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LIBELLETTER

July 1994

"False Light" Not Actionable Claim in Texas

The Texas Supreme Court, on a certified question from the Fifth Circuit Court of Appeals decided in a 5-to-4 vote that "false light invasion of privacy" is not an actionable claim in Texas.

In *Cain v. Hearst Corporation d/b/a/ The Houston Chronicle* (1994 W.L. 278365) Justice Raul Gonzalez, writing for the majority, expressly declined to recognize the tort of false light. Clyde Cain, the Appellant in the case, is a prison inmate in Texas serving a life sentence for murder. His claims arose out of alleged inaccuracy in an article published in *The Houston Chronicle* recounting his conviction, along with Cain's criminal history.

Although in the past the tort of false light has been recognized in Texas courts of appeals, the Texas Supreme Court majority rejected the claim "...for two reasons: 1) it largely duplicates other rights of recovery, particularly defamation; and 2) it lacks many of the procedural limitations that accompany actions for defamation, thus unacceptably increasing the tension that already exists between free speech constitutional guarantees and tort law".

While recognizing that some claims -- primarily those involving non-defamatory but alleged false speech -- might not be addressed by other tort law, the Court expressed concern about the potential breadth of a cause of action that could lie for any untruth, however innocuous seeming on its face. That the Restatement added the element of "highly offensiveness" to limit or qualify the statements potentially liable under the tort hardly improved matters for the Court. It found such a standard unacceptably vague and, as a consequence, inconsistent with free speech protections under the Texas Constitution

It is of some note that the Supreme Court of Texas emphasized in its rejection of false light that the Texas Constitution may afford greater protection in certain speech areas than the First Amendment. It was with that greater protection in mind that the Court concluded that the marginal benefit achieved by allowing non-defamatory speech claims under theories of false light was outweighed by the potential chilling effect on speech and the press.

It is also worth noting that the Court could have dodged altogether the issue of recognition of false light. Also before it was the question of whether a false light claim shared the statute of limitations for libel. The plaintiff had missed that deadline by a fair margin. But the Court reached out to the constitutional claim, presumably, in order to eliminate any ambiguity about Texas' position on this tort and to take the opportunity to emphasize the importance of free speech principles under Texas law.

Other states which have rejected the false light cause of action include North Carolina, New York, Minnesota, and Wisconsin.

Involuntary Public Figure Decision in Wisconsin Federal Court

The federal district court for the Eastern District of Wisconsin has recently handed down a noteworthy decision involving an "involuntary public figure". Captioned Harris v. Quadracci, No. 93-C-102 (June 29, 1994, E.D. Wis.), this decision follows several Wisconsin state court decisions on involuntary public figures in refusing to accept a rigid or narrow analysis of Gertz.

Brady C. Williamson and Robert J. Dreps of LaFollette Sinykin, counsel for the defendant newspaper, have submitted the following report on this important decision.

In these times of dramatic "celebrity" notoriety, it was a relatively modest story that led to a modest magazine column and, in turn, a defamation action. Yet a recent decision by the U.S. District Court in Milwaukee, dismissing a former model's libel action against Milwaukee Magazine, has advanced the "involuntary public figure" doctrine. Harris v. Quadracci, No. 93-C-102 (June 29, 1994, E.D. Wis.). At least as applied in Wisconsin, that doctrine has helped the news media successfully respond to several defamation actions, and it should continue to do so.

The case was brought against Milwaukee Magazine last year by

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Involuntary Public Figure

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Lynette Harris, one of the twin sisters who had been convicted of a willful failure to report as income money they received from a rich elderly widower -- more than half a million dollars each over several years. That case generated nationwide publicity, which often identified the sisters as the "Playboy twins" based upon their appearances in that magazine. In 1991, the U.S. Court of Appeals reversed the felony convictions of both sisters, holding that the payments they received were gifts, not income, for tax purposes. See United States v. Harris, 942 F.2d 1125 (7th Cir. 1991) (current law on tax treatment of payments to mistresses gave no fair warning that failure to report as income was criminal and defendants accordingly could not be convicted of willful tax evasion.)

