

# Index

## **ABSOLUTE IMMUNITY**

- Confidential source, § **12:61**
- Executive and Administrative Officials (this index)
- Legislative Proceedings (this index)
- Public officials, criticism of, § **2:112 to 2:115**

## **ABSOLUTE PRIVILEGES**

- Generally, § **8:2**
- Conditional privileges compared, § **8:39**
- Consent, § **8:4**
- Government agencies, reports to, § **8:36.50, 8:37**
- Judicial Proceedings (this index)
- Publication required by law, § **8:36**
- Reports to government agencies, § **8:36.50, 8:37**
- Sovereign immunity, § **8:37**
- Spouses, § **8:35**
- Workplace, fault considerations, § **15:29**

## **ABSOLUTISTS**

- Public figures, § **2:7**

## **ABUSE**

- Meaning as defamatory, § **4:7 to 4:10**

## **ABUSE OF PRIVILEGE**

- Generally, § **8:60 et seq.**
- Actual malice, § **8:65**
- Common law (ill-will) malice, § **8:63**
- Excessive publication, § **8:61**
- Ill-will, § **8:63**
- Knowledge of falsity, § **8:65**
- Malice, § **8:63**
- Negligence, § **8:64**
- Publication, § **8:61 to 8:63**
- Recklessness, § **8:65**

## **ABUSIVE FORUM SHOPPING**

- Conflict of laws, § **12:28, 12:29**

## **ABUSIVE LANGUAGE**

- Opinion and fair comment, § **6:90**

## **ACADEMIC AND SCIENTIFIC DISPUTES**

- Opinion and fair comment, § **6:67.60**

## **ACCEPTANCE**

- Public figures, voluntary participation vs. voluntary acceptance of media attention, § **2:32**

## **ACCESS**

- Counterspeech, § **2:37**
- Media rationale, § **2:13**
- Public officials, policy-making authority and access to press, § **2:108**
- Public records, publication of private facts, § **10:46**

## **ACCIDENTAL REFERENCE**

- Identity, § **4:42**

## **ACCURACY AND FAIRNESS**

- Fair report privilege, § **8:75 to 8:77**

## **ACTUAL DAMAGES**

- Generally, § **9:22 et seq.**
- Actual harm to reputation, proof of generally, § **9:30 et seq.**
- destruction of favorable public image, § **9:33**
- interference with existing relations, § **9:31**
- interference with future relations, § **9:32**
- negative public image, § **9:34**
- Back door, presumed harm through, § **9:29**
- Common law, § **9:26**
- Constitutional law, § **9:23**
- Decisions restricting the award, § **9:25**
- Destruction of favorable public image, § **9:33**
- Emotional distress as free-standing component, § **9:27 to 9:29**
- Evidence. Actual harm to reputation, proof of, above
- Favorable public image, destruction of, § **9:33**

**ACTUAL DAMAGES—Cont'd**

- Firestone case, § 9:28
- Interference with existing relations, § 9:31
- Interference with future relations, § 9:32
- Negative public image, § 9:34
- Presumed harm through back door, § 9:29
- Public image, § 9:33, 9:34
- Punitive damages, § 9:49
- Reasonable proportionality to actual damages, § 9:49
- Social media, § 9:34.50
- Two subdivisions, § 9:24

**ACTUAL HARM**

- Generally, § 7:33
- Actual Damages (this index)
- Punitive damages, § 9:48
- Special harm, § 7:2, 7:3, 7:5

**ACTUAL MALICE**

- Abuse of privilege, § 8:65
- Anonymous sources, § 3:62
- “As told by” books, § 3:87.50
- Authors, information supplied by, § 3:61
- Butts and Walker elaborations, § 3:39
- Carol Burnett litigation, § 3:63
- Cautionary note, § 3:73
- Choice of facts and resolution of inferences or ambiguities, § 3:69
- Clint Eastwood litigation, § 3:65
- Common law malice. Common Law (this index)
- Constitutional law, § 3:3, 3:6, 3:46
- Cumulative impact, § 3:45
- Deadline pressures, § 3:75 to 3:77
- Doubt within media organization, § 3:72
- Early Supreme Court statements, § 3:38
- Editing. Reporting and editing process, below
- Editorial point of view, § 3:67
- Fabricated “first-hand” allegations, § 3:45.50
- Fabricated interviews: Clint Eastwood litigation, § 3:65
- Fault, generally, § 3:42 et seq.
- Follow-up stories, § 3:85
- Free-lance writers, information supplied by, § 3:61
- “Ghost writers,” § 3:87.50
- Government defendants, § 3:6

**ACTUAL MALICE—Cont'd**

- Harte-Hanks Communications, Inc. v. Connaughton, § 3:54
- Hostile investigation and questioning, § 3:86
- Hot news vs. time to investigate, § 3:76
- Internal files, failure to check, § 3:50
- Journalistic initiative, lack of, § 3:49
- Journalistic practices, deviations from standard, § 3:66.50
- Knowledge of source’s possible bias, § 3:59
- Letters to editor, § 3:87
- Live broadcasts, § 3:77
- Masson dicta: suggestions for new terminology, § 3:41
- Memory as faulty, § 3:83
- Misleading sequencing of events in story, § 3:74
- Misuse of language or legal terminology, § 3:84
- Objective evidence, § 3:42 to 3:45, 3:45.50
- Obvious sources, failure to check generally, § 3:51 et seq.
- Harte-Hanks Communications, Inc. v. Connaughton, § 3:54
- publications known for reliability, fact-checking by, § 3:56
- Sharon v. Time, Inc., § 3:53
- verification impractical, § 3:55
- Point of view, editorial, § 3:67
- Preconceived story lines, § 3:71
- Presumed damages, § 9:19
- Publications
  - see also more specific entries throughout this heading
  - “as told by” books, § 3:87.50
  - determination of actual malice at time of, § 3:79
  - fact-checking by publications known for reliability, § 3:56
- Rebuttal, § 3:64, 3:81
- Reckless reliance: Carol Burnett litigation, § 3:63
- Reporting and editing process
  - generally, § 3:66 et seq.
  - balance, lack of, § 3:68
  - cautionary note, § 3:73
  - choice of facts and resolution of inferences or ambiguities, § 3:69

## INDEX

### ACTUAL MALICE—Cont'd

- Reporting and editing process—Cont'd
  - doubt within media organization, § 3:72
  - editorial point of view, § 3:67
  - journalistic practices, deviations from standard, § 3:66.50
  - misleading sequencing of events in story, § 3:74
  - point of view, editorial, § 3:67
  - preconceived story lines, § 3:71
  - Westmoreland v. CBS, § 3:70
- Retractions and follow-up stories, § 3:85
- Retractions
  - generally, § 3:78 et seq.
  - failure to, § 3:80
  - publication, determination of actual malice at time of, § 3:79
  - rebuttal of actual malice, § 3:81
- Secondary sources, reliance on, § 3:60
- Sharon v. Time, Inc., § 3:53
- Sources and tips, reliance on
  - generally, § 3:57 et seq.
  - anonymous sources, § 3:62
  - authors, information supplied by, § 3:61
  - Carol Burnett litigation, § 3:63
  - Clint Eastwood litigation, § 3:65
  - fabricated interviews: Clint Eastwood litigation, § 3:65
  - free-lance writers, information supplied by, § 3:61
  - knowledge of source's possible bias, § 3:59
  - rebuttal of evidence, careful fact-checking as, § 3:64
  - reckless reliance: Carol Burnett litigation, § 3:63
  - secondary sources, reliance on, § 3:60
  - wire services, information supplied by, § 3:61
- St. Amant v. Thompson, § 3:40
- Standard as subjective, § 3:42.50, 3:43
  - institutional entity, defendant, § 3:42.50
- State of mind, § 3:44
- States adopting actual malice in private figure cases, § 3:31
- Subjective standard, § 3:45.50
- Summary judgment, § 12:75

### ACTUAL MALICE—Cont'd

- Supreme Court's actual malice test, generally, § 3:37 et seq.
- Verification impractical, § 3:55
- Westmoreland v. CBS, § 3:70
- Wire services, information supplied by, § 3:61
- Workplace, fault considerations, § 15:31

### ADMINISTRATIVE OFFICIALS

- Executive and Administrative Officials (this index)

### ADMINISTRATIVE PERSONNEL

- Generally, § 2:106

### ADMINISTRATIVE PROCEEDINGS

- Fair report privilege, § 8:74

### ADVERTISING AND SOLICITATION EFFORTS

- False political advertising, § 4:102
- In personam jurisdiction, § 12:22

### ADVISORS

- Generally, § 2:86

### AGGRAVATION OF DAMAGES

- Damages (this index)

### AIDES AND ASSISTANTS

- Legislative proceedings, participants in, § 8:21

### AIDING AND ABETTING CRIMINAL ACTIVITY

- Generally, § 11:52 et seq.
- Hit Man litigation, § 11:53 to 11:55
- Internet postings, § 11:58
- Jenny Jones case, § 11:57
- Natural born killers litigation, § 11:56
- Rice v. Palladin Press, § 11:55
- "Surprise television," § 11:57
- Violent films, § 11:56

### AIDS AND OUTING

- Newsworthiness privilege, § 10:54

### ALLEGATIONS

- Criminal activity, § 6:89
- Denial of wrongdoing, implying accuser is lying, § 6:89.50
- Literary and artistic criticism, § 6:79
- Lying, denial of wrongdoing, implying accuser is, § 6:89.50
- Slander per se, § 7:14 to 7:16

**ALL PURPOSE PUBLIC FIGURES**

- Generally, § 2:77 *et seq.*
- Advisors, § 2:86
- Associated with criminal activity, § 2:90
- Attorneys, § 2:89
- Business and community leaders, § 2:85
- Candidates, political candidates, § 2:82
- Columnists, § 2:87
- Community leaders, § 2:85
- Confidants, § 2:86
- Consumer activities, § 2:84
- Corporations, major, § 2:85
- Criminal activity, persons associated with, § 2:90
- Critics, and columnists, § 2:87
- Definition, § 2:77 to 2:79
- Entertainers and other personalities, § 2:83
- Involuntary vortex public figure, § 2:36
- Limited public figures distinguished, § 2:57
- Local, extent of publication, § 2:52
- Major corporations, § 2:85
- Media outlets, § 2:91
- Persons associated with criminal activity, § 2:90
- Political activities, § 2:84
- Political candidates, § 2:82
- Political confidants and advisors, § 2:86
- Publishers and major media outlets, § 2:91
- Religious figures and organizations, § 2:88
- Social activities, § 2:84
- Writers, critics, and columnists, § 2:87

**ALTERATION**

- Material and substantive, existing internet article, liability for, § 4:93.70

**AMBIGUITIES**

- Choice of facts and resolution of inferences or ambiguities, § 3:69
- False light invasion of privacy, § 10:15

**AMBUSH INTERVIEW TECHNIQUES**

- Generally, § 10:36
- Media “ride-alongs,” § 10:36.50

**AMERICAN ARBITRATION ASSOCIATION**

- Iowa project, § 9:104

**ANNENBERG LIBEL REFORM PROPOSAL**

- Generally, § 9:94 to 9:97

**ANONYMOUS DEFENDANTS**

- Identifying defendants’ identities in anonymous Internet defamation cases, § 12:24.60

**ANONYMOUS SOURCES**

- Fault, reliance on sources and tips, § 3:62
- Internet, § 4:86.50

**ANTIPAPARAZZI LEGISLATION**

- Invasion of privacy, § 10:58

**ANTI-SLAPP LEGISLATION**

- Damages, strategic lawsuit against public participation, § 9:107
- Pleading considerations, issues, § 12:51.50

**APPEAL AND REVIEW**

- Generally, § 12:83 to 12:86
- Bose v. Consumers Union, § 12:84, 12:85
- Damages, § 9:67 to 9:69
- Independent judicial review, § 12:83 to 12:86
- Literary and artistic criticism, § 6:80 *et seq.*
- Preliminary facts vs. ultimate facts, § 12:86
- Ultimate facts vs. preliminary facts, § 12:86

**APPROPRIATION**

- Invasion of Privacy (this index)

**ARBITRATION**

- Iowa Project (this index)

**ARRESTS**

- Fair report privilege, § 8:72

**ARTISTIC CRITICISM**

- Opinion and Fair Comment (this index)

**ARTISTIC JUDGMENT**

- Attorneys, § 13:6

## INDEX

### ARTISTS

Limited public figures, § 2:66

### “AS A WHOLE”

Opinion and fair comment, factual statements embedded in opinion, § 6:41.50

### ASSIGNABILITY AND DESCENDABILITY

Invasion of privacy, § 10:6.50

### ASSOCIATION

All purpose public figures, persons associated with criminal activity, § 2:90

False light invasion of privacy, false association, § 10:18

### ASSUMPTION OF RISK RATIONALE

Public figures, voluntary participation vs. voluntary acceptance of media attention, § 2:14

### “AS TOLD BY” BOOKS

Actual malice, § 3:87.50

### ATTENTION

Voluntary participation vs. voluntary acceptance of media attention, § 2:32

### ATTORNEYS

Generally, § 13:1 et seq.

All purpose public figures, § 2:89

Artistic judgment vs. legal advice, § 13:6

Budget reports, § 13:10

Common law privileges, § 8:8

Cost reduction in litigation

generally, § 13:8 et seq.

budget reports, § 13:10

discovery, holding back on aggressive early discovery, § 13:12

periodic strategy assessments, § 13:11

sharing and cross-fertilization of legal research, § 13:13

Costs, § 13:3

Defense, § 13:3

Disclosures, advantages of prudent disclosures, § 13:22

Discovery, holding back on aggressive early discovery, § 13:12

Fees and public relations expenses spent to mitigate, § 9:53.50

### ATTORNEYS—Cont’d

Free speech, § 13:4

High costs of defense, media litigation, § 13:3

Invasion of privacy suits, § 13:21

Journalistic or artistic judgment vs. legal advice, § 13:6

Legal advice vs. journalistic or artistic judgment, § 13:6

Legal research, § 13:13

Limited public figures, § 2:73

Media clients, § 13:1

Media litigation, § 13:2 to 13:4

Opinion and fair comment, § 6:67

Periodic strategy assessments, § 13:11

Plaintiff’s counsel, generally, § 13:17 et seq.

Preventative counseling, § 13:5 to 13:7

Regular counsel, special role of, § 13:7

Sharing and cross-fertilization of legal research, § 13:13

Skeletons in closet, § 13:19, 13:20

Substantial truth, § 13:20

### ATTRIBUTION

Fair report privilege, requirement, § 8:67.50

### AUDIO

Protest activity involving surveillance and video or photographs, § 10:39.75

Publication of private facts, § 10:39.50

### AUSTRALIAN GUTNICK LITIGATION

Conflict of laws, § 12:41.50

### AUSTRALIAN LAW

Generally, § 1:9.80

### AUTHORS

Sources and tips, reliance on, § 3:61

Treating authors separately from publishers, litigation, § 12:20.50

### AUTOPSY PHOTOGRAPHS

Invasion of privacy, § 10:54.50

### AVATARS

Invasion of privacy, video games based on real people, § 10:6.40

### BACK DOOR

Actual damages, § 9:29

**BAD ACTS**

Damages, § 9:60

**BAD FAITH**

Damages, § 9:64

**BAD REPUTATION**

Damages, § 9:59

**BALANCE, LACK OF**

Reporting and editing process, § 3:68

**BALANCING TEST**

Confidential source, § 12:59

**BANTER**

Talk shows, § 6:92

**BARNTICKI v. VOPPER**

Invasion of privacy, illegally intercepted electronic material, § 10:56.50, 10:56.70

**BELIEF**

Republication, expressions of disbelief, § 4:88

**BETTER RULE APPROACH**

Conflict of laws, § 12:36

**BIAS**

Knowledge of source's possible bias, § 3:59

Summary judgment, § 12:74

**BLACK, JUSTICE, OPINION**

Public figures, voluntary participation vs. voluntary acceptance of media attention, § 2:7

**BOOTSTRAP PROBLEM**

Public figures, voluntary participation vs. voluntary acceptance of media attention, § 2:25

**BOSE v. CONSUMERS UNION**

Appeal and review, § 12:84, 12:85

**BOX SCORE**

Public figures, voluntary participation vs. voluntary acceptance of media attention, § 2:8

**BRANZBURG**

Confidential source, lower court interpretations, § 12:58

**BRESLER CASE**

Opinion and fair comment, § 6:13

**BRITISH LIBEL LAW**

Cause of action, § 1:9

Potential changes in Britain, § 1:9.50

**BROADCASTS**

False light invasion of privacy, § 10:21

Meaning as defamatory, § 4:32

**BROADER ENLIGHTENMENT FUNCTION**

Freedom of speech, § 1:32

**BROADER SOCIAL CONTEXT**

Totality of circumstances approach, § 6:55

**BUDGET REPORTS**

Attorneys, cost reduction in litigation, § 13:10

**BURDEN OF PROOF**

Malice and negligence, § 3:24

Opinion and fair comment, § 6:46

Truth, § 5:11 to 5:13

Workplace, § 15:21

**BURGER FOOTNOTE**

Hutchinson v. Proxmire, summary judgment, § 12:71

**BUSINESS**

Intrusion into, § 10:34.50

Slander per se, § 7:14 to 7:16

**BUSINESS LEADERS**

All purpose public figures, § 2:85

Limited public figures, § 2:68 to 2:71

**BUTTERWORTH CASE**

Public records, § 10:48

**BUTTS, JUSTICE**

Actual malice, § 3:39

**CALDER v. JONES**

In personam jurisdiction, § 12:16

Summary judgment, § 12:73

**CAMPAIGNS**

Opinion and fair comment, § 6:69

**CANADIAN LAW**

Generally, § 1:9.75

## INDEX

### **CANDIDATES FOR PUBLIC OFFICE**

- All purpose public figures, § 2:82
- Limited public figures, § 2:58

### **CAPTIONS**

- Meaning as defamatory, § 4:29, 4:40.20
- Note on photograph captions, § 4:29

### **CAROL BURNETT CASE**

- Sources and tips, reliance on, § 3:63

### **CARROLL ROSENBLOOM**

- Literary and artistic criticism, § 6:85

### **CARTOONS**

- Meaning as defamatory, § 4:33
- Political cartoons, § 6:70 to 6:72

### **CAUSATION**

- Basic elements of, § 1:8
- British libel law, § 1:9, 1:9.50
- Elements of, § 1:34
- Emotional distress, § 11:7
- Group defamation, hate speeches, § 4:58
- Modern cause of action, elements of, § 1:34
- New York Times decision, cause of action prior to, § 1:6 to 1:9
- Strict liability tort, § 1:7
- Workplace, defamation in, § 15:32

