

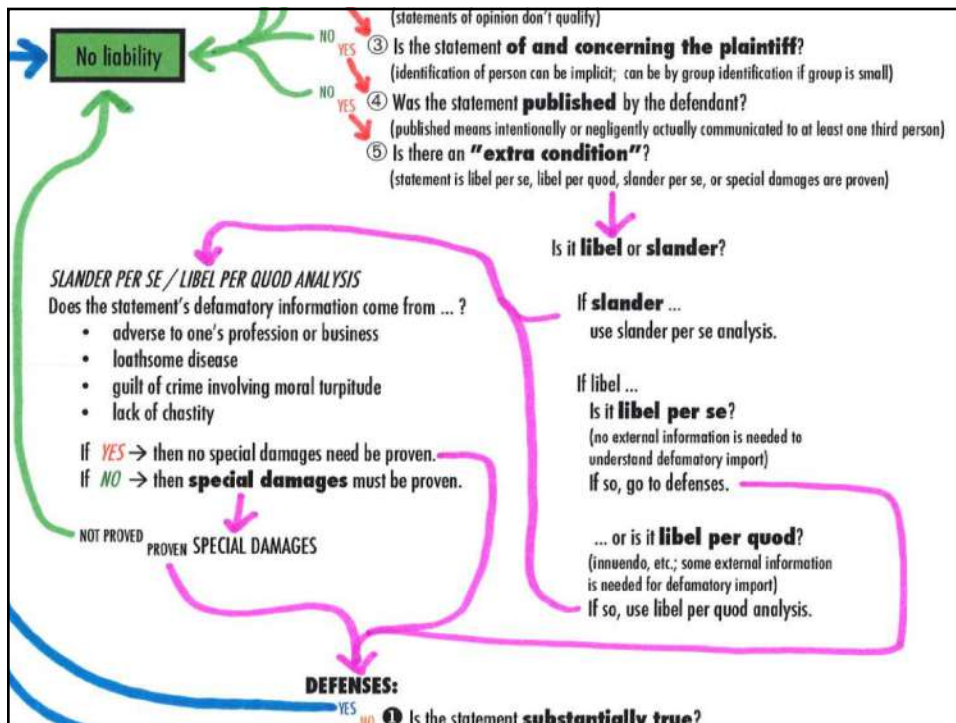


Defamation 6: Slander Per Se, Libel Per Quod, Libel Per Se

Torts
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Slander Per Se, Libel Per Quod, Libel Per Se

Libel vs. Slander

- It's all "defamation."
- Why does it matter whether it is "libel" or "slander"?
 - It's the first step in the analysis to see if there is an extra element of special damages that is required as part of the prima facie case.

Libel vs. Slander

- The distinction between libel and slander differs among jurisdictions.
- A generalization:
 - slander is an oral utterance
 - libel is a more permanent expression, such a writing, illustration, or photo
- Another generalization:
 - sound → slander
 - sight → libel

Libel vs. Slander

Here's a good question:

- A message written in sand on the beach - is that libel or slander?

Libel vs. Slander

Here's a close question
that actually matters:

- Radio or TV broadcasting -
is that libel or slander?

Jurisdictions vary.

Television and radio broadcasting

California → slander if by radio

New York → libel

Alabama → libel

Georgia → “defamacast”
(per se, so essentially libel)

Texas → libel if from a script,
slander if ad-libbed

Libel vs. Slander

Here's another close question that actually matters:

- Something posted on the internet - is that libel or slander?

Largely unanswered.

Online

California → libel

New Jersey → libel

Unresolved and debated in many places elsewhere

Libel vs. Slander

No distinction between the two in some states:

- Illinois
- Louisiana
- Virginia

The Per Se Categories

- Adverse to one's profession or business
- Loathsome disease (syphilis, leprosy)
- Guilt of crime involving moral turpitude
- Lack of chastity

Some examples of crimes that have been considered to be “of moral turpitude”

- murder
- voluntary manslaughter
- theft offenses
- forgery
- kidnapping
- mayhem
- rape
- fraud
- spousal abuse
- child abuse
- driving under the influence

Lack of Chastity

- By statute, includes male and female plaintiffs in Michigan