The February, 1992 Milwaukee Magazine article at issue in the defamation case described the experiences of a Pittsburgh journalist who wrote a book about Ms. Harris, her sister, their relationship with the elderly and generous widower, and the federal tax case. In particular, Harris took offense at the magazine's report that before the journalist had finished the book, she had "transformed from a cooperative source into a frightening extortionist." That description was based upon six messages Harris had left on the journalist's telephone answering machine threatening that if he did not pay her money, she would tell his wife and friends that he had made sexual demands of her. Fortunately, the reporter had preserved the tape, and both the magazine and the reporter introduced the recording as evidence of substantial truth in support of their motions for summary judgment.

The magazine did not rely on the telephone recordings alone, however. The Rodney King case showed that "taped" evidence isn't necessarily dispositive. The magazine also argued that Harris was a public figure who had submitted no evidence that the news article was published with actual malice. The audiotape figured prominently in this defense, as well, because the journalist had played it for the magazine's reporter prior to publication, and even Harris had to admit at her deposition that anyone who heard the tape "could reasonably interpret it as being an attempt at extortion."

The plaintiff also testified that she is somewhat of a celebrity in Milwaukee and "cannot go anywhere without being recognized." The

> *The court had no trouble finding Harris a limited purpose public figure.*

magazine introduced evidence that Harris had frequently appeared on national television to discuss the tax case and that she had been identified in more than 250 news articles from a database that included only two Wisconsin newspapers. Nonetheless, the district court concluded that "this is not quite enough" to make her a public figure for all purposes.

The court had no trouble finding Harris a limited purpose public figure, however, even though she had abandoned her modeling and acting career and shunned publicity during her relationship with the widower. Under Wisconsin law, the court ruled, "the focus of the [public figure] inquiry . . . [is] on the plaintiff's role in the public controversy rather than on any desire for publicity or other voluntary act" on her part. Harris easily met that standard, the Court found, because she played a central role in the public controversy over the government's prosecution of her and her sister for tax evasion.

Wisconsin adopted the involuntary public figure doctrine in Wiegel v. Capital Times Co., 145 Wis. 2d 71, 426 N.W.2d 43 (Ct. App. 1988). That case involved a news article about a farmer whose agricultural practices the state had blamed for water quality problems affecting fishing and recreation in a lake within a state park. The doctrine also has been applied in a case brought by a prisoner who allegedly exposed jailers to the AIDS virus when he attempted suicide by cutting his wrist. Van Straten v. Milwaukee Journal, 151 Wis. 2d 905, 447 N.W.2d 105 (Ct. App. 1989).

Each of these cases might have gone to trial but for the "involuntary public figure" doctrine. They involved plaintiffs who made no affirmative attempt to participate in, much less influence, public opinion or controversies. Under the "voluntary injection" test many courts apply based on Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974), each plaintiff might have been classified as a private figure and probably would have survived summary judgment.

The Gertz Court acknowledged, however, that "voluntary injection" into a controversy is not always required: "More commonly, an individual voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues." Id. at 351 (emphasis added). That is precisely what happened to Harris, who found herself a central figure in the debate over the tax treatment of payments to mistresses based solely on the government's decision to prosecute. The involuntary public figure doctrine promotes the first amendment interest in reporting on that and similar public controversies, without regard to the participants' desire for publicity.

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CALIFORNIA ANTI-SLAPP STATUTE APPLIED TO BENEFIT NEWSPAPER

A San Francisco Superior Court judge, in a decision handed down in June, determined that the California anti-SLAPP statute – designed to "encourage participation in matters of public significance" and to prevent "chilled [speech] through abuse of the judicial process" -- could apply to a media defendant in connection with its published discussion of public issues. The California statute authorizes a "special motion to strike" the complaint and places additional substantive proof burdens on the responding plaintiff. It also authorizes awards of attorneys fees to defendants prevailing on the special motion to strike.

