



Q Example: Business Law

Search

ABOUT
OUR TEAM
PRACTICE AREAS
RESULTS
NEWS
LOCATIONS
RESOURCES

[Cranfill Sumner LLP](#) > [Resources](#) > [Business Law](#) > Defamation and Reputation Management in the Digital Age

Defamation and Reputation Management in the Digital Age

August 28, 2024 | By [Vince Eisinger](#)

Co-authored by [Vince Eisinger](#) and [Sameer Somal](#)

I. INTRODUCTION

Defamation is the act of communicating false statements about a person that injures their reputation.

Legal protections for a person's reputation go back to common law and were well developed over the past two centuries. However, the emergence of the internet has fundamentally altered the [legal landscape](#) surrounding defamation. The speed and ease of online communication coupled with its global reach and permanence have created ideal conditions for defamatory content to spread and cause harm. Understanding the principles of defamation in this new digital age is crucial, as the online environment presents unique challenges that necessitate a paradigm shift in how we approach the issue.

II. THE ELEMENTS OF DEFAMATION

To successfully sue for defamation, a plaintiff must establish several key elements. First, the statement in question must be a false statement presented as fact. Opinions, even if offensive, are generally not considered defamatory. Second, the statement must be communicated or published to a third party. Communication with the plaintiff alone does not constitute defamation. Third, the plaintiff must demonstrate that the statement caused harm to his or her reputation. Finally, the plaintiff needs to prove some level of fault on the part of the defendant. This could range from negligence (lacking reasonable care in avoiding the publication of a false statement) to actual malice (knowingly publishing a false statement or acting with reckless disregard for the truth).

The distinction between libel and slander is another essential element of defamation. *Libel* refers to defamation in written form, such as articles, emails, and social media posts. *Slander*, meanwhile, is defamation communicated through spoken words. While the elements of a defamation claim remain largely the same for libel and slander, historically libel has been considered more harmful, given its permanence.

III. THE EMERGENCE OF ONLINE DEFAMATION

The internet has fundamentally altered the way defamation occurs and its potential consequences. Several key features of the online environment significantly exacerbate the problem:

- **Speed and Ease of Publication:** The internet allows anyone to publish information instantaneously and with minimal effort. This ease of dissemination stands in stark contrast to traditional media such as newspapers, where publishing often involves editorial oversight and fact-checking.
- **Global Reach and Permanence:** Defamatory content on the internet can instantly reach a global audience. Furthermore, once posted online, information can be extremely difficult to remove completely, even if retracted. This permanence creates a lasting record of the defamatory statement, potentially causing ongoing harm to the victim's reputation.
- **Difficulty of Retracting Defamatory Statements:** Unlike traditional media where retractions can be printed or broadcast to counter the original defamatory statement, online retractions are generally less effective. Information can be easily copied and redistributed, making it challenging to fully erase the defamatory content. Moreover, as defamatory spreads over various social media and other platforms, even trying to get a retraction can be impossible.

IV. EXPLORING DEFAMATION IN TRADITIONAL AND ONLINE SPACES:

While traditional defamation involves published statements, online defamation spans social media posts to entire websites. The speed and permanence of digital content amplify potential harm. Understanding these gradations is essential for safeguarding reputations and steering legal frameworks in an era where information travels swiftly and leaves lasting impressions. Below are selected case examples aptly describing reputation issues stemming from both traditional and online defamation.

- **Defamation in the Sewing Machine Market: *Badame v. Lampke*, 242 N.C. 755, 89 S.E.2d 466 (N.C. 1955)**

In the sewing machines market in Charlotte, two business competitors, the plaintiff and defendants, clashed over sales. The plaintiff dealt with Royal and Edison machines, while the defendant specialized in Singer machines. In a phone conversation with a customer who switched from Singer to Edison, the defendant implied that the plaintiff was involved in dishonest business practices, damaging their reputation.

The court ruled in favor of the plaintiff, stating that the defamatory remarks implied unethical conduct, causing significant harm to their business reputation. This case highlights the legal repercussions of spreading false and harmful statements in traditional defamation.

- **Traditional Defamation in Plastic Surgery Consultations: *Bongiovi v. Sullivan*, 122 Nev. 556, 138 P.3d 433 (Nev. 2006)**

Jones consulted with plastic surgeons Bongiovi and Sullivan for cosmetic procedures. During her

consultation with Bongiovi, he falsely claimed that Sullivan's negligence led to a patient's death, damaging Sullivan's professional reputation. Bongiovi's office assistant reiterated these false statements when contacted by Jones.

The court awarded Sullivan \$250,000 in punitive damages, recognizing the significant harm caused to his business and emotional well-being. This amount was deemed reasonable and proportionate to the harm suffered, reflecting the seriousness of Bongiovi's actions.