### **CAUTIONARY LANGUAGE**

- Totality of circumstances approach, § 6:54

### **CAUTIONARY NOTE**

- Reporting and editing process, § 3:73

### **CHAPADEAU STANDARD**

- Intermediate gross irresponsibility standard, § 3:33, 3:35

### **CHASTITY**

- Slander per se, § 7:18

### **CHECK AND BALANCE FUNCTION**

- Reputation, § 1:27

### **CHILDREN**

- Negligent publication, violent material and children, § 11:50.50

### **CHOICE OF FACTS**

- Reporting and editing process, § 3:69

### **CHOICE OF LAW**

- Constitutional limitations on choice of law decisions, § 12:39 to 12:41

### **CIRCULATION LEVEL**

- In personam jurisdiction, § 12:18

### **CITIZENS UNITED v. FEDERAL ELECTION COM'N**

- First Amendment and media/nonmedia distinction, § 3:11, 3:13, 3:15

### **CIVIL LIABILITY**

- Group defamation, § 4:68 to 4:71

### **CIVIL RIGHTS**

- Workplace, government defamation as violation of, § 15:33

### **CLEAR AND CONVINCING**

#### **EVIDENCE**

- Falsity, § 15:11.50
- Fault, summary judgment, § 3:25.50

### **CLINT EASTWOOD LITIGATION**

- Sources and tips, reliance on, § 3:65

### **COLLOQUIUM**

- References need not be by name, § 4:40, 4:40.50

### **COLUMNISTS**

- All purpose public figures, § 2:87

### **COMMENTS**

- Public officials, § 2:109 to 2:111

### **COMMERCIAL DISPUTES**

- Opinion and fair comment, § 6:91

### **COMMERCIAL SETTINGS**

- Intrusion into, § 10:34.50

### **COMMERCIAL SPEECH**

#### **DOCTRINES**

- Dun & Bradstreet case, § 2:95

### **COMMERCIAL USES**

- Invasion of privacy, § 10:6

### **COMMITTEE REPORTS AND STAFF**

- Legislative proceedings, participants in, § 8:22

### **COMMON INTEREST**

- Interest-related conditional privileges, § 8:55 to 8:57

**COMMON LAW**

- Generally, § **1:10 to 1:15**
- Absolute Privileges (this index)
- Abuse of Privilege (this index)
- Actual damages, § **9:26**
- Actual malice
  - abuse of privilege, § **8:65**
  - constitutional actual malice, common law malice as probative of, § **3:47**
  - distinguished from common law (ill will) malice, § **3:46**
  - fabricated “first-hand” allegations, § **3:45.50**
  - objective evidence, § **3:45.50**
  - reports published with, § **8:78**
  - subjective standard, § **3:45.50**
- Administrative officials. Executive and Administrative Officials (this index)
- Constitutional fault rules, relationship to. Conditional Privileges (this index)
- Definitions, § **1:14**
- Executive and Administrative Officials (this index)
- Fair comment privilege, § **8:59**
- Federal law, § **13:24, 13:26 to 13:28**
- Harm requirements, § **1:15**
- Ill-will malice, generally, § **3:46, 3:47, 8:63, 9:44**
- Judicial Proceedings (this index)
- Legislative Proceedings (this index)
- Malice, generally, § **3:46, 3:47, 8:63, 9:44**
- Opinion and Fair Comment (this index)
- Privileges, generally, § **8:1 et seq.**
- Punitive damages for common law malice, § **9:44**
- Reports published with actual malice, § **8:78**
- Retraction, § **9:71**
- Slander Per Se (this index)
- Special harm, § **7:9**
- Truth, § **5:2**
- Workplace, § **15:28 to 15:30.50**

**COMMON LAW MALICE**

- Common Law (this index)

**COMMON USAGE OR MEANING OF LANGUAGE**

- Totality of circumstances approach, § **6:52**

**COMMUNICATIONS DECENCY ACT**

- Federal immunity created by, § **4:86**

**COMMUNICATIONS MEDIA**

- Media Cases and Clients (this index)

**COMMUNITY LEADERS**

- All purpose public figures, § **2:85**

**COMPELLED SELF-PUBLICATION**

- Workplace (this index)

**COMPENSATION**

- Economic injury, § **1:23**
- Emotional injury, § **1:24**

**COMPENSATORY DAMAGES**

- Generally, § **9:11, 9:12**

**COMPETING INTERESTS**

- Workplace publication, § **15:14**

**COMPULSORY RETRACTION**

- Equitable relief, § **9:90 to 9:92**

**COMPUTERS**

- On-line computer networks, publication by, § **4:83 to 4:86.50**
- Vicarious liability, § **3:118**

**CONDITIONAL PRIVILEGES**

- Absolute privileges compared, § **8:39**
- Common law, generally, § **8:2, 8:38 et seq.**
- Constitutional fault rules, relationship to, generally, § **8:40 et seq.**
- Dun & Bradstreet, § **8:42**
- Gertz case, § **8:43 to 8:45**
- Interest-Related Conditional Privileges (this index)
- Negligence, fault greater than, § **8:44**
- Workplace, fault considerations, § **15:30**

**CONFIDANTS**

- All purpose public figures, § **2:86**

**CONFIDENTIAL RELATIONSHIP**

- Publication of private facts, § **10:40**

**CONFIDENTIAL SOURCE**

- Generally, § **12:55 et seq.**
- Absolute immunity, § **12:61**

## INDEX

### CONFIDENTIAL SOURCE—Cont'd

- Balancing test, § 12:59
- Branzburg case, lower court interpretations of, § 12:58
- Breach of contract for revealing source, § 12:67
- Contempt, § 12:64
- Default judgment, § 12:65
- Diminished protection for non-confidential journalistic material, § 12:62.60
- Discovery, generally, § 12:55 et seq.
- First Amendment, § 12:57 to 12:59.50
- Interference, § 12:68
- Judith Miller litigation, § 12:59.50
- Lower court interpretations of Branzburg, § 12:58
- Motion to compel discovery, § 12:56.50
- Preclusion of reliance on source or presumption that no source existed, § 12:66
- Presumptions, § 12:66
- Privilege
  - generally, § 12:55
  - motion to compel discovery, § 12:56.50
- Protective orders and third-party discovery, § 12:66.50
- Qualified First Amendment privilege, § 12:57 to 12:59.50
- Qualified immunity, § 12:62
- Reliance, § 12:66
- Reporter's privilege, § 12:62.50
- Sanctions for failure to reveal sources, § 12:63 to 12:66
- State shield laws, § 12:60 to 12:62
- Striking pleadings and entry of default judgment, § 12:65
- Third-party discovery, protective orders and, § 12:66.50
- Tortious interference with contract, § 12:68

### CONFLICT OF LAWS

- Generally, § 12:25 et seq.
- Abusive forum shopping, § 12:28, 12:29
- Australian Gutnick litigation, § 12:41.50
- Better rule approach, § 12:36
- Choice of law, § 12:39 to 12:41
- Constitutional limitations on choice of law decisions, § 12:39 to 12:41

### CONFLICT OF LAWS—Cont'd

- Double counting First Amendment, § 12:29
- First Amendment, double counting, § 12:29
- Foreign judgments, enforcement of, § 12:41 et seq.
- Forum law approach, § 12:38
- Forum shopping, § 12:27 to 12:29
- Governmental interests analysis, § 12:37
- In personam jurisdiction, relationship to, § 12:26
- Internet and foreign judgments, § 12:41.50
- Judgments, § 12:41 et seq.
- Keeton, § 12:40
- Most significant relationship approach, § 12:35
- Publication, single publication rule, § 12:33
- Single publication rule, § 12:33
- SPEECH Act, § 12:41.30
- Territorialist approaches, § 12:31 to 12:34

### CONSENT

- Absolute privilege of, § 8:4
- Intrusion, § 10:35, 10:36

### CONSTITUTIONAL LAW

- Generally, § 1:16 to 1:20
- Actual damages, § 9:23
- Actual malice, § 3:46, 3:47
- Conflict of laws, § 12:39 to 12:41
- Defense. Truth (this index)
- Definition of negligence, § 3:88
- Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc., § 1:20
- Fault (this index)
- Gertz v. Robert Welch, Inc., § 1:19
- Injurious falsehood, § 11:42
- Invasion of Privacy (this index)
- New York Times Co. v. Sullivan, § 1:17
- Nominal damages, § 9:10
- “Of and concerning” requirement, constitutional status of, § 4:40.50
- Presumed damages, § 9:18 to 9:21
- Publication of Private Facts (this index)
- Punitive damages, § 9:37
- Special harm, § 7:6 to 7:8
- Walker and Butts, § 1:18
- Workplace, fault considerations, § 15:27

**CONSTRUCTION AND INTERPRETATION**

- Confidential source, lower court interpretations of Branzburg, § 12:58
- Masson v. New Yorker Magazine, Inc., § 5:27
- Meaning as defamatory, § 4:20 to 4:23
- Negligence, § 3:103 to 3:105
- Opinion and Fair Comment (this index)

**CONSULTANTS**

- Limited public figures, political consultants, § 2:58.50

**CONSUMER ACTIVITIES**

- All purpose public figures, § 2:84

**CONTEMPORANEOUS REPORTING**

- Public figures, § 2:46, 2:47

**CONTEMPT**

- Confidential source, § 12:64

**CONTINUATION**

- Equitable relief, § 9:88

**CONTRADICTORY INFORMATION**

- Negligence, § 3:105

**CONTROVERSY**

- Limited public figure standard, § 2:22
- Preexisting controversy requirement, § 2:26 to 2:28

**CONVINCING CLARITY STANDARD**

- Generally, § 3:25

**COPYRIGHT LAW**

- Invasion of privacy, relationship, § 10:6.25

**CORPORATIONS**

- All purpose public figures, § 2:85
- Commercial speech doctrines, Dun & Bradstreet and, § 2:95
- Dun & Bradstreet and commercial speech doctrines, § 2:95
- Executives, limited public figures, § 2:68 to 2:71
- First Amendment and corporate/noncorporate political speech discrimination, § 3:13 et seq.
- Interest in reputation, diminished, § 2:94

**CORPORATIONS—Cont'd**

- Liability of corporate officers or directors in shareholders derivative actions, § 9:113
- Majority particularized approach, § 2:98
- Meaning as defamatory, § 4:75
- Minority public interest approach, § 2:97
- Pervasive influence of, § 2:96
- Plaintiffs, generally, § 2:92 et seq., 9:52.50
- Restaurants and food reviews, § 2:98.50
- Speech, Dun & Bradstreet and commercial speech doctrines, § 2:95

**COST/BENEFIT APPROACH**

- Negligence, § 3:96

**COSTS**

- Attorneys (this index)
- Iowa project, § 9:102

**COUNTERCLAIMS**

- Media, § 13:14

**COUNTERSPEECH**

- Public figures, § 2:37

**COX BROADCASTING CORP. v. COHN**

- Public records, § 10:45
- Truth, § 5:7

**CREDIT REPORTS**

- Interest-related conditional privileges, § 8:50 to 8:52

**CRIMINAL ACTIVITY AND CONDUCT**

- Aiding and abetting, § 11:52 et seq.
- All purpose public figures, § 2:90
- Denial of wrongdoing, implying accuser is lying, § 6:89.50
- False electioneering and false political advertising, § 4:102
- Lying, denial of wrongdoing, implying accuser is, § 6:89.50
- Opinion and fair comment, § 6:89
- Slander per se, § 7:11 to 7:13

**CRIMINAL LIABILITY**

- Group defamation, § 4:52, 4:70.50

**CRIMINAL LIBEL**

- Group Defamation (this index)

## INDEX

### CRIMINAL SOLICITATIONS

Negligent publication, § 11:51

### CRITICISM

Opinion and Fair Comment (this index)

### CRITICS

All purpose public figures, § 2:87

Limited public figures, § 2:66

### CUBBY v. COMPUSERVE

Publication, § 4:84

### CUMULATIVE IMPACT

Actual malice, § 3:45

### CUSTOM

Negligence, § 3:92

### DAMAGES

Generally, § 9:1 et seq.

Actual Damages (this index)

Anti-SLAPP (strategic lawsuit against public participation) legislation, § 9:107

Appeal and review, § 9:67 to 9:69

Attorneys' fees and public relations expenses spent to mitigate, § 9:53.50

Bad acts, prior, § 9:60

Bad faith of defendant, § 9:64

Bad reputation of plaintiff, § 9:59

Chart of constitutional damages rules, § 9:52

Compensatory damages, § 9:11, 9:12

Corporation as plaintiff, § 9:52.50

Evidence, § 9:61, 9:65

Extent of defamation, § 9:56

Factors in mitigation and aggravation, nature of the defamation, § 9:54

General damages, § 9:13 to 9:15

Good faith of defendant, § 9:64

Good reputation of plaintiff, § 9:58

Injurious falsehood, § 11:45, 11:46

Interest in reform, § 9:3

Judicial review of awards, § 9:67 to 9:69

Liability of corporate officers  
directors in shareholders, § 9:113

Libel-proof plaintiff, § 9:61

Mitigation and aggravation, generally, § 9:53 et seq.

Monetary settlements in defamation and related cases, § 9:112

### DAMAGES—Cont'd

Nominal Damages (this index)

Organization as plaintiff, § 9:52.50

Plaintiffs

generally, § 9:57 to 9:61

bad reputation, § 9:59

corporation as, § 9:52.50

good reputation, § 9:58

libel-proof, § 9:61

organization as, § 9:52.50

Pleading considerations, § 12:50

Presumed Damages (this index)

Prior bad acts, § 9:60

Prior publication, § 9:62

Prior recoveries or settlements, § 9:63

Prior reputation of plaintiff, § 9:57 to 9:61

Provocation, § 9:65

Publication, § 9:55, 9:62

Public participation, strategic lawsuits against (SLAPP suits)  
generally, § 9:107

media defendants, § 9:108

variation in statutes, § 9:109

Punitive Damages (this index)

Retraction (this index)

Settlement, prior, § 9:63

SLAPP suits

generally, § 9:107

media defendants, § 9:108

SLAPP suits

statutes and choice of law  
conundrums, § 9:111

Special damages, § 9:35

Strategic lawsuit against public participation (SLAPP). SLAPP suits, above

Substantive rules, linkage to, § 9:2

Terminology, § 9:4

Use of comparators in reviewing jury verdicts, § 9:69

Workplace, defamation in, § 15:32

### DAMERON DECISION

Public figures, § 2:35

### DEADLINES

Actual malice, § 3:75 to 3:77

Negligence, § 3:111

### DEATH

Funerals and privacy, § 10:54.60

**DEATH—Cont'd**

- Meaning as defamatory, § 4:73
- Military funeral protests, emotional distress, § 11:13.50
- Paparazzi and death of Princess Diana, § 10:32

**DECENCY ACT**

- Federal immunity created by, § 4:86

**DECLARATORY RELIEF**

- Generally, § 9:93

**DEDUCTIVE OPINIONS**

- Restatement (Second) approach to pure opinion and mixed opinion, § 6:33

**DEFAMATION**

- Monetary settlements, related cases, § 9:112

**DEFAMATION PER SE**

- Special harm, judicial arguments favoring retention of traditional rules, § 7:35

**DEFAMATORY HEADLINES**

- Generally, § 4:25
- Ambiguity, jury issue, § 4:28
- Fair index truth defense, § 4:27
- Independent actionability, § 4:26
- Jury issue, ambiguity, § 4:28

**DEFAMATORY MEANING**

- Meaning as Defamatory (this index)

**DEFAMATORY OPINIONS**

- Generally, § 6:60

**DEFAULT JUDGMENT**

- Confidential source, § 12:65

**DEFENSES**

- Federal law, § 13:28
- Media litigation, high costs of defense, § 13:3
- Republication, wire service defense, § 4:90
- Truth (this index)

**DEFINITIONS**

- Generally, § 4:1 et seq.
- All purpose public figures, § 2:77 to 2:79
- Common law, § 1:14
- Defamatory, § 4:1

**DEFINITIONS—Cont'd**

- Intermediate gross irresponsibility standard, § 3:34
- Meaning as Defamatory (this index)
- Negligence, § 3:88
- Newsworthiness privilege, § 10:50
- Public officials, § 2:99 to 2:102
- Public record, § 10:47
- Seclusion, § 10:34

**DENIAL**

- Wrongdoing, implying accuser is lying, § 4:19.50, 6:89.50

**DENIALS BY PLAINTIFF**

- Fault, § 3:65.50

**DESCENDABILITY**

- Invasion of privacy, § 10:6.50

**DETERRENT FUNCTION**

- Generally, § 1:26

**DIGNITY**

- Promotion of human dignity, § 1:25

**DIRECTED VERDICTS**

- Generally, § 12:78 et seq.
- First Amendment, § 12:81
- General standards, § 12:80
- Independent review doctrine, § 12:82
- Jury control, § 12:79

**DISBELIEF, EXPRESSIONS OF**

- Republication, § 4:88

**DISCIPLINARY MATTERS**

- Limited public figures, § 2:74

**DISCLOSURE**

- News gathering, private information, § 10:36.60
- Offensive to reasonable person, § 10:42
- Prudent disclosures, § 13:22
- Publication of private facts, § 10:38, 10:42, 10:54

**DISCOVERY**

- Generally, § 12:52 et seq.
- Confidential Sources (this index)
- Cost reduction in litigation, § 13:12
- Editorial process, inquiry into, § 12:53 to 12:55
- Non-confidential material, diminished protection, § 12:62.60

## INDEX

### **DISCOVERY—Cont'd**

Reporter's privilege, § 12:62.50  
SLAPP motions, § 12:68.50

### **DISCRIMINATION AND MEDIA/NONMEDIA DISTINCTION**

First Amendment, § 3:11 et seq.