James M. Wagstaffe, of Cooper, White & Cooper in San Francisco, represented the successful defendant newspaper, the San Francisco Chronicle, *in this case -- the first to our knowledge to apply the anti-Slapp statute to the media.*

More University and other entities filed a libel suit against the San Francisco Chronicle and certain of its writers based on several articles concerning More's educational activities and public zoning controversies.

More University described itself as a "sensuality school" and offers a PhD in that field. The University offers a variety of courses and laboratory exercises in sexual techniques and stimulation.

The articles described More as operating its educational activities out of a series of homes located in a residential district in Lafayette, California. The articles also described other activities taking place on the property, including food give-a-way programs to the poor, and the controversial housing of dozens of homeless people in makeshift tents placed on the property. Neighbors complained to local government officials and litigation ultimately ensued between the County and some of the plaintiffs relating to the controversial activities as well as alleged zoning violations.

The *San Francisco Chronicle* covered these controversies as well as a complaint made by a former More University student that one of the classes involved the offering of sex for script. The student, who has also been sued by some of the plaintiffs for libel separately, asserted in a letter addressed to a state agency that the University's program involved prostitution and other acts of coercion.

More University and others sued the *San Francisco Chronicle* and certain of its writers for libel challenging, among other things, the article's description of the institution as an "academy of carnal knowledge" and as engaged in "battles" with its neighbors.

James Wagstaffe, of Cooper, White & Cooper in San Francisco, represented the *Chronicle* and filed a motion to strike the complaint under California's anti-SLAPP suit statute, Cali-

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Prisoners Encouraged To File Privacy Actions Against The Media

A newsletter written by prison inmates and also distributed on the Internet is openly encouraging prisoners to sue media defendants for invasion of privacy claims.

Called *Prison Legal News*, the newsletter's next issue is slated to feature an article called "CBS Liable for Filming Search." The article is loosely based on *Ayeni v. CBS, Inc., et. al.*, 848 F.Supp. 362, 22 Media L. Rep. 1466 (E.D.N.Y. 1994). *Ayeni* involves a claim that arose out of a "ride-along" in which a CBS crew filmed a search of an apartment by the United States Secret Service who suspected that a resident of the apartment was involved in a credit-card fraud ring.

Although as to CBS the case reports only that the trial judge denied a defense motion to dismiss based upon a qualified privilege, the writer for the *Prison Legal News* insists in the article that this denial of the motion was "a landmark decision...ruling that CBS was liable for accompanying

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Waco Newsgathering Claims

The failed ATF raid on the Branch Davidians in Waco, Texas resulted in more than just death and injury at the compound. It also resulted a series of novel claims against certain of the reporters and their publications. These claims, based largely upon activities in the newsgathering process, are disturbing indications of the increasing defense costs to news organizations resulting from the "creativity" of plaintiffs' counsel across the country.

Jonathan D. Hart of Dow, Lohnes & Albertson, counsel for the newspaper defendant, reports on the new Waco claims. Note that these claims seem to arise out of little more than ordinary newsgathering. No running of police barricades, no violation of law enforcement restrictions, no trespass, no hidden cameras -- nothing fancy.

The daily newspaper in Waco, Texas, now has five lawsuits pending against it arising loosely out of its efforts to report on the activities of the Branch Davidian cult and on the ATF's botched raid on the compound at Mt. Carmel. Theories of liability range from bizarre to pernicious and illustrate, once again, the boundless creativity of the plaintiffs' bar.

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San Francisco Chronicle Benefits from Anti-Slapp Statute

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fornia Code of Civil Procedure Section 425.16. In essence, the statute authorizes the court to strike a pleading if it is filed for the purpose of infringing a person's free speech rights as they relate to discussion of public issues unless plaintiffs demonstrate at the outset a probability of success on the merits.

