entities, journalists and authors, § 5:17
  - Non-candidate participants in the public political process and political arena, § 5:25

**PUBLIC STATUS—Cont'd**

- Categories of public figures—Cont'd
  - Participants in legal proceedings or investigations, § 5:15
  - Professionals, § 5:16
  - Public employees and appointees, § 5:24
  - Sports figures and other entertainers, Sports, figures, § 5:20
  - High school athletes, § 5:20
  - Involuntary public figuredom, § 5:8
  - New York Times v. Sullivan, reconsideration of, § 5:1.50
  - Non-identification of plaintiffs public position, § 5:5
  - Official Conduct
    - Fitness for office, requirement, § 5:2
  - Public Controversy Requirement, § 5:11
  - Public figures and the passage of time, § 5:14
  - Public official and candidate for public office statuses
    - passage of time, § 5:4
  - Requirement of a reasonable nexus germaneness, public controversy, § 5:13
  - Supreme Court and vortex or limited purpose public figuredom, § 5:7
  - Vortex or limited purpose public figure
    - preexistence requirement
    - rejection of media bootstrapping, § 5:9
  - Waldbaum central figure and Rosanova course of conduct criteria
    - critical analysis, § 5:12
- QUALIFIED PRIVILEGES
  - Privileges and defenses, this index
- RECIPIENTS OF GOVERNMENTAL
  - Categories of public figures
  - Public Status, § 5:22
- RELIGIOUS FIGURES
  - Categories of public figures
  - Public Status, § 5:27

## INDEX

### REMEDIES

- Generally, § 9:1 *et seq.*
- First Amendment, § 9:4
- General damages, § 9:2
- Injunctive relief, § 9:9
- Libel Proof Plaintiff Doctrine, § 9:8
- Mandatory right of reply and retraction, § 9:10
- Nominal damages, § 9:1
- Other constitutional limitations on punitive damages, § 9:7
- Presumed damages, § 9:4
- Punitive damages
  - First amendment, § 9:5
- Special damages, § 9:3
- States and punitive damages, § 9:6

### REPUBLISHER

- Publication, § 1:26

### RESTAURANT REVIEWS

- Fact versus opinion, § 8:42
- Rating system, § 8:42

### RETRACTION

- Remedies
  - Mandatory right of reply, § 9:10

### RIDICULE

- Fact versus opinion, opinion-fact, § 8:41

### SATIRE

- Fact versus opinion, opinion-fact, § 8:41

### SECRETARY

- Publication, § 1:22

### SEXUAL MISCONDUCT

- Prima facie case
  - Slander, charges, § 1:17

### SLANDER

- Prima Facie case, this index

### SOURCE RELIANCE

- Fair report and neutral reportage, § 3:2

### SPECIAL DAMAGES

- Remedies, § 9:3

### ST. AMANT V. THOMSON

- Fair report and neutral reportage, § 3:33

### STATE LAW

- Remedies, § 9:4

### STENOGRAPHER

- Publication, § 1:22

### SUBJECTIVE STANDARD

- Constitution actual Malice, § 7:2

### TRADE

- Prima facie case
  - Libel, § 1:11
  - slander, § 1:15

### TYPIST

- Publication, § 1:22

### UNETHICAL BEHAVIOR

- Fact versus opinion, § 8:32

### UNTRUTHFULNESS

- Prima facie case
  - Libel, § 1:12

### VICARIOUS LIABILITY

- Constitutional actual malice, § 7:9

### WIRE SERVICE DEFENSE

- Constitutional actual malice, § 7:21

### WITNESSES

- Privileges and defenses, § 2:8