### **DISCRIMINATORY CONDUCT**

Group defamation, hate speeches, § 4:64

### **DISEASE, LOATHSOME**

Slander per se, § 7:17

### **DISPUTE RESOLUTION PROCEDURES**

Iowa project, § 9:100

### **DISTORTION OR EXAGGERATION**

False light invasion of privacy, § 10:19  
to 10:22

### **DIVERSITY OF CITIZENSHIP**

Subject matter jurisdiction, § 12:5 to  
12:8

### **DIVISIVENESS, PUBLIC**

Public figures, § 2:38 to 2:41

### **DOUBLE COUNTING FIRST AMENDMENT**

Conflict of laws, § 12:29

### **DOUBT WITHIN MEDIA ORGANIZATION**

Generally, § 3:72

### **DOUGLAS OPINION**

Public figures, § 2:7

### **DUE PROCESS**

Jurisdiction (this index)

### **DUN & BRADSTREET, INC. v. GREENMOSS BUILDERS, INC.**

Commercial speech doctrines, § 2:95

Conditional privileges, § 8:42

Constitutional law, § 1:20

Fault

generally, § 3:19, 3:20

public official and public figure cases,  
§ 3:22

strict liability in suits not involving  
matters of public concern, § 3:8,  
3:17

Identity, § 4:43

### **DUN & BRADSTREET, INC. v. GREENMOSS BUILDERS, INC. —Cont'd**

Interest-related conditional privileges,  
§ 8:51, 8:52

Presumed damages, § 9:20

Punitive damages, § 9:38

Special harm, § 7:6 to 7:8

Summary judgment, § 12:77

Truth, § 5:6, 5:10

### **DYNAMIC NATURE OF MODERN MEDIA**

First Amendment and media/nonmedia  
distinction, § 3:14

### **ECONOMIC INJURY**

Compensation for, § 1:23

### **EDITOR AND EDITORIAL PROCESS**

Actual Malice (this index)

Discovery, § 12:53 to 12:55

Letters to editor, § 3:87, 6:70 to 6:72

Opinion and fair comment, § 6:70 to  
6:72

Point of view of editor, § 3:67

Vicarious liability of employee, § 3:115

### **EDUCATION OFFICIALS**

Limited public figures, § 2:76.50

### **EDWARDS v. NATIONAL AUDUBON SOCIETY**

Neutral reportage privilege, § 4:98

### **EIGHTH AMENDMENT**

Punitive damages, § 9:40

### **ELECTED OFFICIALS**

Generally, § 2:105

### **ELECTRONIC COMMUNICATIONS**

Interception—Barnticki v. Vopper,  
§ 10:56.50, 10:56.70

### **EMBELLISHMENTS**

Minor inaccuracies in detail, § 5:25

### **EMERGENCY RESCUE SHOWS**

Invasion of privacy, § 10:57

### **EMOTIONAL DISTRESS**

Generally, § 11:1 et seq.

Actual damages, § 9:27 to 9:29

Causation, § 11:7

Extreme and outrageous conduct, § 11:5

**EMOTIONAL DISTRESS—Cont'd**

- Firestone case, § 11:22
- Fourth circuit holding, *Hustler v. Falwell* litigation, § 11:11
- Hustler v. Falwell* litigation, § 11:9 to 11:12
- Intentional infliction, generally, § 11:2 et seq.
- Intentional or reckless conduct, § 11:4
- Lower court decisions, *Hustler v. Falwell* litigation, § 11:10
- Media, applicability to, § 11:33
- Media cases, application to, § 11:8
- Mental disturbance, recovery for, § 11:30
- Military funeral protests, *Snyder v. Phelps*, § 11:13.50
- Negligent infliction
  - generally, § 11:29 et seq.
  - media, applicability to, § 11:33
  - mental disturbance, recovery for, § 11:30
  - physical manifestation position, § 11:31
  - pure emotional distress recovery, § 11:32
- Nonspeech cases, § 11:15 to 11:17
- Outrage, generally, § 11:2 et seq.
- Outrageous conduct, § 11:5
- Physical manifestation position, § 11:31
- Private figure cases, § 11:13, 11:27
- Private speech cases, § 11:27
- Pure emotional distress recovery, § 11:32
- Reckless conduct, § 11:4
- Severe emotional distress, § 11:6
- Sexual harassment, § 11:21
- Speeches, generally, § 11:15 et seq.
- Talk shows, § 6:95

**EMOTIONAL INJURY**

- Compensation for, § 1:24

**EMOTION PRINCIPLE**

- Group defamation, hate speeches, § 4:56

**EMPLOYMENT**

- Workplace (this index)

**ENGLISH APPROACH**

- Meaning as defamatory, § 4:3

**ENTERTAINERS AND OTHER PERSONALITIES**

- All purpose public figures, § 2:83
- Limited public figures, § 2:59 to 2:61

**ENTREPRENEURS**

- Limited public figures, § 2:68 to 2:71

**EPITHETS**

- Meaning as defamatory, § 4:7 to 4:10

**EQUITABLE RELIEF**

- Generally, § 9:85 et seq.
- Annenberg libel reform proposal, § 9:94 to 9:97
- Compulsory retraction, § 9:90 to 9:92
- Declaratory relief, § 9:93
- First Amendment, prior restraint doctrine, § 9:86
- Harm, recharacterizing harm, § 9:89
- Injunctive relief, § 9:87 to 9:89
- Iowa Project (this index)
- Libel, § 9:94 to 9:97
- Meaning as defamatory, laches and time limits, § 4:94.50
- Prior restraint doctrine of First Amendment, § 9:86
- Recharacterizing harm, § 9:89
- Reply, right of, § 9:90 to 9:92
- Retraction, compulsory, § 9:90 to 9:92

**ERRORS**

- False light invasion of privacy, minor and insubstantial errors, § 10:23
- Negligence, mechanical errors or lapses in internal procedures, § 3:109 to 3:110
- Terminology, errors in, § 5:24

**ETHICAL OR DISCIPLINARY MATTERS**

- Limited public figures, § 2:74

**ETHNIC DISPARAGEMENT**

- Group defamation, § 4:51, 4:52

**EVALUATIVE OPINIONS**

- Restatement (Second) approach to pure opinion and mixed opinion, § 6:34 to 6:37

**EVIDENCE**

- Actual Damages (this index)
- Character for truthfulness, § 12:87

## INDEX

### **EVIDENCE—Cont'd**

- Clear and convincing evidence  
falsity, § 15:11.50  
fault, summary judgment, § 3:25.50
- Damages, § 9:61, 9:65
- Objective evidence, § 3:42 to 3:45
- Opinion and fair comment, § 6:36
- Preponderance of evidence, § 3:26
- Punitive damages, § 9:45
- Social science evidence, use of, § 4:37

### **EVIDENTIARY HEARING**

- Motion for summary judgment,  
determining status on, § 2:121

### **EXAGGERATION**

- False light invasion of privacy, § 10:19  
to 10:22

### **EXCESSIVE PUBLICATION**

- Abuse of privilege, § 8:61

### **EXECUTIVE AND ADMINISTRATIVE OFFICIALS**

- Generally, § 8:27 et seq.
- Federal officials, § 8:28
- Scope of immunity, § 8:29
- State officials, § 8:30 to 8:33
- Superior state officials, limitation to,  
§ 8:32

### **EXECUTIVE PROCEEDINGS**

- Fair report privilege, § 8:74

### **EXPERT TESTIMONY**

- Linguistic experts, use of, § 4:37
- Negligence, § 3:92

### **EXTRA-JUDICIAL ACTIVITY**

- Generally, § 8:17

### **EXTREME AND OUTRAGEOUS CONDUCT**

- Emotional distress, § 11:5

### **EXTRINSIC FACTS**

- Hybrid per se/per quod, § 7:28
- Meaning as defamatory, § 4:18

### **FABRICATED INTERVIEWS**

- Sources and tips, reliance on, § 3:65

### **FACEBOOK**

- Opinion and fair comment, § 6:70.50

### **FACT/OPINION DISTINCTION**

- Opinion and Fair Comment (this index)
- Rhetorical hyperbole, § 4:12
- Workplace, § 15:17

### **FACTUALLY LADEN OPINIONS**

- Judicial variations to Restatement  
approach, § 6:41

### **FACTUAL STATEMENT EMBEDDED IN OPINION**

- Opinion and fair comment, § 6:41.50

### **FADING PUBLIC STATUS**

- Generally, § 2:49

### **FAIR COMMENT**

- Opinion and Fair Comment (this index)

### **FAIR REPORT PRIVILEGE**

- Generally, § 8:3, 8:66 et seq.
- Accuracy and fairness requirement,  
§ 8:75 to 8:77
- Administrative proceedings, § 8:74
- Arrests, § 8:72
- Attribution requirement, § 8:67.50
- Common law, generally, § 8:3, 8:66 et  
seq.
- Defeasance of the privilege through  
actual or common law malice,  
§ 8:70.50
- Executive proceedings, § 8:74
- Function and rationale, § 8:67
- Judge, role of, § 8:77
- Judicial proceedings, § 8:69 to 8:71
- Jury, role of, § 8:77
- Law enforcement activity, § 8:72
- Legislative proceedings, § 8:73
- Official action, § 8:70
- Public proceedings, § 8:74
- Secret proceedings, § 8:71
- Substantial accuracy test, § 8:76

### **FALSE ASSOCIATION**

- Generally, § 10:18

### **FALSEHOOD**

- Injurious Falsehood (this index)

### **FALSE LIGHT INVASION OF PRIVACY**

- Generally, § 10:7 et seq.
- Ambiguities, § 10:15
- Association, false, § 10:18

**FALSE LIGHT INVASION OF  
PRIVACY—Cont'd**

- Broadcast footage, § 10:21
- Defamatory speech, § 10:11
- Distortion or exaggeration, § 10:19 to 10:22
- Errors, minor and insubstantial errors, § 10:23
- Exaggeration, § 10:19 to 10:22
- False association, § 10:18
- Fiction and false light tort, § 10:24 to 10:28.50
- Film and broadcast footage, § 10:21
- First Amendment, § 10:14 to 10:16, 10:26
- Highly offensive to reasonable person, statement as, § 10:12
- Identity issues, § 10:25
- Lower court decisions, § 10:16
- Minor and insubstantial errors, § 10:23
- Nondefamatory statement be offensive, § 10:13
- Offensive, statement as highly offensive to reasonable person, § 10:12
- Other rejections, § 10:28.50
- Photographs, § 10:20
- Printed matter, § 10:22
- Reasonable person, statement as highly offensive to, § 10:12
- Renwick case, § 10:28
- Special First Amendment considerations, § 10:26
- Speech, defamatory, § 10:11
- Survival, § 10:27
- Types of false light claims, § 10:17

**FALSITY**

- Abuse of privilege, § 8:65
- Burden of proof, § 15:11.50
- Clear and convincing evidence standard, § 15:11.50
- Injurious falsehood, § 11:36
- Substantial truth, omission of material facts, § 5:17.50
- Workplace defamation
  - burden of proof, § 15:11.50
  - clear and convincing evidence standard, § 15:11.50

**FAMILY RELATIONSHIPS**

- Interest-related conditional privileges, § 8:57

**FAMOUS ENTERTAINERS**

- Limited public figures, § 2:60

**FANTASY SPORTS LEAGUES**

- Publicity, § 10:6.30

**FAULT**

- Generally, § 3:1 et seq.
- Actual Malice (this index)
- Burden of proof in establishing malice and negligence, § 3:24
- Clear and convincing evidence on summary judgment, § 3:25.50
- Common Law Privileges (this index)
- Constitutional law
  - generally, § 3:1 et seq.
  - actual malice, § 3:3, 3:6, 3:46, 3:47
  - government defendants and actual malice standard, § 3:6
  - negligence, § 3:4
  - public officials/public figures and private figures, dichotomy between, § 3:2
  - strict liability, § 3:5
- Convincing clarity standard, special, § 3:25
- Denials by plaintiff, § 3:65.50
- Dun & Bradstreet
  - generally, § 3:19, 3:20
  - public official and public figure cases, § 3:22
  - strict liability in suits not involving matters of public concern, § 3:8, 3:17
- Editing, Reporting and Editing Process (this index)
- False light invasion of privacy, § 10:14 to 10:16
- First Amendment and media/nonmedia distinction
  - Citizens United v. Federal Election Com'n, § 3:11, 3:13, 3:15
  - corporate free speech rights, § 3:13
  - disfavor of discrimination, § 3:11 et seq.
  - dynamic nature of modern media, § 3:14
  - restrictions on media speakers, § 3:12
  - Supreme Court decision, § 3:16
- Gertz standard, § 3:20

## INDEX

### **FAULT—Cont'd**

Gross irresponsibility standard. Intermediate Gross Irresponsibility Standard (this index)

Hybrid per se/per quod, § 7:28

Identity, § 4:48

Injurious falsehood, § 11:40

Internal files, failure to check, § 3:50

Investigation, § 3:48 to 3:50, 3:76, 3:86

Journalistic initiative, lack of, § 3:49

Malice

burden of proof in establishing malice and negligence, § 3:24

constitutional standards of actual malice, § 3:3, 3:6

states adopting actual malice in private figure cases, § 3:31

Matters of public concern standard, § 3:18 to 3:21

Negligence (this index)

Obvious sources, failure to check. Actual Malice (this index)

Pleading considerations, § 12:49

Preponderance of evidence, § 3:26

Private figures, § 3:28, 3:30, 3:31

Public concern, § 3:28

Public figures, § 3:2, 3:22

Public officials, § 3:2, 3:22

Reliance on sources and tips. Actual Malice (this index)

Republication, § 4:89

Rosenbloom, § 3:21

Special convincing clarity standard, § 3:25

States adopting actual malice in private figure cases, § 3:31

States adopting form of negligence as standard for private figure cases, § 3:30

State standards, § 3:27 to 3:29

Strict Liability (this index)

Substantial truth test, § 5:21

Summary judgment, clear and convincing evidence on, § 3:25.50

Supreme Court and media/nonmedia distinction, § 3:16

Truth, § 5:21, 5:33

Vicarious Liability (this index)

Workplace (this index)

### **FAULTY INSTRUCTIONS AND MISINFORMATION**

Negligent publication, § 11:49

### **FAVISH VINCE FOSTER CASE**

Invasion of privacy, § 10:54.50

### **FAVORABLE PUBLIC IMAGE**

Actual damages, § 9:33

### **FAVORED OR DISFAVORED**

Summary judgment, § 12:74

### **FEDERAL COURT**

Removal from state court to federal court, § 12:42

Subject matter jurisdiction, § 12:3 to 12:7

### **FEDERAL IMMUNITY**

Communications Decency Act, § 4:86

### **FEDERAL LAW**

Common law rules, § 13:24, 13:26 to 13:28

Defense considerations, § 13:28

Forum shopping, § 13:27

Independent and adequate state grounds, § 13:29

Legislative proceedings, participants in, § 8:20 to 8:23

State freedom within constitutional framework, § 13:25

State grounds as independent and adequate, § 13:29

### **FEDERAL OFFICIALS**

Common law privileges, § 8:28

### **FEDERAL RULES OF CIVIL PROCEDURE**

SLAPP suits, potential conflicts, § 9:110

### **FICTION**

False light invasion of privacy, § 10:24 to 10:28.50

Identity, § 4:45 to 4:49

### **FIGHTING WORDS DOCTRINE**

Group defamation, hate speeches, § 4:62

### **FILES**

Destruction of by reporters, § 13:15

### **FILM AND BROADCAST FOOTAGE**

Aiding and abetting criminal activity, § 11:56

**FILM AND BROADCAST FOOTAGE****—Cont'd**

False light invasion of privacy, § 10:21

**FINANCIAL CONDITION**

Punitive damages, § 9:47

**FIRESTONE CASE**

Actual damages, § 9:28

Emotional distress, § 11:22

Public figures, § 2:17

Truth, private figure cases, § 5:8

**FIRST AMENDMENT**

Confidential source, § 12:57 to 12:59.50

Conflict of laws, § 12:29

Corporate/noncorporate political speech,  
§ 3:13 et seq.

Directed verdicts, § 12:81

Equitable relief, § 9:86

False light invasion of privacy, § 10:14  
to 10:16, 10:26Freedom of speech, § 1:33, 6:74,  
6:74.50

Group Defamation (this index)

In personam jurisdiction, § 12:15, 12:16

Invasion of privacy, generally, § 10:5

Media/nonmedia speakers, § 3:11 et  
seq.Opinion and fair comment, § 6:24, 6:74,  
6:74.50

Public records, § 10:48

Punitive damages, § 9:39

Religious opinion, § 6:74, 6:74.50

Removal, transfer, and forum non con-  
veniens, § 12:46

Summary judgment, § 12:70

Trafficking in truthful information,  
Bartnicki v. Vopper decision,  
§ 10:56.70**FOLLOW-UP STORIES**

Actual malice, § 3:85

**FOOD AND FOOD****DISPARAGEMENT LAWS**

Generally, § 16:1 et seq.

Case against food disparagement laws,  
§ 16:4Compendium of food disparagement  
laws, § 16:2

Oprah Winfrey litigation, § 16:3

**FOOD AND FOOD****DISPARAGEMENT LAWS****—Cont'd**Proliferation of food disparagement  
laws, § 16:1Restaurant and food critiques, § 2:98.50,  
6:88**FOREIGN JUDGMENTS**

Conflict of laws, § 12:41 et seq.