The *San Francisco Chronicle* submitted public records upon which many of the reports were based as well as declarations from the writers that, having based their reports on the public records and other information, they believed in the truthfulness of the matters published.

The statute authorizes the court to strike a pleading if it is filed for the purpose of infringing a person's free speech rights as they relate to discussion of public issues...

The motion to dismiss stated that the articles could not be proven to be substantially false, they were not defamatory in many aspects, there was no sufficient evidence of constitutional malice and California's privilege for reporting from public records and proceedings rendered the libel suit without merit. Civil Code Section 47(b).

The plaintiff responded ultimately with a series of declarations from their affiliated members asserting that many of the items in the articles were false. In addition, plaintiffs argued that California's anti-SLAPP suit statute did not apply to the media nor was it intended to apply outside the context of efforts to chill citizen grievances on governmental issues.

The Court granted the motion to strike and denied plaintiffs' motion for reconsideration. The Court ruled that that the California statute applied to the media and to individual reporters. Furthermore, the Court ruled that plaintiffs had failed to demonstrate the probability of success as to the issues of falsity, defamatory meaning and actual malice. Accordingly, the Court dismissed the action.

Judge William Cahill emphasized that plaintiffs must, in order to defeat a motion to strike under the anti-SLAPP statute, present evidence as to the validity of their claims. The Court ruled that the standard required at least a showing of a prima facia case and indicated that the evidence would be viewed through the prism of any higher standards of proof such as clear and convincing evidence standard.

California's anti-SLAPP suit statute authorizes an award of attorneys' fees, and the San Francisco Chronicle will file such a motion for its fees. In the interim, More University has promised to take an appeal, a process which must begin within sixty days of the entry of judgment.

PRISONERS AND PRIVACY ACTIONS

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police agents on a search."

Of interest to media counsel and defendants, however, is not the inaccuracy of the inmate's newsletter, but rather the exhortation to litigate that the article propounds.

In encouraging prisoners nationwide to sue newsgathering organizations, the article says "It is entirely possible that litigation by the victims of this type of police and media activity may be able to halt the spread of 'police TV.' Findings of liability against both police and broadcaster will see to it that police activity is not broadcast to entertain and titillate."

While *Ayeni* finds no clear ruling of liability, the *Prison Legal News* article ends with the following rallying cry: "So if you've been filmed against your will during a police search, you too can sue for invasion of your privacy and your fourth amendment rights."

As has been discussed in the *LibelLetter* and elsewhere, "ride-alongs" are the factual context of a number of recent claims against the media. Be aware that *The Prison Legal News* may encourage the prison population to consider filing even more such claims.

Mark Your Calendars:

November 9, 1994

THE LDRC ANNUAL DINNER

Plan to be there. Put the date on your calendar. LDRC will be sending invitations out in the early Fall. We hope to see all of you -- as well as all of your friends, clients, and other guests -- at the LDRC ANNUAL DINNER ON NOVEMBER 9, 1994.

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ATF Agents File Series of Claims Against Press in Aftermath of Waco Tragedy

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First to file was one of the ATF agents injured in the failed raid. His legal team came up with three theories of how the newspaper caused his injuries, even though he was shot by the Davidians during the raid. The families of three of the agents killed in the raid subsequently filed suit on identical theories. (A fifth suit was recently filed by the undercover ATF agent sent into the Branch Davidian compound on the morning of the raid to confirm that the Davidians were unaware of the impending operation; his principal claim is that he suffered emotional distress -- fear -- when he found out, while inside the compound, that the Davidians knew the ATF was coming.)