- **Cyber Libel Case: *Cohen v. Hansen*, Case No. 2:12-CV-1401 JCM (PAL) (D. Nev. Apr. 27, 2016)**

Plaintiffs Steven Cohen and CAM sued defendants led by Hansen for creating a defamatory website that likened them to the fraudster Bernie Madoff. Cohen testified to substantial losses: CAM lost a \$21 million deal, Cohen faced insurance challenges, a client withdrew a large investment, and Cohen spent heavily on SEO to mitigate the site's impact.

The jury ruled for Cohen, awarding \$35.3 million compensatory and \$3 million punitive damages. The judge imposed injunctions barring republishing, ordering the site's takedown, and transferring domain names to Cohen. Economic harm evidence supported damages.

- **Online Defamation via Website: *Rombom v. Weberman* 309 A.D.2d 844 (N.Y. App. Div. 2003)**

Defendants A.J. Weberman and Mordechai Levy, associated with the Jewish Defense Organization, Inc., operated websites containing defamatory statements about plaintiff Steven Rombom

The jury ruled in favor of the plaintiffs, awarding \$8,510,000 in damages for defamation. They also issued a permanent injunction requiring the removal of defamatory content from the defendants' websites and prohibited further publication of such statements.

V. CASE STUDIES

As the English moral philosopher Joseph Hall said, "A reputation once broken may be repaired, but the world will always keep their eyes on the spot where the crack was." This quote perfectly describes what happened in these cases we collaborated on; names have been redacted for confidentiality.

Devastating Rumors: In the close-knit community of fishing boat enthusiasts, a concerted effort by a handful of individuals caused significant disruption to a custom boating manufacturer's business. The group spread unfounded rumors that the manufacturer was accepting deposits for certain boat models that it lacked the capacity to build. Because the time between paying a deposit and the delivery of a boat can already exceed 12 months, these rumors dissuaded several would-be customers from paying any deposit in the first place.

Before making a purchase nowadays, prospective customers do extensive research online, especially for large purchases like this. If they come across unfavorable information about a company's management or reputation, they will likely decide not to choose it over rivals.

On the internet, even unfounded claims and rumors may persist, since material on the internet is easily accessible and permanent. False charges and rumors can spread far and damage a company's reputation long after they are made. This demonstrates the critical role that online reputation management plays in helping companies like the plaintiff protect their credibility and brand image from online defamation.

Even though this was a case of traditional defamation, the trail of official court documents adversely

affected the plaintiff's reputation. The existence of court documents confirms an ongoing or past legal case, which can validate the libel and slander. Unfortunately, most people will simply not take the time to understand the nuances of a lawsuit or what happened even if a case was dismissed; instead, they'll assume that what they heard or read is real. Online correspondence tied to branded keywords in a traditional defamation case creates a liability. The required work to mitigate an unfavorable narrative can be quantified and included as rehabilitation campaign damages.

Data Breach Damages Reputation: In another case, a school discovered that its former operations manager had misused her system credentials and obtained hundreds of files containing sensitive student and employee information. The school informed affected persons and families about this data leak.

Following the school's disclosure, there were hate campaigns and a decline in enrollment, resulting in loss of revenue. Social media platforms like Facebook and search engines were central in amplifying the damage done to the school's reputation. Google search results reinforced the bad perceptions of the school by exaggerating the extent of the breach. Information shared across these platforms travels quickly, reaching millions of people and amplifying the damage to the school's reputation. This scenario highlights the noteworthy impact that online communication channels have on the formation of public opinion.

Identifying the offender, demonstrating malicious intent, and estimating the extent of the harm are some of the difficulties in dealing with internet defamation. Jurisdictional concerns and the ongoing dissemination of damaging content hamper legal action.

Strategic reputation management and open communication are vital for defamation victims to regain the trust of the community. The relationship between the plaintiff and the defamatory content endures in the community despite efforts to break it apart, which in this case included the school changing its name. To minimize damage and rebuild confidence, combating internet defamation requires a multifaceted strategy that includes proactive public relations, reputation management techniques, and legal action.

VI. DEFAMATION IN THE DIGITAL AGE

The emergence of the internet has changed the nature of defamation from a localized problem with a finite audience to a worldwide issue with potentially disastrous effects. Mark Twain once iterated, "A lie can travel halfway around the world while the truth is putting on its shoes."

Today, anyone can become a publisher thanks to the speed and simplicity of everything from social media to independent publishing, frequently without editorial control or fact-checking procedures seen in traditional media. Even if defamatory content is deleted, copies often remain and continue to harm victims' reputations.

A "guilty until proven innocent" mentality has been encouraged by the ease with which information can be shared, where charges are frequently taken at face value regardless of their veracity. Digital content affects people long after defamation is discovered, in contrast to traditional media, which allows for retractions and corrections. Another concern is that court records are now easily accessible online in many jurisdictions, opening new doors to defamation. The stigma around just being named in cases can be harmful and costly.