**FOREIGN JUDGMENTS AND  
INTERNET**

Conflict of laws, § 12:41.50

**FORUM LAW APPROACH**

Conflict of laws, § 12:38

**FORUM NON CONVENIENS**

Generally, § 12:42, 12:45

First Amendment, § 12:46

**FORUM SHOPPING**

Abusive forum shopping, § 12:28, 12:29

Conflict of laws, § 12:27 to 12:29

Federal law, § 13:27

**FOURTH CIRCUIT**Emotional distress holding, *Hustler v.*  
*Falwell* litigation, § 11:11**FREEDOM OF SPEECH**

Generally, § 1:28 to 1:33

Broader enlightenment function, § 1:32

Corporate/noncorporate political speech,  
§ 3:13 et seq.First Amendment functions, § 1:33,  
6:74, 6:74.50Individual interests and social interests,  
§ 1:29Media/nonmedia speakers, § 3:11 et  
seq.Political self-governance function,  
§ 1:31

Religious opinion, § 6:74, 6:74.50

Self-fulfillment function, § 1:30

Social interests and individual interests,  
§ 1:29**FREELANCE WRITERS**

In personam jurisdiction, § 12:23

**FREE-LANCE WRITERS**

Sources and tips, reliance on, § 3:61

## INDEX

### FREE SPEECH

Attorneys, § 13:4

### FUNERALS

Invasion of privacy, § 10:54.60  
Military funeral protests, emotional distress, § 11:13.50

### FUTURE CONDUCT

Meaning as defamatory, § 4:36

### GAMES

Invasion of privacy, video games based on real people, § 10:6.40

### GENERAL DAMAGES

Generally, § 9:13 to 9:15

### GENERALIZED DEFAMATORY CHARGES

Substantial truth test, § 5:16, 5:22

### GERTZ v. ROBERT WELCH, INC.

Conditional privileges, § 8:43 to 8:45  
Constitutional law, § 1:19  
Fault, § 3:20  
Negligence, § 3:88  
Opinion and fair comment, § 6:11, 6:13  
Presumed damages, § 9:21  
Public figures, § 2:12  
Punitive damages, § 9:37  
Special harm, § 7:6 to 7:8  
Truth, private figure cases, § 5:6

### “GHOST WRITERS”

Actual malice, § 3:87.50

### GOOD FAITH

Damages, § 9:64

### GOOD REPUTATION

Damages, § 9:58

### GOVERNMENT BODIES AND ENTITIES

Actual malice standard, § 3:6  
Conflict of laws, § 12:37  
Judicial proceedings, participants in, § 8:15  
Meaning as defamatory, § 4:76  
Publication, reports to government agencies, § 8:36.50, 8:37  
Workplace, government defamation violation of civil rights, § 15:33

### GRAPHICS

Protest activity involving surveillance and video or photographs, § 10:39.75  
Publication of private facts, § 10:39.50

### GREENBELT v. BRESLER

Opinion and fair comment, § 6:10  
Rhetorical hyperbole, § 4:13

### GROSS IRRESPONSIBILITY

Intermediate Gross Irresponsibility Standard (this index)

### GROUP DEFAMATION

Generally, § 4:50 et seq.  
Causation principle, § 4:58  
Civil liability, § 4:68 to 4:71  
Criminal liability, § 4:52, 4:70.50  
Criminal libel. Hate speeches, below  
Discriminatory conduct, § 4:64  
Emotion principle, § 4:56  
Ethnic disparagement, § 4:51, 4:52  
Fighting words doctrine, § 4:62  
First Amendment. Hate speeches, below  
Hate speeches  
    generally, § 4:53 et seq.  
    causation principle, § 4:58  
    discriminatory conduct, § 4:64  
    emotion principle, § 4:56  
    fighting words doctrine, § 4:62  
    First Amendment, generally, § 4:54 et seq.  
    neutrality principle, § 4:55  
    precision principle, § 4:59  
    protection of persons or property, § 4:63  
    public speech/private speech dichotomy, § 4:66  
    relational harm, § 4:65  
    symbolism principle, § 4:57  
    two-class theory, § 4:61  
Libel. Hate speeches, above  
Neutrality principle, § 4:55  
Precision principle, § 4:59  
Private speech, § 4:66  
Protection of persons or property, § 4:63  
Public speech/private speech dichotomy, § 4:66  
Racial disparagement, § 4:51, 4:52  
Reference to all or only part of group, § 4:70

**GROUP DEFAMATION—Cont'd**

- Relational harm, § 4:65
- Religious disparagement, § 4:51, 4:52
- Size of group, civil liability, § 4:69
- Speech. Hate speeches, above
- Stolen Valor Act, criminalization of mere “lies,” § 4:70.50
- Suspicion test, intensity of, § 4:71
- Symbolism principle, § 4:57
- Two-class theory, § 4:61

**HARLAN OPINION**

- Public figures, § 2:5

**HARM**

- Common law, § 1:15
- Equitable relief, recharacterizing harm, § 9:89
- Workplace, § 15:18

**HARTE-HANKS****COMMUNICATIONS, INC. v. CONNAUGHTON**

- Obvious sources, failure to check, § 3:54

**HATE SPEECH**

- Group Defamation (this index)

**HEADLINES**

- Meaning as defamatory, § 4:29

**HIGHLY OFFENSIVE TO REASONABLE PERSON**

- False light invasion of privacy, § 10:12
- Nondefamatory statement be offensive, § 10:13

**HINERMAN DECISION**

- Opinion and fair comment, § 6:72

**HISTORICAL REPORTING**

- Passage of time on public figure status, effect of, § 2:46, 2:47

**HISTORY**

- Generally, § 1:2 to 1:5

**HIT MAN LITIGATION**

- Aiding and abetting criminal activity, § 11:53 to 11:55

**HOSTILE INVESTIGATION AND QUESTIONING**

- Actual malice, § 3:86

**HOT NEWS**

- Actual malice, § 3:76

**HUSTLER v. FALWELL**

- Emotional distress, § 11:9 to 11:12
- Opinion and fair comment, § 6:14
- Rhetorical hyperbole, § 4:14
- Talk shows, § 6:95

**HUTCHINSON v. PROXMIRE**

- Legislative proceedings, participants in, § 8:23
- Public figures, § 2:19
- Summary judgment, burger footnote in, § 12:71

**HYBRID OPINIONS**

- Judicial variations to Restatement approach, § 6:41, 6:42, 6:43

**HYBRID PER SE/PER QUOD**

- Generally, § 7:26 to 7:29
- Extrinsic facts, § 7:28
- Fault regarding extrinsic facts, § 7:28
- Precedent, § 7:29

**HYPERLINKS**

- Single publication rule, previously published defamatory material, § 4:93.60

**IDENTITY**

- Generally, § 4:39 et seq.
- Accidental reference, § 4:42
- Captions linking plaintiff, § 4:40.20
- Colloquium, references need not be by name, § 4:40, 4:40.50
- Constitutional status of “of and concerning” requirement, § 4:40.50
- Dun & Bradstreet, § 4:43
- False light invasion of privacy, § 10:25
- Fault requirements, § 4:48
- Fictional works, § 4:45 to 4:49
- Name, references need not be by, § 4:40, 4:40.20, 4:40.50
- Of and concerning plaintiff requirement, generally, § 4:39 et seq.
- Photographs linking plaintiff, § 4:40.20
- Pleading considerations, § 12:48
- Polsby v. Spruill, § 4:49
- Reference, accidental, § 4:42
- References need not be by name, § 4:40, 4:40.20, 4:40.50
- Strict liability, § 4:41

## INDEX

### **IDEOLOGICALLY AMORPHOUS STATEMENTS**

Opinion and fair comment, § 6:73

### **ILL-WILL MALICE**

Generally, § 3:46, 3:47, 8:63, 9:44

### **IMAGES**

Protest activity involving surveillance and video or photographs, § 10:39.75

Publication of private facts, § 10:39.50

### **IMMUNITY**

Absolute Immunity (this index)

Federal immunity created by Communications Decency Act, § 4:86

Qualified immunity, § 12:62

Sovereign immunity, § 8:37

### **IMMUNO DECISION**

Lower court interpretations of Milkovich, § 6:23 to 6:26

### **IMPLICATION, DEFAMATION THROUGH**

Generally, § 4:16 to 4:19.50

Context, significance of, § 4:17

Examples, § 4:19

Extrinsic facts, § 4:18

“Inducement,” § 4:18

“Innuendo,” § 4:18

Lying, denial of wrongdoing by implying accuser is, § 4:19.50

### **INDEPENDENT AND ADEQUATE STATE GROUNDS**

Federal law, § 13:29

### **INDEPENDENT CONTRACTORS**

Agents and partners, § 3:116

### **INDEPENDENT JUDICIAL REVIEW**

Generally, § 12:83 to 12:86

### **INDEPENDENT REVIEW DOCTRINE**

Directed verdicts, § 12:82

### **INDIVIDUAL INTERESTS**

Freedom of speech, § 1:29

### **INDUCEMENT**

Intrusion and trespass in news gathering, § 10:36.60

Meaning as defamatory, § 4:18

Negligent publication, § 11:50

### **INFERENCES**

Choice of facts and resolution of inferences or ambiguities, § 3:69

Negligence, § 3:103 to 3:105

### **INFORMATIONAL OPINIONS**

Restatement (Second) approach to pure opinion and mixed opinion, § 6:38

### **INFORMATIONAL PRIVACY**

Publication of private facts, § 10:43.50

### **INJUNCTIVE RELIEF**

Equitable relief, § 9:87 to 9:89

Injurious falsehood, § 11:47

### **INJURIOUS FALSEHOOD**

Generally, § 11:34 et seq.

Common law privileges, § 11:41

Constitutional privileges, § 11:42

Damages, § 11:45, 11:46

Falsity, § 11:36

Fault, § 11:40

Injunctive relief, § 11:47

Intent, § 11:40

Malice, § 11:40

Pecuniary interest, injury to, § 11:37

Pecuniary loss, damages for, § 11:45

Publication, § 11:38

Punitive damages, § 11:46

Special harm, § 11:39

Suzuki v. Consumers Union, § 11:40.50

### **INNOCENT CONSTRUCTION RULE**

Meaning as defamatory, § 4:22

### **INNUENDO**

Meaning as defamatory, § 4:18

### **IN PERSONAM JURISDICTION**

Generally, § 12:9 et seq.

Advertising and solicitation efforts, § 12:22

Calder v. Jones, § 12:16

Circulation level, § 12:18

Conflict of laws, § 12:26

Due process limitations, generally, § 12:11 et seq.

Freelance writers, § 12:23

International Shoe, § 12:13

Keeton v. Hustler Magazine, Inc., § 12:16

Lack of jurisdiction, § 12:10

Long arm statutes, § 12:24

**IN PERSONAM JURISDICTION****—Cont'd**

Minimum contacts requirement, § **12:12 to 12:14**

News gathering, § **12:21**

Nexus between story and forum state, § **12:19**

Physical presence, § **12:12 to 12:14**

Relevance of First Amendment, § **12:15, 12:16**

Resident of plaintiff and contact in forum, § **12:20**

Solicitation efforts, § **12:22**

Supreme Court resolutions, § **12:16**

World-wide Volkswagen formulation, § **12:14**

**INSIDE INFORMATION SHEET**

Literary and artistic criticism, § **6:82**

**INSTRUCTIONS**

Faulty instructions and misinformation, § **11:49**

**INSULTS**

Meaning as defamatory, § **4:7 to 4:10**

**INTENT**

Emotional Distress (this index)

Injurious falsehood, § **11:40**

Publication, § **4:79**

**INTEREST-RELATED****CONDITIONAL PRIVILEGES**

Generally, § **8:46 et seq.**

Common interest, § **8:55 to 8:57**

Common law, generally, § **8:46 et seq.**

Common law fair comment privilege, § **8:59**

Credit reports, § **8:50 to 8:52**

Dun & Bradstreet, § **8:51, 8:52**

Employees, reports on, § **8:53**

Fair comment privilege, common law, § **8:59**

Family relationships, § **8:57**

Petitions clause, § **8:54**

Public interest, § **8:58**

Publisher's interest, § **8:47**

Requested information, generally, § **8:49 et seq.**

Third persons' interest, § **8:48**

Volunteered information, generally, § **8:49 et seq.**

**INTERFERENCE**

Actual harm to reputation, proof of, § **9:31, 9:32**

Tortious interference with contract, § **12:68**

**INTERMEDIATE GROSS****IRRESPONSIBILITY STANDARD**

Generally, § **3:32 et seq.**

Chapadeau, § **3:33, 3:35**

Definition, § **3:34**

Fault, generally, § **3:32 et seq.**

No media-nonmedia distinction, § **3:36**

Sphere of legitimate public concern standard, § **3:35**

**INTERNAL COMMUNICATIONS**

Workplace, § **15:4, 15:7 to 15:9.50**

**INTERNAL FILES**

Fault, failure to check, § **3:50**

**INTERNAL PROCEDURES**

Negligence, § **3:109 to 3:110**

**INTERNATIONAL SHOE**

In personam jurisdiction, § **12:13**

**INTERNET**

Aiding and abetting criminal activity, § **11:58**

Anonymity and, § **4:86.50, 12:24.60**

Conflict of laws, § **12:41.50**

Facebook, opinion and fair comment, § **6:70.50**

Foreign judgments, § **12:41.50**

Hyperlinks, single publication rule, previously published defamatory material, § **4:93.60**

Identifying defendants' identities in Internet defamation cases, § **12:24.60**

Jurisdiction, Internet cases, § **12:24.50**

Message boards, opinion and fair comment, § **6:70.50**

Opinion and fair comment, message boards, § **6:70.50**

Republication, single publication rule, § **4:93.50, 4:93.60, 4:93.70**

Reputation protection, age of internet and social media, § **1:27.50**

Twitter, opinion and fair comment, § **6:70.50**

## INDEX

### INTERPRETATION

Construction and Interpretation (this index)

### INTERVIEW

Ambush interview techniques, § 10:36  
Media “ride-alongs,” § 10:36.50

### INTRUSION

Generally, § 10:29 *et seq.*  
Ambush interview techniques, § 10:36  
Business, intrusion into, § 10:34.50  
Commercial settings, intrusion into, § 10:34.50  
Consent, § 10:35, 10:36  
Definition of seclusion, § 10:34  
Inducement by third party, § 10:36.60  
Interview, ambush interview techniques, § 10:36  
Media and government partnership, surreptitious surveillance, § 10:36.70  
Media “ride-alongs,” § 10:36.50  
News gathering, trespass in, § 10:33 to 10:36.60  
Newsworthiness privilege, § 10:52  
Paparazzi and death of Princess Diana, § 10:32  
Princess Diana, Paparazzi and death of, § 10:32  
Private matters, public vs. private matters, § 10:34  
Public vs. private matters, § 10:34  
Seclusion defined, § 10:34, 10:34.50  
Surreptitious surveillance, media and government partnership, § 10:36.70  
Trespass in news gathering, § 10:33 to 10:36.60

### INVASION OF PRIVACY

Generally, § 10:1 *et seq.*  
Antipaparazzi legislation, § 10:58  
Appropriation  
cases, prior restraints in, § 10:6.75  
trade names, § 10:4.50  
Assignability and descendability, § 10:6.50  
Attorneys, § 13:21  
Autopsy photographs, § 10:54.50  
Avatars in video games based on real people, right of publicity claims, § 10:6.40

### INVASION OF PRIVACY—Cont’d

Barnticki v. Vopper decision, illegally intercepted electronic material, § 10:56.50, 10:56.70  
Commercial vs. noncommercial uses, § 10:6  
Constitutional law restraints  
autopsy photographs, § 10:54.50  
Favish Vince Foster case, § 10:54.50  
newsworthiness privilege, autopsy photographs, Favish Vince Foster case, § 10:54.50  
Copyright law, relationship, § 10:6.25  
Descendability, § 10:6.50  
Electronic communications illegally intercepted, Barnticki v. Vopper decision, § 10:56.50, 10:56.70  
Emergency rescue shows, § 10:57  
False Light Invasion of Privacy (this index)  
Fantasy sports leagues, § 10:6.30  
Favish Vince Foster case, § 10:54.50  
First Amendment, § 10:5, 10:48, 10:56.70  
Funerals and privacy, § 10:54.60  
Illegally intercepted electronic material, Barnticki v. Vopper decision, § 10:56.50, 10:56.70  
Intrusion  
unconsented recording, § 10:30.50  
Intrusion (this index)  
Lawfully obtained electronic information, Barnticki v. Vopper decision, § 10:56.70  
Legislation, antipaparazzi legislation, § 10:58  
Newsgathering, surreptitious, § 10:55, 10:56  
Newsworthiness privilege, autopsy photographs, Favish Vince Foster case, § 10:54.50  
Paparazzi, antipaparazzi legislation, § 10:58  
Prior restraints in appropriation and right of publicity cases, § 10:6.75  
Private facts. Publication of Private Facts (this index)  
Prosser, § 10:2  
Publication of Private Facts (this index)  
Publicity, right of  
generally, § 10:4 to 10:6

**INVASION OF PRIVACY—Cont'd**

- Publicity, right of—Cont'd
  - fantasy sports leagues, § 10:6.30
  - prior restraints, § 10:6.75
  - video games based on real people, § 10:6.40
- Public records, First Amendment, § 10:48
- Subject matter jurisdiction, § 12:4 to 12:7
- Surreptitious newsgathering, § 10:55, 10:56
- Trade names and appropriation, § 10:4.50
- Trafficking in truthful information, *Barnticki v. Vopper* decision, § 10:56.70
- Undercover reporting, § 10:56
- Vicarious invasion of privacy, § 10:3
- Video games based on real people, right of publicity claims, § 10:6.40

**INVENTORS**

- Limited public figures, § 2:68 to 2:71

**INVESTIGATION**

- Fault, § 3:48 to 3:50, 3:76, 3:86
- Negligence, § 3:99
- Public figures, § 2:27

**INVOLUNTARY VORTEX PUBLIC FIGURES**

- Generally, § 2:33 to 2:36

**IOWA PROJECT**

- Generally, § 9:98 et seq.
- American Arbitration Association, § 9:104
- Cost, § 9:102
- Dispute resolution procedures, § 9:100
- Libel research project, § 9:103
- Neutrals, § 9:101

**JENNY JONES**

- Aiding and abetting criminal activity, § 11:57

**JEST**

- Opinion and fair comment, § 6:90

**J.N.O.V.**

- Directed Verdicts (this index)

**JOE NAMATH**

- Inside information sheet, § 6:82

**JOE NAMATH—Cont'd**

- Lou Michaels, Joe Namath's sinister meeting with, § 6:86

**JOKES AND PARODY**

- Rhetorical hyperbole, § 4:15

**JOURNALISTIC INITIATIVE, LACK OF**

- Fault, § 3:49

**JOURNALISTIC OR ARTISTIC JUDGMENT**

- Attorneys, § 13:6

**JUDGE ROBERT BORK**

- Totality of circumstances approach, § 6:58

**JUDGES**

- Classifying plaintiffs, § 2:116 to 2:118
- Fair report privilege, § 8:77
- Judicial proceedings, participants in, § 8:7
- Meaning as defamatory, § 4:38
- Opinion and fair comment, § 6:61 to 6:64, 6:67
- Public figures and private figures, classifying plaintiff as, § 2:118
- Public official, classifying plaintiff as, § 2:117

**JUDGMENTS**

- Defamation and related cases, § 12:89
- Foreign judgments, enforcement of, § 12:41 et seq.
- Nominal damages, § 9:7 to 9:9
- Summary Judgment (this index)

**JUDICIAL ACCEPTANCE**

- Neutral reportage privilege, § 4:100

**JUDICIAL PERSONNEL**

- Generally, § 2:106
- Common law privileges, § 8:11

**JUDICIAL PROCEEDINGS**

- Attorneys, § 8:8
- Common law privileges, generally, § 8:5 et seq.
- Documents, statements in, § 8:9
- Extra-judicial activity, § 8:17
- Fair report privilege, § 8:69 to 8:71
- Governmental bodies, § 8:15
- Judges, § 8:7

## INDEX

### **JUDICIAL PROCEEDINGS—Cont'd**

- Judicial personnel, § 8:11
- Jurors, § 8:12
- Participants in, generally, § 8:5 et seq.
- Parties and statements in documents, § 8:9
- Press conference, § 8:17
- Qualifications of proceeding as judicial, § 8:14 to 8:17
- Quasi-judicial function, § 8:15
- Questions of law, § 8:18
- Relevance of defamatory statement to proceeding, § 8:13
- Special harm, judicial arguments favoring retention of traditional defamation per se rules, § 7:35
- Witnesses, § 8:10

### **JUDICIAL REJECTION**

- Neutral reportage privilege, § 4:100.50

### **JUDITH MILLER LITIGATION**

- Confidential source, § 12:59.50

### **JURISDICTION**

- Generally, § 12:1 et seq.
- In Personam Jurisdiction (this index)
- Internet cases, § 12:24.50
- Subject Matter Jurisdiction (this index)