Theory No. 1: The plaintiff contends that the newspaper breached a promise to the ATF not to publish its investigative series on the goings-on inside the Branch Davidian compound until after the ATF had completed its investigation and that he was shot by the Davidians as a result of this alleged breach. The plaintiff does not contend that the newspaper stories alerted the Davidians to the impending raid; the stories made no mention of a raid or of any government investigation. Instead, the stories revealed the very abuses by David Koresh and his followers that the ATF later argued justified the decision to go into the compound guns ablazing. The plaintiff's argument is more sinister: he contends that by beginning publication of a series of articles critical of the Davidians a couple of days before the raid, the newspaper inflamed the passions of the Davidians making it more likely that they'd shoot when the ATF swooped in.

This legal theory is fundamentally inconsistent with the long line of "incitement" cases decided under the First Amendment. For the record, it is also devoid of factual support. There was no promise, as the extensive Treasury Department investigation ascertained.

Theory No. 2: Similarly devoid of factual support is plaintiff's contention that to make coverage of the raid more dramatic and thereby increase newspaper sales, a reporter for the newspaper placed a telephone call to the compound on the morning of the raid to warn the Davidians that the ATF was coming. That way there'd be more shooting and better pictures and everything. Of course, as the Treasury Department specifically concluded, "contrary to early accounts, there is no evidence that [the newspaper reporter] placed a call into the Compound on the morning of [the raid]. Records provided by the [newspaper] of their telephone calls contain no record of a call to the Compound on the morning of [the raid]."

> *Lack of proximate cause is the most obvious problem faced by the plaintiffs.*

Instead, the Treasury Department found that the Davidians were inadvertently alerted to the impending raid by a television photographer who sought directions from a postman in the vicinity of the compound. The postman, who turned out to be a Davidian, drove to the compound and warned the other Davidians. The television station is a defendenant in all suits.

Theory No. 3: The plaintiff contends that by their presence in the vicinity of the compound on the morning of the raid – the newspaper had gotten a tip that the ATF was going to act -- the newspaper's personnel, who were allowed into the area by the authorities (and had been invited to the compound by Koresh to get "the real story" on the Davidians), somehow alerted the Davidians that something was up. Since the Davidians later shot the plaintiff and other ATF agents, the newspaper must have been at fault because it had reporters at the scene.

While the newspaper did send reporters to the vicinity of the compound to cover the anticipated execution of a search warrant, there is no evidence that the Davidians saw the reporters or that they inferred from their presence that the ATF was on the way. To the contrary, the Treasury Department specifically found that the Davidians had learned the raid was coming from the postman who divined it from an arriving television photographer. In any event, nothing that the newspaper reporters did, and nothing that the television photographer did, could possibly have caused the injuries suffered by the ATF agents. As the Treasury Department report unambiguously concluded, though the success of the ATF's plan depended on maintaining the element of surprise, and though the commanders in charge of the operation had been specifically instructed by their superiors in Washington to abort the raid if the element of surprise was compromised, the commanders proceeded with the planned raid despite a report from their undercover agent inside the compound that Koresh and the Davidians knew the ATF was coming. This decision, the Treasury Department concluded, "was tragically wrong, not just in retrospect, but because of what the decisionmakers knew at the time." In fact, the Department specifically found that the casualties suffered by the ATF agents were not caused by "media activity in the vicinity of the Compound." Rather, "[t]hese were inflicted by Koresh and his followers, and could have been avoided had ATF's raid commanders

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Waco Claims May Impose Liability on Media for Mere Presence

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called off the operation once they recognized that they had lost the advantage of surprise."

But the most pernicious aspect of the plaintiff's claim is not his persistence in the face of overwhelming evidence. What is truly frightening are the staggering implications of a theory that would impose liability on the news media based on nothing more than the presence of reporters at the scene of a major law enforcement operation: by covering a raid occurring in their own back yard, the newspaper reporters, who were allowed into the area by authorities, should be liable for the injuries suffered by the ATF agents because the reporters, by their very presence at the scene, somehow alerted the Davidians that something was up.