VII. CONCLUSION

Defamation today poses unprecedented challenges, and negative information spreads swiftly through social media and search engines, reaching millions of people and **aggravating damages**. Using a diversified reputation management strategy is essential to combat online defamation effectively. This includes public awareness campaigns and the creation of an oversight agency to control the dissemination of harmful content and legal actions to hold offenders accountable for their activities.

The digital sphere presents distinct difficulties that call for knowledgeable viewpoints and real-world experience. We work to create a society that values justice and empathy by recognizing the detrimental effects that **internet defamation** may have on individuals and advocating for laws to protect online reputations.

References:

<https://lawdit.co.uk/readingroom/dealing-with-online-defamation>

<https://johnstonwithers.com.au/news/defamation-digital-age>

<https://rmwarnerlaw.com/2024/04/10/defamation-in-the-digital-age-legal-insights-from-rm-warner>

<https://www.linkedin.com/pulse/defamation-laws-digital-age-balancing-free-speech-online-wzucc>

<https://fastercapital.com/topics/reputation-management-and-online-defamation.html>

https://www.nytimes.com/2015/02/23/us/lawsuits-lurid-details-draw-an-online-crowd.html?_r=1

About Sameer Somal:

Sameer Somal is the CEO of Blue Ocean Global Technology and Co-Founder of **Girl Power Talk**. He is a CFA Charterholder, a CFP® professional, and a Chartered Alternative Investment AnalystSM. Sameer leads client engagements focused on digital transformation, risk management, and technology development. As a testifying subject matter expert witness in economic damages, intellectual property, and internet defamation, he has authored CLE programs with the Philadelphia Bar Foundation. Sameer is a frequent speaker at private industry and public sector conferences, including engagements with the Federal Home Loan Bank (FHLB), Global Digital Marketing Summit, IBM, New York State Bar Association (NYBSA), US Defense Leadership Forum, and US State Department's Foreign Service Institute.

Sameer also proudly serves on the board of directors of Future Business Leaders of America (FBLA) and **Girl Power USA**. Committed to building relationships, Sameer is an active member of the Abraham Lincoln Association (ALA), Academy of Legal Studies in Business (ALSB), American Bar Association (ABA), American Marketing Association (AMA), Business Transition Council, International Trademark Association (INTA), and Society of International Business Fellows (SIBF). A graduate of Georgetown University, he held leadership roles at Bank of America, Morgan Stanley, and Scotiabank. Sameer is also a CFA Institute 2022 Inspirational Leader Award recipient and was named an Iconic Leader by the Women Economic Forum.

About the Author



Vince Eisinger

Vince Eisinger is a civil commercial litigator in the firm's Business Disputes & Litigation; Employment Law; and Administrative, Regulatory & Government Law Practice Groups. He also supports the firm's White Collar, Government Investigations and Special Matters Practice Group. Vince developed his skills as a litigator in the federal and state courts of New York, and he now employs those same skills representing clients in North Carolina or wherever else they may need him.



 Stay Up-to-Date: Subscribe for E-Alerts

Employment Law Tool Kit

Categories

- [Administrative, Regulatory & Government Law](#)
- [Admiralty & Maritime](#)
- [Appellate Law](#)
- [Aviation & Aerospace](#)
- [Business Law](#)
- [Community Association Law](#)
- [Construction Law](#)
- [COVID-19](#)
- [Cyber Liability](#)
- [Education Law](#)
- [Elder Law & Estate Planning](#)
- [Eminent Domain & Land Condemnation](#)
- [Employment Law](#)
- [Insurance Law](#)
- [Insurance Law and Coverage](#)
- [Intellectual Property](#)
- [International Business Law](#)
- [Medical Malpractice](#)
- [Municipalities & Public Entities](#)
- [Premises Liability](#)
- [Product Liability](#)
- [Professional Liability](#)
- [Retail, Restaurant & Hospitality](#)
- [Risk Management & Workers' Compensation](#)
 - [Workers' Compensation Calculator](#)

- [Trucking & Commercial Transportation](#)
- [White Collar, Government Investigations & Special Matters](#)



Cranfill Sumner LLP

[Home](#)

[Events](#)

[Careers](#)

[Locations](#)



Raleigh

(919) 828-5100

5440 Wade Park
Boulevard, #300
Raleigh, NC 27607

Wilmington

(910) 777-6000

5535 Currituck Drive,
Suite 210
Wilmington, NC
28403

Charlotte

(704) 332-8300

2907 Providence
Road, #200
Charlotte, NC 28211

Washington

(771) 210-1998

2001 K Street NW,
Suite 250 North
Tower
Washington, DC
20006