### **JURY**

- Directed verdicts, § 12:79
- Fair report privilege, § 8:77
- Judicial proceedings, participants in, § 8:12
- Meaning as defamatory, § 4:38
- Nominal damages, § 9:7 to 9:9
- Opinion and fair comment, § 6:61 to 6:64
- Weighing factors, § 7:34

### **KEETON v. HUSTLER MAGAZINE, INC.**

- Conflict of laws, § 12:40
- In personam jurisdiction, § 12:16
- Summary judgment, § 12:73

### **KNOWLEDGE**

- Abuse of privilege, § 8:65
- Obvious sources, failure to check, § 3:56
- Sources and tips, reliance on, § 3:59

### **KOBE BRYANT CASE**

- Publication of private facts, § 10:48.50

### **LABOR DISPUTES**

- Opinion and fair comment, § 6:68

### **LACHES**

- Meaning as defamatory, time limits in seeking equitable relief, § 4:94.50

### **LANGUAGE**

- Actual malice, § 3:84
- Negligence, § 3:107
- Totality of circumstances approach, § 6:52

### **LAW ENFORCEMENT**

- Fair report privilege, § 8:72
- Public officials, § 2:104

### **LEGAL ADVICE**

- Journalistic or artistic judgment versus, § 13:6

### **LEGAL REPORTING DUTIES**

- Workplace defamation, privileges, § 15:30.50

### **LEGAL RESEARCH**

- Cost reduction in litigation, § 13:13

### **LEGAL TERMINOLOGY**

- Actual malice, § 3:84

### **LEGISLATIVE PROCEEDINGS**

- Generally, § 8:19 et seq.
- Aides and assistants, § 8:21
- Committee reports and staff, § 8:22
- Common law privileges, § 8:19 et seq.
- Fair report privilege, § 8:73
- Federal rule, § 8:20 to 8:23
- Hutchinson v. Proxmire, § 8:23
- Invasion of privacy, antipaparazzi legislation, § 10:58
- Participants in, generally, § 8:19 et seq.
- State legislators, § 8:24
- Subordinate legislative bodies, § 8:25
- Witnesses in legislative proceedings, § 8:26

### **LEGITIMATE PUBLIC CONCERN STANDARD**

- Intermediate gross irresponsibility standard, § 3:35

**LESS FAMOUS ENTERTAINERS**

Generally, § 2:61

**LETTER CARRIERS CASE**

Opinion and fair comment, § 6:12, 6:13

**LETTERS TO EDITOR**

Actual malice, § 3:87

Opinion and fair comment, § 6:70 to 6:72

**LEWIS v. EQUITABLE LIFE**

Workplace publication, § 15:13

**LIBEL**

Equitable relief, Annenberg libel reform proposal, § 9:94 to 9:97

Group Defamation (this index)

Slander distinction, § 7:31

Workplace, libel/slander distinction, § 15:24

**LIBEL PER QUOD**

Generally, § 7:19 et seq.

Libel per se, § 7:22

Per se, use of, § 7:20

Slander per quod, § 7:25

Slander per se, § 7:24

**LIBEL PER SE**

Libel per quod distinguished, § 7:22

**LIBEL-PROOF PLAINTIFF**

Damages, § 9:61

**LIBEL RESEARCH PROJECT**

Iowa project, § 9:103

**LIMITED PUBLIC FIGURES**

Generally, § 2:20 et seq., 2:55 et seq.

All purpose public figure distinguished, § 2:57

Artists, critics, § 2:66

Attorneys, § 2:73

Business leaders, § 2:68 to 2:71

Candidates for public office, § 2:58

Cautionary note, § 2:56

Corporate executives, § 2:68 to 2:71

Critics, § 2:66

Disciplinary matters, § 2:74

Education officials, § 2:76.50

Elusive classification problem, § 2:21

Entertainers and other personalities, § 2:59 to 2:61

Entrepreneurs, § 2:68 to 2:71

**LIMITED PUBLIC FIGURES—Cont'd**

Ethical or disciplinary matters, § 2:74

Famous entertainers, § 2:60

Inventors, § 2:68 to 2:71

Legal representation, going beyond, § 2:75

Less famous entertainers, § 2:61

Multifactor tests, § 2:23

Past sports figures, § 2:64

Political consultants, § 2:58.50

Professionals, § 2:72 to 2:76.50

Public controversy and plaintiff involvement, § 2:22

Public office, candidates for, § 2:58

Relevant factors, § 2:24

Religious figures and organizations, § 2:67

Restaurateurs, § 2:71.50

Sports figures, § 2:62 to 2:65

Tavoulaareas holding, § 2:70

Writers, artists, critics, § 2:66

**LIMITED PURPOSE CONCEPT**

Public figures, § 2:16 to 2:19

**LINGUISTIC EXPERTS**

Meaning as defamatory, § 4:37

**LITERARY AND ARTISTIC CRITICISM**

Opinion and Fair Comment (this index)

**LITERARY EMBELLISHMENTS**

Minor inaccuracies in detail, § 5:25

**LITIGATION**

Generally, § 12:1 et seq.

**LIVE BROADCASTS**

Actual malice, § 3:77

**LOATHSOME DISEASE**

Slander per se, § 7:17

**LOCAL ALL PURPOSE PUBLIC FIGURE**

Publication, extent of, § 2:52

**LOCAL VORTEX PUBLIC FIGURE**

Publication, extent of, § 2:53

**LOHRENZ VS. DONNELLY**

Public figures, § 2:35.50

**LONG ARM STATUTES**

In personam jurisdiction, § 12:24

## INDEX

### LOWER COURT DECISIONS AND TREATMENT

- Confidential source, § 12:58
- Emotional distress, § 11:10
- False light invasion of privacy, § 10:16
- Opinion and Fair Comment (this index)
- Passage of time on public figure status, effect of, § 2:48
- Types of false light claims, § 10:17

### LYRICS

- Opinion and fair comment, § 6:99

### MAJOR CORPORATIONS

- All purpose public figures, § 2:85

### MAJORITY PARTICULARIZED APPROACH

- Corporations, § 2:98, 2:98.50

### MAJORITY POSITION

- Generally, § 6:62, 6:64

### MALICE

- Actual Malice (this index)
- Burden of proof in establishing malice and negligence, § 3:24
- Common law malice, § 3:46, 3:47, 8:63, 9:44
- Constitutional standards, § 3:3, 3:6
- Injurious falsehood, § 11:40
- Public officials, § 2:110
- Punitive damages, § 9:44
- States adopting actual malice in private figure cases, § 3:31

### MALPRACTICE

- Negligence, professional malpractice model, § 3:89 to 3:92

### MASSON v. NEW YORKER MAGAZINE, INC.

- Actual malice, § 3:41
- Truth, minor inaccuracies in detail, § 5:26, 5:27

### MATTERS OF PUBLIC CONCERN STANDARD

- Fault, § 3:18 to 3:21

### MEANING AS DEFAMATORY

- Generally, § 4:1 et seq.
- Abuse, § 4:7 to 4:10
- Alternative statements, § 4:10
- American approach, § 4:4, 4:5

### MEANING AS DEFAMATORY

#### —Cont'd

- Anonymity and the Internet, § 4:86.50
- Broadcasts, § 4:32
- Captions, § 4:29
- Cartoons, § 4:33
- Construction and interpretation, § 4:20 to 4:23
- Corporations, § 4:75
- Death, no defamation of dead, § 4:73
- Definition of defamatory, § 4:1
- English approach, § 4:3
- Epithets, § 4:7 to 4:10
- Equitable relief, laches and time limits, § 4:94.50
- Evidence, § 4:37
- Evidence of how actual recipients understood the statement is probative of how average or reasonable recipients could understand it, § 4:2.50
- Experts, § 4:37
- Extrinsic facts, § 4:18
- Fact/opinion distinction, relation to, § 4:12
- Future conduct, § 4:36
- Governmental entities, § 4:76
- Greenbelt v. Bresler, § 4:13
- Group Defamation (this index)
- Headlines, § 4:29
- Hustler v. Falwell, § 4:14
- Identity (this index)
- Implication, defamation through generally, § 4:16 to 4:19.50
  - context, significance of, § 4:17
  - examples, § 4:19
  - extrinsic facts, § 4:18
  - “inducement,” § 4:18
  - “innuendo,” § 4:18
  - lying, denial of wrongdoing by implying accuser is, § 4:19.50
- Inducement, § 4:18
- Innocent construction rule, § 4:22
- Innuendo, § 4:18
- Insults, § 4:7 to 4:10
- Internet, anonymity and, § 4:86.50
- Jokes and parody, § 4:15
- Judge, role of, § 4:38
- Jury, role of, § 4:38
- Laches and time limits in seeking equitable relief, § 4:94.50

**MEANING AS DEFAMATORY****—Cont'd**

- Limitations on American approach, § 4:5
- Linguistic experts, use of, § 4:37
- Lying, denial of wrongdoing by implying accuser is, § 4:19.50
- Mere abuse, § 4:8
- Misquotations, § 4:35
- Name-calling, § 4:7 to 4:10
- Note on photograph captions, § 4:29
- Of and concerning plaintiff. Identity (this index)
- Passage of Time (this index)
- Photographs, § 4:29, 4:31
- Publication (this index)
- Publicity efforts, § 4:29
- Quotes, misquotations, § 4:35
- Reasonable construction rule, § 4:21
- Recipient approach
  - generally, § 4:2 et seq.
  - American approach, § 4:4, 4:5
  - English approach, § 4:3
  - limitations on American approach, § 4:5
  - “majority” of recipients, § 4:5.50
  - passage of time, § 4:6
  - “reasonable” recipient, § 4:5.50
- Rhetorical hyperbole
  - generally, § 4:11 et seq.
  - fact/opinion distinction, relation to, § 4:12
  - Greenbelt v. Bresler, § 4:13
  - Hustler v. Falwell, § 4:14
  - jokes and parody, § 4:15
- Single instance rule, § 4:23
- Social science evidence, use of, § 4:37
- Song lyrics, § 4:34
- Teases, § 4:29
- Verbal abuse, § 4:7 to 4:10
- Vicarious defamation, § 4:74
- Visual defamation, § 4:30 to 4:32
- Workplace, § 15:15 to 15:17

**MECHANICAL ERRORS**

- Negligence, § 3:109 to 3:110

**MEDIA CASES AND CLIENTS**

- All purpose public figures, § 2:91
- Attorneys, § 13:1 to 13:4
- Counterclaims, § 13:14

**MEDIA CASES AND CLIENTS****—Cont'd**

- Emotional distress, § 11:8, 11:33
- First Amendment and media/nonmedia distinction, § 3:11 et seq.
- Intrusion
  - government partnership, surreptitious surveillance, § 10:36.70
  - media “ride-alongs,” § 10:36.50
- Media sue media, § 13:16
- Publicity, § 13:30
- Retraction, § 9:74
- Strict liability in suits not involving matters of public concern, § 3:9
- Subject matter jurisdiction, § 12:6

**MEDICAL OPINION**

- Opinion and fair comment, § 6:67.50, 6:76.50

**MEMORY**

- Actual malice, § 3:83

**MENTAL ANGUISH**

- Emotional Distress (this index)

**MENTAL DISTURBANCE**

- Emotional distress, negligent infliction, § 11:30

**MERE ABUSE**

- Meaning as defamatory, § 4:8

**MILITARY FUNERAL PROTESTS**

- Emotional distress, § 11:13.50

**MILITARY PERSONNEL**

- Generally, § 2:106
- Group defamation, Stolen Valor Act, § 4:70.50

**MILKOVICH v. LORAIN JOURNAL CO.**

- Opinion and fair comment, § 6:2 et seq., 6:15 et seq.
- Strict liability in suits not involving matters of public concern, § 3:10

**MINIMUM CONTACTS****REQUIREMENT**

- In personam jurisdiction, § 12:12 to 12:14

**MINOR ERRORS**

- False light invasion of privacy, § 10:23

## INDEX

### **MINOR INACCURACIES IN DETAIL**

Truth (this index)

### **MINORITY POSITION**

Opinion and fair comment, § 6:63, 6:64  
Workplace, § 15:8, 15:9

### **MINORITY PUBLIC INTEREST APPROACH**

Corporations, § 2:97

### **MINORS**

Negligent publication, violent material  
and children, § 11:50.50

### **MISINFORMATION**

Negligent publication, § 11:49

### **MISLEADING SEQUENCING OF EVENTS**

Reporting and editing process, § 3:74

### **MISQUOTATIONS**

Meaning as defamatory, § 4:35

### **MISUSE OF LANGUAGE OR LEGAL TERMINOLOGY**

Actual malice, § 3:84  
Negligence, § 3:107

### **MITIGATION OF DAMAGES**

Damages (this index)

### **MIXED OPINION**

Generally, § 6:28 to 6:31

### **MOLDEA v. NEW YORK TIMES CO.**

Opinion and Fair Comment (this index)

### **MORAL TURPITUDE**

Slander per se, § 7:13

### **MOST SIGNIFICANT RELATIONSHIP APPROACH**

Conflict of laws, § 12:35

### **MOTIONS**

Discovery, confidential source privilege  
invoked, § 12:56.50  
Summary judgment, § 2:119 to 2:121,  
12:68.50, 12:75.50

### **MULTIFACTOR TESTS**

Limited public figure standard, § 2:23

### **MUSIC LYRICS**

Opinion and fair comment, § 6:99

### **NAME**

Constitutional status of “of and concern-  
ing” requirement, § 4:40.50  
Identity, references need not be by  
name, § 4:40, 4:40.20, 4:40.50

### **NAME-CALLING**

Meaning as defamatory, § 4:7 to 4:10  
Opinion and fair comment, § 6:90

### **NATURAL BORN KILLERS**

Aiding and abetting criminal activity,  
§ 11:56

### **NEGATIVE PUBLIC IMAGE**

Actual harm to reputation, proof of,  
§ 9:34

### **NEGLIGENCE**

Generally, § 3:88 et seq.  
Abuse of privilege, § 8:64  
Conclusions, negligence in form of,  
§ 3:103 to 3:105  
Conditional privileges, § 8:44  
Constitutional definition, § 3:88  
Contradictory information, § 3:105  
Cost/benefit approach, § 3:96  
Custom, role of, § 3:92  
Deadlines, § 3:111  
Definition, § 3:88  
Determination of, § 3:95 to 3:98  
Emotional Distress (this index)  
Errors, mechanical, § 3:109 to 3:110  
Expert testimony, role of, § 3:92  
Fault, generally, § 3:4, 3:24, 3:30  
Gertz, § 3:88  
Gertz cases, presumed damages, § 9:21  
Inferences, negligence in form of,  
§ 3:103 to 3:105  
Internal procedures, § 3:109 to 3:110  
Interpretations, negligence in form of,  
§ 3:103 to 3:105  
Investigation, failure to pursue, § 3:99  
Language, misuse of, § 3:107  
Malpractice, § 3:89 to 3:92  
Mechanical errors or lapses in internal  
procedures, § 3:109 to 3:110  
Misuse of language or legal terminol-  
ogy, § 3:107  
Note taking, § 3:106  
Official sources, unreasonable reliance  
on sources, § 3:102

**NEGLIGENCE—Cont'd**

- Ordinary reasonable person model, § **3:93**
- Professional malpractice model, § **3:89 to 3:92**
- Publication. Negligent Publication (this index)
- Quoting sources, § **3:106**
- Recurring negligence problems, § **3:98**
- Reliance, unreasonable reliance on sources, § **3:100 to 3:102**
- Res ipsa loquitur, § **3:94**
- Restatement's adoption of professional model, § **3:91**
- Summary judgment, § **12:76, 12:77**
- Terminology, misuse of, § **3:107**
- Time pressures and deadlines, § **3:111**
- Training or vetting procedures, § **3:110.50**
- Unreasonable reliance on sources, § **3:100 to 3:102**

**NEGLIGENT PUBLICATION**

- Generally, § **4:79, 11:48 to 11:51**
- Children, violent material and, § **11:50.50**
- Criminal solicitations, liability for publication of, § **11:51**
- Faulty instructions and misinformation, § **11:49**
- Inducement of self-destructive behavior, § **11:50**
- Violent material and children, § **11:50.50**

**NETWORKS, ON-LINE**

- Publication, § **4:83 to 4:86.50**

**NEUTRALITY PRINCIPLE**

- Group defamation, hate speeches, § **4:55**
- Summary judgment, § **12:72 to 12:74**

**NEUTRAL REPORTAGE PRIVILEGE**

- Republication (this index)

**NEUTRALS**

- Iowa project, § **9:101**

**NEWS GATHERING**

- In personam jurisdiction, § **12:21**
- Intrusion, § **10:33 to 10:36.60**
- Invasion of privacy, § **10:55, 10:56**

**NEWSWORTHINESS PRIVILEGE**

- Invasion of privacy, autopsy photographs, § **10:54.50**
- Publication of Private Facts (this index)

**NEW YORK TIMES CO. v. SULLIVAN**

- Cause of action, § **1:6 to 1:9**
- Constitutional law, § **1:17**
- Opinion and fair comment, § **6:20**
- Public Figures (this index)
- Public officials, § **2:113, 2:114**

**NEW ZEALAND LAW**

- Generally, § **1:9.85**

**NEXUS**

- In personam jurisdiction, § **12:19**
- Newsworthiness privilege, § **10:51**
- Slander per se, § **7:16**

**1958 COLTS VERSUS GIANTS PLAYOFF**

- Opinion and fair comment, § **6:83**

**NOMINAL DAMAGES**

- Generally, § **9:5 et seq.**
- Constitutional questions, § **9:10**
- Judgment of jury, § **9:7 to 9:9**
- Jury's judgment, § **9:7 to 9:9**
- Preference of plaintiff, § **9:6**
- Punitive damages, peg for, § **9:9**

**NON-DISCLOSURE AGREEMENTS**

- Generally, § **12:88**

**NON-DISPARAGEMENT AGREEMENTS**

- Generally, § **12:88**

**NON-GOVERNMENT EMPLOYEE**

- Public official, treatment by court as, § **2:108.50**

**NOTES**

- Destruction of by reporters, § **13:15**
- Meaning as defamatory, note on photograph captions, § **4:29**
- Negligence, § **3:106**

**NOTICE**

- Retraction, § **9:75 to 9:78**

**OBJECTIVE EVIDENCE**

- Actual malice, § **3:42 to 3:45**

## INDEX

### OBVIOUS SOURCES

Actual Malice (this index)

### OF AND CONCERNING

Identity (this index)

### OFFENSIVE

False light invasion of privacy, § 10:12

Nondefamatory statement be offensive,  
§ 10:13

Publication of private facts, § 10:42

### OFFICIAL ACTION

Fair report privilege, § 8:70

### OFFICIALS

Executive and Administrative Officials  
(this index)

Public Officials (this index)

### OFFICIAL SOURCES

Negligence, § 3:102

### OLLMAN v. EVANS

Opinion and Fair Comment (this index)

### OMISSIONS

Publication through act of, § 4:82

### ON-LINE COMPUTER NETWORKS

Generally, § 4:83 to 4:86.50

### OP-ED ARTICLES

Opinion and fair comment, § 6:70 to  
6:72

### OPINION AND FAIR COMMENT

Generally, § 6:1 et seq.