The plaintiff's claims should be disposed of on summary judgment. Lack of proximate cause is the most obvious problem faced by the plaintiff: on the undisputed record, no reasonable jury could find that the newspaper proximately caused the injuries suffered by the plaintiff. The newspaper sought a stay of discovery pending disposition of the summary judgment motion. The stay was denied and discovery is proceeding. Only if plaintiff survives summary judgment on proximate cause will the trial court have to assess the constitutional viability of the plaintiff's novel "weird tort" theories. We'll keep you posted.

LDRC 50-STATE SURVEY UNDERWAY

The 1994-95 edition of the LDRC *50-STATE Surve: Current Developments In Media Libel And Invasion Of Privacy Law* is in production. The publication date is November 1994. We know that all LDRC members will want one or more copies of this text.

There will be two new features in this edition of the *50-STATE Survey*. The first is an update of the "Federal Circuit-by-Circuit Survey", last done five years age. The second is the addition of eavesdropping statutes and relevant case law to each of the state surveys and a special section on the Federal Wiretap Statute. This should afford media lawyers a handy compendium of these provisions which, as some of us have found out the hard way, are often needed on short notice. A special thanks is due to Turner Broadcasting and to Stuart Pierson of Davis Wright Tremaine for the research done on eavesdropping which is providing the starting points for the *Survey*.

Order forms for the new edition of the LDRC *50-STATE Survey* will come out in early August. Please look for them. We will be asking that all subscribers to the *Survey* pay for the books in advance of shipment. We are doing this in an effort to lower administrative costs.

So... SEND IN YOUR ORDER FORMS AND PAYMENTS EARLY FOR WHAT PROMISES TO BE THE VERY BEST SURVEY EVER!!

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New Briefs at the LDRC--Identified by Case Name

Case Name (Alphabetical according to state)	Issues
People's Bank & Trust v. Globe (# Ark 92-3) Eighth Circuit Court of Appeals - defendant's appellate brief	- libel - intentional infliction of emotional distress - false light invasion of privacy
Miller v. Nestande (# Calif 86-1) California Court of Appeals, 4th App. Dist. - defendant's memo in support of summary judgment motion, respondent's brief and defendant's brief to the Court of Appeal, in response to questions	- libel (actual malice, fair comment)
Carney v. Santa Cruz Women Against Rape (# Calif 89-4) California Court of Appeal, 6th App. Dist. - defendant's opening and reply briefs	- libel (actual malice) - invasion of privacy - intentional infliction of emotional distress
Lafayette Morehouse v. The Chronicle (# Calif 94-2) California state court - memo and reply brief in support of defendant's special motion to strike and order	- libel - false light - emotional distress - commercial disparagement - SLAPP statute
Bowers v. Loveland Publishing (# Col 86-3) Colorado state court - defendant's trial brief	- libel (fair reports privilege)
Geller v. Randi (# D.C. 93-1) D. D.C. -documents re: defendant's motions for summary judgment and sanctions	- libel (actual malice, respondeat superior) - false light - interference with prospective advantage - disparagement
Friedgood v. Peters Publ. Co. (# Fla 86-1) - defendant's renewed motion for summary judgment and final order	- libel (public concern), privacy (private facts)
Cox, Hyde Post v. Thrasher (# Ga 94-1) Georgia Supreme Court - CNN Amicus brief	- libel (actual malice, book review)

