# What is Defamation Law?

Defamation law is the area of law that relates to communications about the reputation of another person. Defamatory speech is a communication that might hurt the reputation of someone else. The purpose of the area of law is to protect people from having their lives and livelihoods ruined or significantly altered because of untrue statements against them. However, the law still protects a person’s First Amendment right to speak freely without being held liable for saying something insulting, making a mistake or disagreeing with someone else. Defamation law is the area of law that seeks to protect a person’s reputation by preventing unfair speech that might hurt a person’s reputation.

### Defamation law is primarily state law

Defamation laws exist by [common law](https://www.law.berkeley.edu/library/robbins/CommonLawCivilLawTraditions.html), and they also [exist by statute](http://legislature.mi.gov/doc.aspx?mcl-600-2911). Many states have defamation laws that are codified in state law. Defamation law is primarily state law. Although each state drafts their own defamation laws, there are some aspects of defamation law that are common to all states:

### Types of defamation

There are two types of defamation: libel and slander. Libel is defamation that’s written down. Slander is defamation that’s spoken. Generally, the law treats libel as worse than slander. Because it’s written down, libel can be read again and transmitted again while slander might not have the lasting or ripple effects that can come with libel.

### What elements make up a defamation case?

Even though defamation laws vary by state, the typical elements of a defamation case are:

* Someone makes a statement
* They publish the statement to a third party
* Their statement causes injury
* It’s not a true statement
* There’s no privilege to protect the statement

#### Someone makes a statement

Defamation begins when someone makes a statement. It’s not enough to think bad thoughts about someone else. Instead, defamation requires making an affirmative statement. The first person who makes the statement can be responsible for committing defamation. In addition, a person who repeats a defamatory statement that they hear from someone else can be liable for defamation if they know or should know that the statement isn’t true.

#### They publish the statement to a third party

To amount to defamation, a statement must be published. It’s not enough to make the statement in a personal journal and tuck it in a drawer. It’s also not enough to say the statement to yourself when no one can hear it. To be defamation, a person must communicate the statement to a third party.

#### Their statement causes injury

For defamation to occur, a [person must suffer an injury](https://law.justia.com/cases/nevada/supreme-court/1993/21344-1.html). They must be able to show how they lost a job or somehow otherwise suffered harm because of the statement. There are a few types of defamation where damages aren’t required. A case of [defamation per se](https://www.law.cornell.edu/wex/libel_per_se) occurs when a person makes a statement accusing someone of criminal conduct, having a loathsome disease, being unfit to perform their profession or accusing them of being unchaste.

#### It’s not a true statement

[Truth is a defense](https://law.justia.com/cases/michigan/supreme-court/1985/66849-4.html) to defamation. A defamatory statement must be untrue. The law doesn’t prevent people from sharing true information about others. To have a claim for defamation, the statement must be false.

#### There’s no privilege to protect the statement

In some cases, a privilege exists to protect the person who makes the statement from liability. For example, if a person testifies in court, the things they say on the stand can’t be defamatory. In addition, what lawmakers say during official debates is also protected.

### An opinion is not defamation

A defamatory statement must be a statement of fact. It [can’t be an opinion](https://supreme.justia.com/cases/federal/us/497/1/case.html). For example, if someone says that a model is ugly, the statement is just their opinion. It can’t be defamatory. However, if the person says that a model weighs a certain weight or has an eating disorder, the statement may be defamatory. If the statement causes the model to lose a job and the statement is untrue, the model may have a case for defamation.

### Public officials and defamation

Defamation laws are different as they apply to [public officials and celebrities](https://www.cnn.com/2018/03/26/politics/stormy-daniels-michael-cohen-defamation/index.html). There’s a higher standard for public officials and celebrities than the standard that applies to private individuals. To prove defamation against a public official or a celebrity, the victim must prove actual malice. That means, they must show that the person who makes the statement says it either knowing that it’s untrue or with reckless disregard for the truth. Reckless disregard for the truth means having doubts about the truth of the statement but failing to figure out whether or not it’s true.

If a person doesn’t hold a political office, there might be a question in the case about whether a person is a celebrity. A person may even be a limited public figure if they’re known for a single event or issue. In [Hustler v Falwell](https://www.law.cornell.edu/supremecourt/text/485/46), the U.S. Supreme Court said in 1988 that the standards should be very high to prove defamation against a public official. The [Supreme Court](https://www.supremecourt.gov/) said that the debate regarding public officials should be robust and uninhibited. In the *Hustler v Falwell* case, a politician brought suit challenging a parody that a magazine published that portrayed the politician as a drunk. The court said that freedom of speech is so important that it overrides concerns about the feelings of politicians in most cases.

### Defamation law often involves new issues of law

Defamation law is a changing area of law. As social media and the Internet change the way that people communicate, defamation law continues to change and expand. For example, online reviews are a [more recent topic of debate](http://www.latimes.com/business/technology/la-fi-tn-yelp-ava-bird-20160921-snap-story.html) in the area of defamation law. Lawyers continue to debate the balance between free speech and the right to be free of unfair and false statements about a person or a company. Defamation lawyers often [work on unique cases](https://www.freep.com/story/money/business/michigan/2014/09/02/negative-online-reviews-may-end-in-defamation-lawsuits/14950637/) that may contain an [issue of first impression](https://www.law.cornell.edu/wex/first_impression). For lawyers who enjoy unique and challenging cases, defamation law provides a welcome challenge.

### Defamation law is civil law

The practice of defamation law is a civil practice. There is no crime for defamation and the police don’t get involved. Instead, when a person is a victim of defamation, they must prepare a lawsuit and file it in court. They’re the plaintiff in the case. Even though defamation is a civil area of law, words can still amount to crimes on some occasions. If a person repeatedly makes defamatory comments about a person’s reputation, it might about to [harassment or stalking](http://legislature.mi.gov/doc.aspx?mcl-750-411h) under state law.

### Who practices defamation law?

Defamation lawyers are litigation lawyers. They’re in the business of sending cease and desist letters. They’re used to drafting lawsuits, responding to discovery requests and even taking a matter to court.

Defamation lawyers usually combine their practice of defamation law with other practices. They might work for a small firm or large firm. While a lawyer specializing in litigation might work on defamation cases in solo practice, most lawyers handling defamation cases work for mid-size or large firms. Most clients need help with a defamation case only periodically, so most lawyers combine defamation cases with a general litigation practice or with a practice that focuses on [First Amendment issues](http://www.uscourts.gov/about-federal-courts/educational-resources/educational-activities/first-amendment-activities).

### Why become a defamation lawyer?

Defamation law is an area of practice for lawyers who enjoy litigation. Lawyers in the field can expect tough confrontations and tense moments questioning parties and witnesses. For lawyers who enjoy[negotiations and verbal exchanges](http://variety.com/2016/biz/news/sean-penn-lee-daniels-defamation-case-settlement-1201766360/), defamation law can provide a rewarding challenge.

Because public officials and other individuals who bring defamation suits often have their livelihood hanging on the case, they’re often willing to see the litigation through to completion. Defamation cases often require lengthy depositions and other discovery. For the lawyers who work on defamation cases, the area of practice can be lucrative.

Lawyers who want to make a difference and help others can also find satisfaction practicing defamation law. Defamation clients are often emotional. They’re either defending their words or they’re concerned about their reputation. A defamation client may have their career on the line. They’re often very grateful for the help of their lawyers who work to preserve life as it was before the litigation.

### Making a career out of reputations

Defamation law is about the truth. It’s also about free speech and protecting the reputation of the subject of the speech. Lawyers who practice defamation law make their careers out of the legal disputes that arise when people make defamatory statements against others