Abusive language, § 6:90

Academic and scientific disputes,  
§ 6:67.60

Allegations, § 6:79, 6:89

Appeals, court of, generally, § 6:80 et  
seq.

Artistic criticism. Literary and artistic  
criticism, below

Bresler case, § 6:13

Broader social context of speech, § 6:55

Burden of proof on falsity issue, rela-  
tionship to, § 6:46

Campaigns, political campaigns, § 6:69

Carroll Rosenbloom story, reviving of,  
§ 6:85

Cartoons, § 6:70 to 6:72

Cautionary language, § 6:54

Commercial disputes, § 6:91

### OPINION AND FAIR COMMENT

#### —Cont'd

Common law, generally, § 6:3 et seq.

Common usage or meaning of language,  
§ 6:52

Compromise position, § 6:37

Construction and interpretation  
factual statements embedded in  
opinion, construction “as a  
whole,” § 6:41.50

lower court interpretations of  
Milkovich, below

Criminal activity, allegations of, § 6:89

Criticism. Literary and artistic criticism,  
below

Deductive opinions, § 6:33

Defamatory opinions, § 6:60

Denial of wrongdoing, implying accuser  
is lying, § 6:89.50

Dishonestly maintained evaluative  
opinions, § 6:35 to 6:37

Editor, letters to, § 6:70 to 6:72

Evaluative opinions, § 6:34 to 6:37

Evidence, dishonestly maintained evalu-  
ative opinions, § 6:36

Facebook, § 6:70.50

Fact/opinion distinction, generally,  
§ 6:66 et seq.

Factually laden opinions, § 6:41

Factual statements embedded in opinion,  
§ 6:41.50

Fair comment, generally, § 6:3 et seq.

First Amendment analysis, § 6:24, 6:74,  
6:74.50

Food, § 6:88

Gertz case, § 6:11, 6:13

Greenbelt v. Bresler, § 6:10

Hinerman decision, § 6:72

Hustler v. Falwell decision, § 6:14

Hybrid opinions, § 6:41, 6:43

Ideologically amorphous statements,  
§ 6:73

Immuno decision, § 6:23 to 6:26

Informational opinions, § 6:38

Information control three part version,  
§ 6:48

Inside information sheet, Joe Namath  
and, § 6:82

Interest-related conditional privileges,  
§ 8:59

Internet message boards, § 6:70.50

## OPINION AND FAIR COMMENT

## —Cont'd

- Jest, § 6:90
- Joe Namath, § 6:82, 6:86
- Judge Robert Bork's political arena innovation, § 6:58
- Judges, § 6:61 to 6:64, 6:67
- Judicial variations to Restatement approach
  - generally, § 6:39 et seq.
  - examples, § 6:42
  - factually laden opinions, § 6:41
  - hybrid opinions, § 6:41, 6:43
  - pure opinion, § 6:40
  - underlying predicate facts must be true, § 6:43.50
- Jury, role of, § 6:61 to 6:64
- Labor disputes, § 6:68
- Language, common usage or meaning of, § 6:52
- Lawyers, § 6:67
- Letter Carriers case, § 6:12, 6:13
- Letters to the editor, § 6:70 to 6:72
- Literary and artistic criticism
  - generally, § 6:75 et seq.
  - allegations, § 6:79
  - appeals, court of, generally, § 6:80 et seq.
  - Carroll Rosenbloom story, reviving of, § 6:85
  - inside information sheet, Joe Namath and, § 6:82
  - Joe Namath and inside information sheet, § 6:82
  - Joe Namath's sinister meeting with Lou Michaels, § 6:86
  - Moldea v. New York Times Co., generally, § 6:77 et seq.
  - 1958 Colts versus Giants playoff, § 6:83
  - review, text of, § 6:78
  - sloppy journalism, too much, § 6:81
  - warmed over hot stuff, § 6:84
- Lower court cases on religious opinion, § 6:74.50
- Lower court interpretations of Milkovich
  - generally, § 6:22 et seq.
  - First Amendment analysis, § 6:24
  - Immuno decision, § 6:23 to 6:26
  - state law analysis, § 6:25

## OPINION AND FAIR COMMENT

## —Cont'd

- Lying, denial of wrongdoing, implying accuser is, § 6:89.50
- Lyrics, § 6:99
- Majority position, § 6:62, 6:64
- Medical opinions, § 6:67.50, 6:76.50
- Milkovich v. Lorain Journal Co., generally, § 6:2 et seq., 6:15 et seq.
- Minority position, § 6:63, 6:64
- Mixed opinion vs. pure opinion, § 6:28 to 6:31
- Moldea v. New York Times Co. Literary and artistic criticism, above
- Music lyrics, § 6:99
- Name-calling, § 6:90
- New York Times, court's treatment of, § 6:20
- 1958 Colts versus Giants playoff, § 6:83
- Ollman v. Evans, generally, § 6:49 et seq.
- Op-Ed articles, § 6:70 to 6:72
- Political arena, § 6:58
- Political arena and public controversy factors, § 6:57 to 6:59
- Political campaigns, § 6:69
- Political cartoons, § 6:70 to 6:72
- Private figures, § 6:65
- Psychological opinions, § 6:67.50, 6:76.50
- Public controversy, § 6:57 to 6:59
- Public figures, § 6:65
- Public officials, § 6:65
- Pure opinion vs. mixed opinion, § 6:28 to 6:31
- Religious opinion, § 6:74, 6:74.50
- Restatement (Second) approach to pure opinion and mixed opinion
  - generally, § 6:28 et seq.
  - compromise position, dishonestly maintained evaluative opinions, § 6:37
  - deductive opinions, § 6:33
  - dishonestly maintained evaluative opinions, § 6:35 to 6:37
  - evaluative opinions, § 6:34 to 6:37
  - evidence, dishonestly maintained evaluative opinions, § 6:36
  - informational opinions, § 6:38
- Restaurant and food critiques, § 6:88
- Revival of story, § 6:85

## INDEX

### OPINION AND FAIR COMMENT

#### —Cont'd

- Ridicule, § 6:90
- Scientific disputes, § 6:67.60
- Sinister meeting, § 6:86
- Sloppy journalism, too much, § 6:81
- Social context, § 6:55
- Social media, § 6:70.50
- Speeches, § 6:55
- State law analysis, § 6:25
- Supreme Court
  - generally, § 6:9 et seq.
  - Bresler case, § 6:13
  - common law, court's treatment of, § 6:19
  - Gertz case, § 6:11, 6:13
  - Greenbelt v. Bresler, § 6:10
  - Hustler v. Falwell decision, § 6:14
  - Letter Carriers case, § 6:13
  - Letter Carriers holding, § 6:12
  - lower court interpretations of Milkovich, above
  - Milkovich v. Lorain Journal Co. decision, generally, § 6:15 et seq.
  - New York Times, court's treatment of, § 6:20
  - opinion, court's treatment of, § 6:21
- Talk Shows (this index)
- Totality of circumstances approach
  - generally, § 6:47 et seq.
  - broader social context of speech, § 6:55
  - cautionary language, § 6:54
  - common usage or meaning of language, § 6:52
  - information control three part version, § 6:48
  - Judge Robert Bork's political arena innovation, § 6:58
  - Ollman v. Evans, generally, § 6:49 et seq.
  - political arena and public controversy factors, § 6:57 to 6:59
  - verifiability, § 6:53
- Truth of underlying predicate facts, judicial variations on Restatement, § 6:43.50
- Twitter, § 6:70.50
- Underlying predicate facts, truth of, § 6:43.50
- Verifiability, § 6:44 to 6:46, 6:53

### OPINION AND FAIR COMMENT

#### —Cont'd

- Warmed over hot stuff, § 6:84
  - Workplace, § 15:15 to 15:17
- ### OPRAH WINFREY LITIGATION
- Food disparagement laws, § 16:3
- ### ORDINARY REASONABLE PERSON MODEL
- Negligence, § 3:93
- ### ORIGINATOR
- Republication, § 4:91
- ### OUTING OF PRIVATE FACTS
- Newsworthiness privilege, § 10:54
- ### OUTRAGE
- Emotional Distress (this index)
- ### OUTRAGEOUS CONDUCT
- Emotional distress, § 11:5
- ### PAPARAZZI
- Intrusion, § 10:32
  - Invasion of privacy, § 10:58
- ### PASSAGE OF TIME
- Meaning as defamatory
    - laches and time limits in seeking equitable relief, § 4:94.50
    - recipient approach, § 4:6
  - Newsworthiness privilege, § 10:53
  - Public Figures (this index)
- ### PAST SPORTS FIGURES
- Limited public figures, § 2:64
- ### PECUNIARY INTEREST
- Injurious falsehood, § 11:37
- ### PECUNIARY LOSS
- Injurious falsehood, § 11:45
- ### PER QUOD
- Hybrid per se/per quod, § 7:26 to 7:29
  - Workplace, § 15:18
- ### PER SE
- Hybrid per se/per quod, § 7:26 to 7:29
  - Special harm, traditional rules of defamation per se, § 7:35
  - Workplace, § 15:18
- ### PERVASIVE INFLUENCE
- Corporations, § 2:96

**PETITIONS**

Interest-related conditional privileges,  
§ 8:54

**PHILADELPHIA NEWSPAPERS, INC.  
v. HEPPS**

Private figure cases, § 5:9

**PHOTOGRAPHS**

Defamatory meaning, reference need not  
be by name, § 4:40.20

False light invasion of privacy, § 10:20

Meaning as defamatory, § 4:31

Note on photograph captions, § 4:29

Protest activity involving surveillance  
and video or photographs,  
§ 10:39.75

Publication of private facts, § 10:39.50

**PHYSICAL MANIFESTATION  
POSITION**

Emotional distress, negligent infliction,  
§ 11:31

**PHYSICAL PRESENCE**

In personam jurisdiction, § 12:12 to  
12:14

**PLEADING CONSIDERATIONS**

Generally, § 12:47 et seq.

Anti-SLAPP legislation, issues,  
§ 12:51.50

Damages, special, § 12:50

Fault, required level, § 12:49

Of and concerning requirement, § 12:48

**POINT OF VIEW, EDITORIAL**

Fault, § 3:67

**POLICY-MAKING AUTHORITY AND  
RESPONSIBILITY**

Public officials, § 2:108

Vicarious liability of employee, § 3:115

**POLITICAL ACTS AND MATTERS**

All purpose public figures, § 2:82, 2:84,  
2:86

False electioneering and false political  
advertising, § 4:102

First Amendment and corporate/  
noncorporate political speech  
discrimination, § 3:13 et seq.

Freedom of speech, § 1:31

Opinion and fair comment, § 6:57 to  
6:59, 6:69 to 6:72

**POLITICAL CONSULTANTS**

Limited public figures, § 2:58.50

**POLSBY v. SPRUILL**

Identity, § 4:49

**PRECEDENT**

Hybrid per se/per quod, § 7:29

**PRECISION PRINCIPLE**

Group defamation, hate speeches, § 4:59

**PRECLUSION**

Confidential source, § 12:66

**PRECONCEIVED STORY LINES**

Fault, § 3:71

**PREEXISTING CONTROVERSY**

Public figures, § 2:26 to 2:28

**PREFERENCE**

Nominal damages, § 9:6

Summary judgment, § 12:74

**PRELIMINARY FACTS**

Appeal and review, § 12:86

**PREPONDERANCE OF EVIDENCE**

Fault, § 3:26

**PRESS CONFERENCE**

Judicial proceedings, participants in,  
§ 8:17

**PRESUMED DAMAGES**

Generally, § 9:16 et seq.

Actual malice, § 9:19

Constitutional law, § 9:18 to 9:21

Dun & Bradstreet, § 9:20

Function and rationale, § 9:17

Gertz negligence cases, § 9:21

**PRESUMED HARM**

Actual damages, § 9:29

Special harm, § 7:2, 7:4, 7:5

**PRESUMPTIONS**

Confidential source, § 12:66

**PREVENTATIVE COUNSELING**

Attorneys, § 13:5 to 13:7

**PRIMARY PUBLISHERS**

Republication, § 4:92

## INDEX

### PRINCESS DIANA

Intrusion, paparazzi and death of  
Princess Diana, § 10:32

### PRINTED MATTER

False light invasion of privacy, § 10:22

### PRIOR BAD ACTS

Damages, § 9:60

### PRIOR PUBLICATION

Damages, § 9:62

### PRIOR RECOVERIES OR SETTLEMENTS

Generally, § 9:63

### PRIOR REPUTATION

Damages, § 9:57 to 9:61

### PRIOR RESTRAINTS

Equitable relief, § 9:86  
Invasion of privacy, appropriation and  
right of publicity cases, § 10:6.75

### PRIVACY, INVASION OF

Invasion of Privacy (this index)

### PRIVATE FACTS

Publication of Private Facts (this index)

### PRIVATE FIGURES

Emotional distress, § 11:13, 11:27  
Fault, § 3:28, 3:30, 3:31  
Opinion and fair comment, § 6:65  
Republication, neutral reportage privilege,  
§ 4:101  
Talk shows, § 6:95  
Truth  
generally, § 5:5 et seq.  
Cox Broadcasting case, § 5:7  
Dun & Bradstreet case, § 5:6  
Firestone case, § 5:8  
Gertz case, § 5:6  
Philadelphia Newspapers, Inc. v.  
Hepps, § 5:9  
private figure cases, burden of proof,  
§ 5:13

### PRIVATE MATTERS

Intrusion, § 10:34

### PRIVATE SPEECHES

Emotional distress, § 11:27  
Group defamation, hate speeches, § 4:66

### PRIVILEGES

Absolute Privileges (this index)  
Abuse of Privileges (this index)  
Conditional Privileges (this index)  
Confidential Source (this index)  
Fair Report Privilege (this index)  
Injurious falsehood, § 11:41, 11:42  
Interest-Related Conditional Privileges  
(this index)  
Neutral reportage privilege. Republica-  
tion (this index)  
Newsworthiness privilege. Publication  
of Private Facts (this index)  
Publication of Private Facts (this index)  
Qualified First Amendment privilege,  
§ 12:57 to 12:59  
Reporter's Privilege (this index)  
Republication (this index)  
Workplace, § 8:53, 15:29 to 15:31

### PROCURED PUBLICATION

Republication, § 4:95

### PRODIGY DECISION

Publication, § 4:85

### PROFESSION

Slander per se, § 7:14 to 7:16

### PROFESSIONAL MALPRACTICE MODEL

Negligence, § 3:89 to 3:92

### PROFESSIONALS

Educational officials, limited public  
figures, § 2:76.50  
Limited public figures, § 2:72 to 2:76.50

### PROMINENCE IN CONTROVERSY

Public figures, § 2:43

### PROMISE

Publication of private facts, § 10:41

### PROSSER

Invasion of privacy, § 10:2

### PROTECTION OF PERSONS OR PROPERTY

Group defamation, hate speeches, § 4:63

### PROTECTIVE ORDERS

Confidential source, protective orders  
and third-party discovery,  
§ 12:66.50

**PROTESTS**

Emotional distress, military funeral protests, § **11:13.50**

**PROVOCATION**

Evidence of provocation by plaintiff, § **9:65**

**PSYCHOLOGICAL COST**

Truth, § **5:35**

**PSYCHOLOGICAL OPINION**

Opinion and fair comment, § **6:67.50, 6:76.50**

**PUBLICATION**

See also Publisher (this index)

Actual Malice (this index)

Common law privileges  
generally, § **8:36, 8:61 to 8:63**  
reports to government agencies,  
§ **8:36.50, 8:37**

Communications Decency Act, § **4:86**

Computers, on-line computer networks,  
§ **4:83 to 4:86.50**

Conflict of laws, § **12:33**

Cubby v. Compuserve decision, § **4:84**

Damages, § **9:55, 9:62**

Decency Act, § **4:86**

Fault, § **3:56, 3:79**

Federal immunity created by Communications Decency Act, § **4:86**

Government agencies, reports to,  
§ **8:36.50, 8:37**

Immunity, § **4:86**

Injurious falsehood, § **11:38**

Intentional publication, § **4:79**

Meaning as defamatory, generally,  
§ **4:77 et seq.**

Negligent publication, § **4:79, 11:48 to 11:51**

Networks, on-line computer networks,  
§ **4:83 to 4:86.50**

Omission, publication through act of,  
§ **4:82**

On-line computer networks, § **4:83 to 4:86.50**

Private facts. Publication of Private Facts (this index)

Prodigy decision, § **4:85**

Publication of Private Facts (this index)

Public Figures (this index)

Repetition by plaintiff, § **4:81**

**PUBLICATION—Cont'd**

Reports to government agencies,  
§ **8:36.50, 8:37**

Will, defamation by, § **4:80**

Workplace (this index)

**PUBLICATION OF PRIVATE FACTS**

Generally, § **10:37 et seq.**

Access cases, § **10:46**

AIDS and outing, § **10:54**

Audio, § **10:39.50**

Butterworth decision, § **10:48**

Confidential relationship, breach of,  
§ **10:40**

Constitutional law restraints

autopsy photographs, § **10:54.50**

Favish Vince Foster case, § **10:54.50**

newsworthiness privilege, autopsy  
photographs, Favish Vince Foster  
case, § **10:54.50**

Constitutional law restrictions, generally,  
§ **10:43 et seq.**

Cox Broadcasting Corp. v. Cohn,  
§ **10:45**

Definition, § **10:47, 10:50**

Disclosure, § **10:38, 10:42, 10:54**

First Amendment standards, § **10:48**

Images, § **10:39.50**

Informational privacy, constitutional  
right, § **10:43.50**

Intrusiveness, balancing against, § **10:52**

Invasion of privacy, generally, § **10:37 et seq.**

Kobe Bryant case, § **10:48.50**

Newsworthiness privilege  
generally, § **10:49 et seq.**

AIDS, § **10:54**

definition, § **10:50**

intrusiveness, balancing against,  
§ **10:52**

nexus requirement, § **10:51**

outing, § **10:54**

passage of time, § **10:53**

public disclosure, § **10:54**

Nexus requirement, § **10:51**

Offensive, § **10:42**

Outing, § **10:54**

Passage of time, § **10:53**

Photographs, § **10:39.50**

Prior restraints, § **10:48.50**

## INDEX

### **PUBLICATION OF PRIVATE FACTS**

#### **—Cont'd**

- Privilege. Newsworthiness privilege, above
- Promise, breach of promise by reporter, § 10:41
- Protest activity involving surveillance and video or photographs, § 10:39.75
- Public disclosure, § 10:38, 10:54
- Public records
  - generally, § 10:44 et seq.
  - access cases, § 10:46
  - Butterworth decision, § 10:48
  - Cox Broadcasting Corp. v. Cohn, § 10:45
  - definition of public record, § 10:47
  - First Amendment standards, § 10:48
- Reasonable person, § 10:42
- Reporter, breach of promise by, § 10:41
- Revenge porn, § 10:40.10
- Sexual abuse cases, inadvertently released material, § 10:48.50
- Video, § 10:39.50

### **PUBLIC CONCERN**

- Intermediate gross irresponsibility standard, § 3:35
- Private figure cases involving matters of public concern, § 3:28

### **PUBLIC CONTROVERSY**

- Limited public figure standard, § 2:22
- Totality of circumstances approach, § 6:57 to 6:59

### **PUBLIC DISCLOSURE**

- Private facts, publication of, § 10:38, 10:42, 10:54

### **PUBLIC DIVISIVENESS**

- Public figures, § 2:38 to 2:41

### **PUBLIC FIGURES**

- Generally, § 2:1 et seq.
- Absolutists, § 2:7
- Acceptance of media attention, § 2:32
- Access to counterspeech, § 2:37
- Access to media rationale, § 2:13
- All Purpose Public Figures (this index)
- Assumption of risk rationale, § 2:14
- Attention of media, § 2:32
- Black opinion, § 2:7

### **PUBLIC FIGURES—Cont'd**

- Bootstrap problem, § 2:25
- Box score, § 2:8
- Constitutional standards, § 3:2
- Contemporaneous reporting vs. historical reporting, § 2:46, 2:47
- Context public figure, § 2:51
- Controversy, § 2:22, 2:26 to 2:28
- Corporations (this index)
- Counterspeech, access to, § 2:37
- Dameron decision, § 2:35
- Divisiveness, public, § 2:38 to 2:41
- Douglas opinion, § 2:7
- Dun & Bradstreet and public official and public figure cases, § 3:22
- Elusive classification problem, § 2:21
- Extension of New York Times to public figures, generally, § 2:4 to 2:8
- Fading of public figure status, § 2:49
- Firestone case, § 2:17
- Flexible solution, § 2:28
- Gertz v. Robert Welch, Inc., § 2:12
- Harlan opinion, § 2:5
- Historical reporting vs. contemporaneous reporting, § 2:46, 2:47
- Hutchinson case, § 2:19
- Influence, plaintiff's efforts to, § 2:42
- Investigative reporting, problems attending, § 2:27
- Involuntary vortex public figure, § 2:33 to 2:36
- Judge, § 2:118
- Justice Clarence Thomas' critique of New York Times, § 2:3.50
- Limited Public Figures (this index)
- Limited purpose concept, § 2:16 to 2:19
- Litigation strategy, § 2:54
- Local all purpose public figure, § 2:52
- Local vortex public figure, § 2:53
- Lohrenz vs. Donnelly, § 2:35.50
- Lower court treatment, § 2:48
- Modern approach, § 2:10 to 2:12
- Multifactor tests, § 2:23
- New York Times Co. v. Sullivan, generally, § 2:1 to 2:3
- Nonparticipants, interests of, § 2:29
- Opinion and fair comment, § 6:65
- Participation, voluntary, § 2:32

**PUBLIC FIGURES—Cont'd**

- Passage of time on public figure status, effect of
  - generally, § 2:44 et seq.
  - contemporaneous reporting vs. historical reporting, § 2:46, 2:47
  - fading of public figure status, § 2:49
  - historical reporting vs. contemporaneous reporting, § 2:46, 2:47
  - lower court treatment, § 2:48
- Preexisting controversy requirement, § 2:26 to 2:28
- Prominence in controversy, plaintiff's, § 2:43
- Publication, extent of
  - generally, § 2:50 et seq.
  - all purpose public figure, local, § 2:52
  - context public figure, § 2:51
  - litigation strategy, § 2:54
  - local all purpose public figure, § 2:52
  - local vortex public figure, § 2:53
- Public controversy and plaintiff involvement, § 2:22
- Public divisiveness, § 2:38 to 2:41
- Relevant factors, § 2:24
- Religious figure, plaintiff found not to be public figures, § 2:67.50
- Response to public attack, status as public figure, § 2:37.50
- Short-lived public interest approach, § 2:9
- Subcategories of public figures, § 2:15
- Summary judgment, § 12:75
- Time. Passage of time on public figure status, effect of, above
- Truth, § 5:4, 5:12
- Voluntary involvement of plaintiff, § 2:30 to 2:32
- Voluntary participation vs. voluntary acceptance of media attention, § 2:32
- Vortex public figures
  - generally, § 2:16 to 2:19
  - involuntary vortex public figures, § 2:33 to 2:36
  - local vortex public figure, § 2:53
- Warren opinion, § 2:6
- Wolston case, § 2:18, 2:40, 2:41

**PUBLIC IMAGE**

- Actual harm to reputation, proof of, § 9:33, 9:34

**PUBLIC INTEREST**

- Interest-related conditional privileges, § 8:58

**PUBLICITY**

- Fantasy sports leagues, § 10:6.30
- Meaning as defamatory, § 4:29
- Media trials, publicity surrounding, § 13:30
- Right of
  - generally, § 10:4 to 10:6
  - fantasy sports leagues, § 10:6.30
  - prior restraints, § 10:6.75

**PUBLIC MATTERS**

- Intrusion, § 10:34
- Talk shows, § 6:94

**PUBLIC OFFICE**

- Limited public figures, § 2:58

**PUBLIC OFFICIALS**

- Generally, § 2:99 et seq.
- Absolute immunity for criticism of public official, § 2:112 to 2:115
- Access to press, policy-making authority and, § 2:108
- Administrative, and military personnel, § 2:106
- Comment on public officials, scope of, § 2:109 to 2:111
- Definition, § 2:99 to 2:102
- Elected officials, § 2:105
- Employees, not all public employees covered, § 2:100
- Fault, § 3:2, 3:22
- Framework for analysis, § 2:111
- Immunity, § 2:112 to 2:115
- Judge, § 2:117
- Judicial, administrative, and military personnel, § 2:106
- Law enforcement personnel, § 2:104
- Malice standard, application of, § 2:110
- Military personnel, § 2:106
- New York Times holding, § 2:113, 2:114
- Non-government employees, § 2:108.50
- Opinion and fair comment, § 6:65
- Policy-making authority and access to press, § 2:108
- School personnel, § 2:107
- Sharon case, § 2:115
- Termination from office, § 2:102

## INDEX

### **PUBLIC OFFICIALS—Cont'd**

Truth, § 5:4, 5:12  
Westmoreland case, § 2:115

### **PUBLIC PARTICIPATION, STRATEGIC LAWSUITS AGAINST**

SLAPP Suits (this index)

### **PUBLIC PROCEEDINGS**

Fair report privilege, § 8:74

### **PUBLIC RECORDS**

Publication of Private Facts (this index)

### **PUBLIC SPEECH**

Group defamation, hate speeches, § 4:66

### **PUBLISHER**

See also Publication (this index)  
All purpose public figures, § 2:91  
Interest-related conditional privileges,  
§ 8:47  
Treating authors separately from  
publishers, litigation, § 12:20.50

### **PUNITIVE DAMAGES**

Generally, § 9:36 et seq.  
Actual damage, § 9:49  
Actual harm, § 9:48  
Common law malice, § 9:44  
Constitutional law, § 9:37  
Dun & Bradstreet, § 9:38  
Eighth Amendment, § 9:40  
Evidentiary standard, § 9:45  
Financial condition of defendant, § 9:47  
First Amendment, § 9:39  
Gertz case, § 9:37  
Injurious falsehood, § 11:46  
Jurisdictions that do not permit punitive  
damages, § 9:51  
Malice, § 9:44  
Nominal damages, § 9:9  
Other factors considered in assessing  
punitive damages, § 9:46  
Reasonable proportionality to actual  
damages, § 9:49  
Retraction, § 9:50, 9:84  
State law, generally, § 9:41 et seq.  
Tort principles, § 9:42  
Vicarious liability, § 3:117  
Workplace, § 15:25

### **PURE EMOTIONAL DISTRESS RECOVERY**

Generally, § 11:32

### **PURE OPINION**

Generally, § 6:28 to 6:31

### **QUALIFIED FIRST AMENDMENT PRIVILEGE**

Confidential source, § 12:57 to 12:59.50  
Judith Miller litigation, § 12:59.50

### **QUALIFIED IMMUNITY**

Confidential source, § 12:62

### **QUASI-JUDICIAL FUNCTION**

Generally, § 8:15

### **QUESTIONS OF LAW**

Judicial proceedings, participants in,  
§ 8:18

### **QUOTES**

Meaning as defamatory, § 4:35  
Negligence, § 3:106

### **RACIAL DISPARAGEMENT**

Group defamation, § 4:51, 4:52

### **REASONABLE CONSTRUCTION RULE**

Meaning as defamatory, § 4:21

### **REASONABLE PERSON**

False light invasion of privacy, § 10:12  
Nondefamatory statement be offensive,  
§ 10:13  
Publication of private facts, § 10:42

### **REBUTTAL**

Retractions, § 3:81  
Sources and tips, reliance on, § 3:64

### **RECHARACTERIZING HARM**

Equitable relief, § 9:89

### **RECIPIENT APPROACH**

Meaning as Defamatory (this index)

### **RECKLESSNESS**

Abuse of privilege, § 8:65  
Emotional distress, § 11:4  
Sources and tips, reliance on, § 3:63

### **RECORDS**

Destruction of by reporters, § 13:15

**RECURRING NEGLIGENCE**

Generally, § 3:98

**REFERENCE**

Accidental reference, § 4:42

Captions linking plaintiff to defamation, § 4:40.20

Group defamation, § 4:70

Name, references need not be by, § 4:40, 4:40.20, 4:40.50

Photographs linking plaintiff to defamation, § 4:40.20

**REFERENCE LETTERS**

Workplace, § 15:3

**RELATIONAL HARM**

Group defamation, hate speeches, § 4:65

**RELATIONAL INTERESTS**

Generally, § 1:22

**RELEVANCE**

In personam jurisdiction, § 12:15, 12:16

Judicial proceedings, participants in, § 8:13

Limited public figure standard, § 2:24

**RELIABILITY OF SOURCE**

Obvious sources, failure to check, § 3:56

**RELIANCE ON SOURCES AND TIPS**

Actual Malice (this index)

Confidential source, § 12:66

Negligence, § 3:100 to 3:102

**RELIGIOUS ORGANIZATIONS**

All purpose public figures, § 2:88

Group defamation, § 4:51, 4:52

Limited public figures, § 2:67

Opinion and fair comment, First Amendment analysis, § 6:74, 6:74.50

Public figure, plaintiff found not to be, § 2:67.50

Talk shows, § 6:97

**REMOVAL OF ACTION**

Federal, § 12:43

First Amendment, § 12:46

State court to federal court, § 12:42, 12:43

**RENWICK CASE**

False light invasion of privacy, § 10:28

**REPETITION**

Equitable relief, § 9:88

Publication, § 4:81

Substantial truth test, § 5:18, 5:29

**REPLY, RIGHT OF**

Equitable relief, § 9:90 to 9:92

**REPORTER**

News Gathering (this index)

Promise, breach of, § 10:41

**REPORTER'S PRIVILEGE**

Confidential source, § 12:62.50

Neutral reportage privilege. Republication (this index)

Non-confidential material, § 12:62.60

**REPORTS AND REPORTING**

Actual Malice (this index)

Publication, reports to government agencies, § 8:36.50, 8:37

Workplace defamation, privileges arising from legal reporting duties, § 15:30.50

**REPUBLICATION**

Generally, § 4:87 et seq.

Actual malice, § 3:85

Belief, § 4:88

Defense, § 4:90

Disbelief, expressions of, § 4:88

Edwards v. National Audubon Society, § 4:98

Fault still required, § 4:89

Internet publication, single publication rule, § 4:93.50, 4:93.60, 4:93.70

Judicial acceptance of concept, § 4:100

Liability for, generally, § 4:87 et seq.

Meaning as defamatory, generally, § 4:87 et seq.

Neutral reportage privilege generally, § 4:96 et seq.

Edwards v. National Audubon Society, § 4:98

judicial acceptance of concept, § 4:100

judicial rejection of concept, § 4:100.50

private figure suits, § 4:101

Originator, liability of, § 4:91

Primary and secondary publishers, distinguishing, § 4:92

## INDEX

### **REPUBLICATION—Cont'd**

- Private figure suits, § 4:101
- Privileges. Neutral reportage privilege, above
- Procured publication, § 4:95
- Secondary publishers, § 4:92
- Single Publication Rule (this index)
- Vanity presses as media publishers, § 4:92.50
- Wire service defense, § 4:90

### **REPUTATION**

- Generally, § 1:21 et seq.

### **RES IPSA LOQUITUR**

- Negligence, § 3:94

### **RESPONDEAT SUPERIOR**

- Vicarious Liability (this index)

### **RESPONSE TO PUBLIC ATTACK**

- Status as public figure, § 2:37.50

### **RESTATEMENT (SECOND)**

- Professional negligence, § 3:91
- Pure opinion and mixed opinion generally, § 6:28 et seq.
  - compromise position, dishonestly maintained evaluative opinions, § 6:37
  - deductive opinions, § 6:33
  - dishonestly maintained evaluative opinions, § 6:35 to 6:37
  - evaluative opinions, § 6:34 to 6:37
  - evidence, dishonestly maintained evaluative opinions, § 6:36
  - informational opinions, § 6:38

### **RESTAURANT AND FOOD**

#### **CRITIQUES**

- Corporations, food reviews, § 2:98.50
- Opinion and fair comment, § 6:88

### **RESTAURATEURS**

- Limited public figures, § 2:71.50

### **RETRACTIONS**

- Generally, § 9:70 et seq.
- Actual Malice (this index)
- Aspects of a retraction, § 9:80
- Common law, § 9:71
- Compulsory retraction, § 9:90 to 9:92
- Content of, § 9:81
- Damages, generally, § 9:66, 9:70 et seq.

### **RETRACTIONS—Cont'd**

- Effect of, § 9:79
- Equitable relief, § 9:90 to 9:92
- Form, § 9:82
- Media vs. nonmedia approach, § 9:74
- Notice provisions, § 9:75 to 9:78
- Placement, § 9:82
- Prerequisite to suit, notice as, § 9:77, 9:78
- Proliferation of statutes, § 9:72
- Punitive damages, § 9:50, 9:84
- Timing, § 9:76, 9:83
- Variations in statutory approaches, § 9:73

### **REVENGE PORN**

- Publication of private facts, § 10:40.10

### **REVIVAL OF STORY**

- Carroll Rosenbloom story, reviving of, § 6:85

### **RHETORICAL HYPERBOLE**

- Meaning as Defamatory (this index)

### **RICE v. PALLADIN PRESS**

- Aiding and abetting criminal activity, § 11:55

### **RIDICULE**

- Opinion and fair comment, § 6:90

### **RISK**

- Public figures, assumption of risk rationale, § 2:14
- Truth as defense, § 5:36

### **ROACH v. STERN**

- Talk shows, § 6:98

### **ROSENBLUM**

- Fault, § 3:21

### **SANCTIONS**

- Confidential source, § 12:63 to 12:66

### **SCHOOL PERSONNEL**

- Public officials, § 2:107

### **SCIENTIFIC DISPUTES**

- Opinion and fair comment, § 6:67.60

### **SECLUSION**

- Defined, § 10:34, 10:34.50

### **SECONDARY PUBLISHERS**

- Republication, § 4:92

**SECONDARY SOURCES**

Fault, § 3:60

**SECRET PROCEEDINGS**

Fair report privilege, § 8:71

**SECURING THE PROTECTION OF  
OUR ENDURING AND  
ESTABLISHED  
CONSTITUTIONAL HERITAGE  
ACT**

SPEECH Act, conflict of laws, foreign judgments, § 12:41.30

**SELF-DESTRUCTIVE BEHAVIOR**

Negligent publication, inducement of self-destructive behavior, § 11:50

**SELF-FULFILLMENT FUNCTION**

Freedom of speech, § 1:30

**SEQUENCE OF EVENTS**

Misleading sequencing of events in story, § 3:74

**SETTLEMENT**

Prior recoveries or settlements, § 9:63

**SEVERE EMOTIONAL DISTRESS**

Generally, § 11:6

**SEXUAL ABUSE CASES**

Publication of private facts, inadvertently released material, § 10:48.50

**SEXUAL HARASSMENT**

Emotional distress, § 11:21

**SHARON v. TIME, INC.**

Obvious sources, failure to check, § 3:53

Public officials, § 2:115

**SHOCK JOCKS**

Generally, § 6:98

**SHORT-LIVED PUBLIC INTEREST  
APPROACH**

Public figures, § 2:9

**SINGLE INSTANCE RULE**

Meaning as defamatory, § 4:23

**SINGLE PUBLICATION RULE**

Conflict of laws, § 12:33

Republication generally, § 4:93

**SINGLE PUBLICATION RULE**

—Cont'd

Republication—Cont'd  
hyperlinks to previously published defamatory material, § 4:93.60

Internet publication, § 4:93.50  
material and substantive alteration, liability for, § 4:93.70

**SINISTER MEETING**

Joe Namath's sinister meeting with Lou Michaels, § 6:86

**SKELETONS IN CLOSET**

Attorneys, § 13:19, 13:20

**SLANDER**

Libel distinction, § 7:31

**SLANDER PER QUOD**

Libel per quod distinguished, § 7:25

**SLANDER PER SE**

Generally, § 7:10 et seq.

Allegations tending to injure another in trade, business, profession, or office, § 7:14 to 7:16

Business, allegations tending to injure, § 7:14 to 7:16

Chastity, unchastity, § 7:18

Common law, generally, § 7:10 et seq.

Criminal conduct, § 7:11 to 7:13

Disease, loathsome disease, § 7:17

Libel per quod, § 7:24

Loathsome disease, § 7:17

Moral turpitude, § 7:13

Nexus requirements, § 7:16

Office, allegations tending to injure, § 7:14 to 7:16

Profession, allegations tending to injure, § 7:14 to 7:16

Trade, allegations tending to injure, § 7:14 to 7:16

Unchastity, § 7:18

**SLAPP SUITS**

Damages

generally, § 9:107

media defendants, § 9:108

variation in statutes, § 9:109

Discovery in SLAPP motions, § 12:68.50

Federal Rules of Civil Procedure, potential conflicts, § 9:110

## INDEX

### **SLAPP SUITS—Cont'd**

- Statutes and choice of law conundrums, § 9:111
- Summary judgment and SLAPP motions, § 12:75.50

### **SLOPPY JOURNALISM**

- Literary and artistic criticism, § 6:81

### **SNYDER v. PHELPS**

- Emotional distress, § 11:13.50

### **SOCIAL ACTIVITIES**

- All purpose public figures, § 2:84

### **SOCIAL CONTEXT**

- Totality of circumstances approach, § 6:55

### **SOCIAL INTERESTS**

- Freedom of speech, § 1:29

### **SOCIAL MEDIA**

- Actual damages, § 9:34.50
- Opinion and fair comment, § 6:70.50
- Reputation protection, age of internet and social media, § 1:27.50

### **SOCIAL SCIENCE EVIDENCE**

- Meaning as defamatory, § 4:37

### **SOLICITATION**

- In personam jurisdiction, § 12:22

### **SONG LYRICS**

- Meaning as defamatory, § 4:34

### **SOURCES AND TIPS, RELIANCE ON**

- Reliance on Sources and Tips (this index)

### **SOUTH AFRICAN LAW**

- Generally, § 1:9.90

### **SOVEREIGN IMMUNITY**

- Generally, § 8:37

### **SPECIAL CONVINCING CLARITY STANDARD**

- Fault, § 3:25

### **SPECIAL DAMAGES**

- Generally, § 9:35
- Pleading considerations, § 12:50

### **SPECIAL HARM**

- Generally, § 7:1 et seq.
- Actual harm, § 7:2, 7:3, 7:5

### **SPECIAL HARM—Cont'd**

- Common law, § 7:9
- Constitutional law, § 7:6 to 7:8
- Defamation per se, judicial arguments favoring retention of traditional rules, § 7:35
- Dun & Bradstreet, § 7:6 to 7:8
- Elimination of rules, § 7:32
- Gertz, § 7:6 to 7:8
- Injurious falsehood, § 11:39
- Presumed harm, § 7:2, 7:4, 7:5
- State law, § 7:8
- Traditional defamation per se rules, judicial arguments favoring retention, § 7:35
- Workplace, § 15:18

### **SPEECH ACT**

- Conflict of laws, foreign judgments, § 12:41.30

### **SPEECHES**

- Dun & Bradstreet and commercial speech doctrines, § 2:95
- Emotional Distress (this index)
- False light invasion of privacy, § 10:11
- Freedom of Speech (this index)
- Group Defamation (this index)
- Totality of circumstances approach, § 6:55

### **SPORTS FIGURES**

- Fantasy sports leagues, § 10:6.30
- Limited public figures, § 2:62 to 2:65
- Right of publicity, § 10:6.30

### **SPOUSES**

- Absolute privileges, § 8:35

### **ST. AMANT v. THOMPSON**

- Actual malice, § 3:40

### **STATE LAW AND COURTS**

- Confidential source, § 12:60 to 12:62
- Constitutional framework, freedom from, § 13:25
- Fault, § 3:27 to 3:31
- Independent and adequate state grounds, § 13:29
- In personam jurisdiction, § 12:19
- Milkovich, lower court interpretations of, § 6:25
- Punitive Damages (this index)

**STATE LAW AND COURTS—Cont'd**

- Removal from state court to federal court, § 12:42, 12:43
- Special harm, § 7:8
- Subject matter jurisdiction, § 12:2

**STATE LEGISLATORS**

- Generally, § 8:24

**STATE OFFICIALS**

- Common law privileges, § 8:30 to 8:33

**STATE OF MIND**

- Actual malice, § 3:44

**STOLEN VALOR ACT**

- Group defamation, § 4:70.50

**STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION (SLAPP)**

- SLAPP Suits (this index)

**STRICT LIABILITY**

- Generally, § 3:7 et seq.
- Cause of action, § 1:7
- Constitutional standards, § 3:5
- Dun & Bradstreet, § 3:8, 3:17
- Identity, § 4:41
- Media, rejection of media/nonmedia distinction, § 3:9
- Milkovich and media/nonmedia distinction, § 3:10
- Public concern, matters of, generally, § 3:7 et seq.
- Rejection of media/nonmedia distinction, § 3:9

**STRIKING PLEADINGS**

- Confidential source, § 12:65

**SUBJECT MATTER JURISDICTION**

- Generally, § 12:1 et seq.
- Complete diversity, rule of, § 12:7
- Diversity of citizenship, § 12:5 to 12:8
- Federal courts, § 12:3 to 12:7
- Manufacture diversity, attempts to, § 12:8
- Media cases, § 12:6
- Nonmedia cases, § 12:5
- State courts, § 12:2

**SUBSTANTIAL ACCURACY TEST**

- Fair report privilege, § 8:76

**SUBSTANTIAL TRUTH**

- Generally, § 5:14 et seq.
- Attorneys, § 13:20
- Falsity by omission of material facts, § 5:17.50
- Fault requirements, relationship to, § 5:21
- Generalized defamatory charges, § 5:16, 5:22
- Minor inaccuracies, § 5:17
- Repetition of another's defamation, § 5:29
- Repetition of another's defamatory communication, § 5:18
- Specific defamatory charges, § 5:15, 5:19 to 5:21
- Workplace, § 15:20

**SUBSTANTIVE RULES**

- Damages, § 9:2

**SUMMARY JUDGMENT**

- Generally, § 12:69 et seq.
- Actual malice obstacle, § 12:75
- Burger footnote in *Hutchinson v. Proxmire*, § 12:71
- Calder, analogy to, § 12:73
- Defeating summary judgment motion in public figure cases, § 12:75
- Dun & Bradstreet, § 12:77
- Evidentiary hearing, § 2:121
- Fault requirements, clear and convincing evidence, § 3:25.50
- First Amendment tensions, § 12:70
- Hutchinson v. Proxmire*, Burger footnote in, § 12:71
- Keeton, analogy to, § 12:73
- Negligence standard cases, § 12:76, 12:77
- Neutrality principle, § 12:72 to 12:74
- Preference, § 12:74
- Public figures, § 12:75
- SLAPP motions, § 12:75.50
- Status on motions for summary judgment, determining, § 2:119 to 2:121

**SUPERIOR STATE OFFICIALS**

- Common law privileges, § 8:32

**SUPREME COURT**

- Actual malice test, generally, § 3:37 et seq.

## INDEX

### **SUPREME COURT—Cont'd**

- First Amendment and media/nonmedia speakers, § 3:16
- In personam jurisdiction, § 12:16
- Opinion and Fair Comment (this index)

### **“SURPRISE TELEVISION”**

- Aiding and abetting criminal activity, § 11:57

### **SURREPTITIOUS**

#### **NEWSGATHERING**

- Invasion of privacy, § 10:55, 10:56

### **SURREPTITIOUS SURVEILLANCE**

- Intrusion, media and government partnership, § 10:36.70

### **SURVIVAL**

- False light invasion of privacy, § 10:27

### **SUSPICION TEST**

- Group defamation, § 4:71

### **SUZUKI v. CONSUMERS UNION**

- Injurious falsehood, § 11:40.50

### **SYMBOLISM PRINCIPLE**

- Group defamation, hate speeches, § 4:57

### **TALK SHOWS**

- Generally, § 6:92 et seq.
- Banter, § 6:92
- Emotional distress, intentional infliction of, § 6:95
- Hustler standard of private figures, § 6:95
- Intentional infliction of emotional distress, § 6:95
- Opinion and fair comment, generally, § 6:92 et seq.
- Private figures, Hustler standard of, § 6:95
- Public/private distinction, § 6:94
- Religious broadcasts, § 6:97
- Roach v. Stern, § 6:98
- Shock jocks, § 6:98

### **TAPES**

- Destruction of by reporters, § 13:15

### **TAVOULAREAS HOLDING**

- Limited public figures, § 2:70

### **TEASES**

- Meaning as defamatory, § 4:29

### **TERMINATION FROM OFFICE**

- Public officials, § 2:102

### **TERMINOLOGY**

- Damages, § 9:4
- Minor inaccuracies in detail, § 5:24
- Negligence, § 3:107

### **TERRITORIALIST APPROACHES**

- Conflict of laws, § 12:31 to 12:34

### **THIRD-PARTY DISCOVERY**

- Confidential source, protective orders and third-party discovery, § 12:66.50

### **THIRD PERSONS**

- Interest-related conditional privileges, § 8:48
- Intrusion and trespass in news gathering, § 10:36.60
- Substantial truth test, § 5:18, 5:29
- Workplace, § 15:3, 15:14.50

### **TIPS**

- Reliance on Sources and Tips (this index)

### **TORTIOUS INTERFERENCE WITH CONTRACT**

- Confidential source, § 12:68

### **TORT PRINCIPLES**

- Defamation rules, § 9:43
- Punitive damages, § 9:42

### **TOTALITY OF CIRCUMSTANCES APPROACH**

- Opinion and Fair Comment (this index)

### **TRADE**

- Slander per se, § 7:14 to 7:16

### **TRADE NAMES**

- Appropriation and invasion of privacy, § 10:4.50

### **TRAFFICKING IN TRUTHFUL INFORMATION**

- Barnticki v. Vopper decision, illegally intercepted electronic material, § 10:56.70

### **TRAINING OR VETTING PROCEDURES**

- Negligence, § 3:110.50

**TRANSFER**

Generally, § 12:42, 12:44  
 First Amendment, § 12:46

**TRESPASS IN NEWS GATHERING**

Intrusion, § 10:33 to 10:36.60

**TRIALS**

Evidence of truthful character, § 12:87  
 Publicity surrounding media trials,  
 § 13:30

**TRUTH**

Generally, § 5:1 et seq.  
 American position, § 5:3  
 Barnsticki v. Vopper decision, trafficking  
 in truthful information, § 10:56.70  
 Burden of proof, § 5:11 to 5:13  
 Common law rules, § 5:2  
 Constitutional defense, generally, § 5:1  
 et seq.  
 Construction and interpretation, *Masson  
 v. New Yorker Magazine, Inc.*,  
 § 5:27  
 Cox Broadcasting case, § 5:7  
 Defense, generally, § 5:1 et seq.  
 Dun & Bradstreet, § 5:6, 5:10  
 Early common law rules, § 5:2  
 Embellishments, § 5:25  
 Errors, § 5:24  
 Fault requirements, relationship to,  
 § 5:21  
 Fault rule, impact of, § 5:33  
 Firestone case, § 5:8  
 Generalized defamatory charges, § 5:16,  
 5:22  
 Gertz case, § 5:6  
 Group defamation, criminalization of  
 mere “lies,” § 4:70.50  
 Literary embellishments, § 5:25  
*Masson v. New Yorker Magazine, Inc.*,  
 § 5:26, 5:27  
 Minor inaccuracies in detail  
 generally, § 5:23 et seq.  
 construction and interpretation, *Masson  
 v. New Yorker Magazine,  
 Inc.*, § 5:27  
 literary embellishments, § 5:25  
*Masson v. New Yorker Magazine,  
 Inc.*, § 5:26, 5:27  
 substantial truth test, § 5:17  
 terminology, errors in, § 5:24

**TRUTH—Cont’d**

Opinion and fair comment, truth of  
 underlying predicate facts,  
 § 6:43.50  
*Philadelphia Newspapers, Inc. v. Hepps*,  
 § 5:9  
 Private figure cases  
 generally, § 5:5 et seq.  
 burden of proof, § 5:13  
 Cox Broadcasting case, § 5:7  
 Dun & Bradstreet case, § 5:6  
 Firestone case, § 5:8  
 Gertz case, § 5:6  
*Philadelphia Newspapers, Inc. v.  
 Hepps*, § 5:9  
 Psychological cost to plaintiff, § 5:35  
 Public figure cases, § 5:4, 5:12  
 Public official cases, § 5:4, 5:12  
 Repetition of another’s defamation,  
 § 5:29  
 Repetition of another’s defamatory com-  
 munication, § 5:18  
 Risks, § 5:36  
 Specific defamatory charges, § 5:15,  
 5:19 to 5:21  
 Stolen Valor Act, § 4:70.50  
 Substantial Truth (this index)  
 Terminology, errors in, § 5:24  
 Trials and evidence, § 12:87  
 Workplace, § 15:19 to 15:21

**TWITTER**

Opinion and fair comment, § 6:70.50

**TWO-CLASS THEORY**

Group defamation, hate speeches, § 4:61

**ULTIMATE FACTS**

Appeal and review, § 12:86

**UNCHASTITY**

Slander per se, § 7:18

**UNDERCOVER REPORTING**

Invasion of privacy, § 10:56

**UNREASONABLE RELIANCE ON  
SOURCES**

Negligence, § 3:100 to 3:102

**VANITY PRESSES**

Republication, § 4:92.50

**VERBAL ABUSE**

Meaning as defamatory, § 4:7 to 4:10

## INDEX

### VERDICTS

Directed Verdicts (this index)

### VERIFIABILITY

Obvious sources, failure to check,  
§ 3:55

Opinion and fair comment, § 6:44 to  
6:46, 6:53

### VETTING PROCEDURES

Negligence, § 3:110.50

### VICARIOUS DEFAMATION

Meaning as defamatory, § 4:74

### VICARIOUS INVASION OF PRIVACY

Generally, § 10:3

### VICARIOUS LIABILITY

Generally, § 3:112 et seq.

Computer databases, § 3:118

Damages, punitive damages, § 3:117

Editorial or policy-making responsibility  
of employee, § 3:115

Employee, editorial or policy-making  
responsibility of, § 3:115

Employee's fault imputed to employer,  
§ 3:114

Policy-making responsibility of  
employee, § 3:115

Punitive damages, § 3:117

Workplace, § 15:22 to 15:25

### VIDEO GAMES

Invasion of privacy, games based on real  
people, § 10:6.40

### VIDEOS

Protest activity involving surveillance  
and video or photographs,  
§ 10:39.75

Publication of private facts, § 10:39.50

### VIOLENT MATERIAL

Aiding and abetting criminal activity,  
§ 11:56, 11:58

Negligent publication, violent material  
and children, § 11:50.50

### VISUAL DEFAMATION

Meaning as defamatory, § 4:30 to 4:32

### VOLKSWAGEN

In personam jurisdiction, § 12:14

### VOLUNTARY INVOLVEMENT OR PARTICIPATION

Public figures, § 2:30 to 2:32

### VOLUNTEERED INFORMATION

Interest-Related Conditional Privileges  
(this index)

### “VORTEX” PUBLIC FIGURES

Generally, § 2:16 to 2:19

Involuntary vortex public figures, § 2:33  
to 2:36

Local vortex public figure, § 2:53

### WALKER, JUSTICE

Actual malice, § 3:39

Constitutional law, § 1:18

### WARMED OVER HOT STUFF

Literary and artistic criticism, § 6:84

### WARREN OPINION

Public figures, § 2:6

### WESTMORELAND v. CBS

Public officials, § 2:115

Reporting and editing process, § 3:70

### WILL, DEFAMATION BY

Publication, § 4:80

### WIRE SERVICE

Republication, § 4:90

Sources and tips, reliance on, § 3:61

### WITNESSES

Judicial proceedings, participants in,  
§ 8:10

Legislative proceedings, participants in,  
§ 8:26

### WOLSTON CASE

Public figures, § 2:18, 2:40, 2:41

### WORKERS' COMPENSATION

Workplace, defamation in, § 15:34

### WORKPLACE

Generally, § 15:1 et seq.

Absolute privileges, § 15:29

Actual malice, § 15:31

Burden of proof, § 15:21

Causation, § 15:32

Civil rights, government defamation as  
violation of, § 15:33

**WORKPLACE—Cont'd**

- Common law requirements, § 15:28 to 15:30.50
- Compelled self-publication, § 15:10 to 15:14.60
- Compelled self-publication, generally, § 15:10 et seq.
- Competing interests, § 15:14
- Conditional privileges, § 15:30
- Constitutional requirements, § 15:27
- Damages, § 15:25, 15:32
- Fact/opinion distinction, § 15:17
- Falsity
  - burden of proof, § 15:11.50
  - clear and convincing evidence standard, § 15:11.50
- Fault considerations
  - generally, § 15:26 et seq.
  - absolute privileges, § 15:29
  - actual malice, § 15:31
  - common law requirements, § 15:28 to 15:30.50
  - conditional privileges, § 15:30
  - constitutional requirements, § 15:27
  - privileges, § 15:29 to 15:31
- Harm rules, § 15:18
- Individual employee, action against, publication by one corporate employee to another, § 15:9.50
- Interest-related conditional privileges, § 8:53
- Internal communications, § 15:4, 15:7 to 15:9.50
- Legal reporting duties, privileges arising from, § 15:30.50
- Lewis v. Equitable Life decision, § 15:13
- Libel/slander distinction, § 15:24
- Meaning as defamatory, § 15:15 to 15:17
- Minority no-publication position, § 15:8
- Minority publication position, § 15:9
- Opinion as defamatory, § 15:15 to 15:17

**WORKPLACE—Cont'd**

- Per quod rules, § 15:18
  - Per se rules, § 15:18
  - Privileges, § 8:53, 15:29 to 15:31
  - Publication
    - generally, § 15:6 et seq.
    - between two corporate employees, action against individual employee, § 15:9.50
    - compelled self-publication, generally, § 15:10 to 15:14.60
    - competing interests, § 15:14
    - internal communications, § 15:7 to 15:9.50
  - Lewis v. Equitable Life decision, § 15:13
  - minority no-publication position, § 15:8
  - minority publication position, § 15:9
  - repetition to third party, § 15:14.50
  - Public officials, § 2:100
  - Punitive damages, § 15:25
  - Reference letters, § 15:3
  - Repetition to third party, § 15:14.50
  - Reporting duties, privileges arising from, § 15:30.50
  - Respondeat superior, § 15:22 to 15:25
  - Special harm rules, § 15:18
  - Substantial truth, § 15:20
  - Third parties, communications to, § 15:3
  - Third party, repetition to, § 15:14.50
  - Truth, § 15:19 to 15:21
  - Vicarious liability, § 3:114, 3:115, 15:22 to 15:25
  - Workers' compensation statutes, § 15:34
- WORLD-WIDE VOLKSWAGEN FORMULATION**
- In personam jurisdiction, § 12:14
- WRITERS**
- All purpose public figures, § 2:87
  - Limited public figures, § 2:66