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Case Name	Issues
Green v. Chicago Tribune Co. (# Ill 94-1) Illinois Circuit Court (Cook County) - defendant's reply brief and memo in support of motion to dismiss	- invasion of privacy - intentional infliction of emotional distress
Desnick v. ABC (# Ill 94-2) N.D. Ill., E. Div. - memos in support of and opposition to motion to dismiss, reply and opinion	- breach of contract - fraud - intrusion - libel - trespass - illegal wiretapping.
Henrichs v. Pivarnik (# Ind 90-1) Court of Appeals of Indiana - appellant's brief	- libel (actual malice)
Schonberger v. Bangor Daily (# Maine 89-1) Maine Superior Court - trial brief, post-trial motions and briefs and order for new trial	- libel (actual malice, respondeat superior) - intentional infliction of emotional distress
Crowley v. Fox (# Md 94-1) D. Md. - memos re: motion to dismiss and/or summary judgment and order	- intentional infliction of emotional distress - false light - loss of consortium
Matusevitch v. Telnihoff (# Md 94-2) D. Md. - complaint for declaratory relief, motion for relief from improper filing, opposition and reply	- libel (fair comment) - enforcement of foreign judgment
Michigan Microtech v. Federated Publications (# Mich 89-2) Michigan Court of Appeals - plaintiff/appellee's appellate brief	- libel (fair comment)
Covey v. Detroit Lakes Printing Co. (# Minn 92-1) Minnesota Court of Appeals - appellate briefs (both sides)	-libel (actual malice) - infliction of emotional distress

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Case Name	Issues
Speer v. Ottaway Newspapers (# Missouri 87-1) Eighth Circuit Court of Appeals - appellate reply briefs (JNOV)	- libel (actual malice, respondeat superior)
Turf Lawnmower Repair v. Bergen Record (# NJ 92-1) N.J. Appellate Division - defendant's summary judgment motion	- libel (actual malice, fair comment) - tortious interference with contract - RICO
Weldy v. Piedmont Airlines, Inc. (# NY 92-7) Second Circuit Court of Appeals - appellate briefs (both sides)	- libel - breach of contract
Food Lion, Inc. v. Capital Cities/ABC (# NC 93-1) North Carolina District Court - briefs re: defendant's motions to dismiss and for a protective order	- RICO - libel - invasion of privacy - conspiracy - fraud
Grav v. Stachewicz (# Ohio 86-4) Supreme Court of Ohio - appellate briefs	- libel (actual malice)
William Gordon Brooks v. ABC (# Ohio 92-1) Sixth Circuit Court of Appeals -appellate briefs	- libel (actual malice, fair report privilege, neutral reportage) - civil rights
CBS v. Davis (# S.D. 94-1) U.S. Supreme Court - application for stay and reply	- trade secrets
Mutscher v. Commerce Publishing (# Texas 81-5) District Court of Washington County - memos on statutory privilege, public figure status, mental anguish, burden of proof, negligence, clear and convincing evidence standard, proof of actual damages, loss of future earning capacity, independent contractor status and reliable source	- libel (actual malice, fair comment) - prima facie tort

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Case Name	Issues
DeLord v. Harry Breen & NAGE (# Texas 87-2) Supreme Court of Texas - application for writ of error and supporting amicus brief	- libel (actual malice) - independent appellate review
Cain v. Houston Chronicle (# Texas 94-1) Supreme Court of Texas - brief on certified question	- false light invasion of privacy
Scheffey v. Continental Casualty (# Texas 94-2) Texas Court of Appeals - appellant's amended brief	- tortious interference with business - libel
Russell v. Thomson Newspapers (# Utah 90-1) Utah District Court (3d Judicial Dist.) - memo in support of defendants' motion for summary judgment	- intentional infliction of emotional distress -interference with contract - invasion of privacy - libel
Russell v. Thomson Newspapers (# Utah 91-2) Supreme Court of Utah - briefs of appellants, appellee and amicus	- intentional infliction of emotional distress - false light invasion of privacy - libel
Richmond Newspapers v. Lipscomb (# Va. 85-7) Supreme Court of Virginia -defendant/appellant's appellate brief	- libel (actual malice, damages)
Dixon v. Ogden (# Va. 92-1) Supreme Court of Appeals of W. Va. - opposition to writ of cert., appellate brief and reply	- libel (innuendo, republication, actual malice, special damages)

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New Briefs at the LDRC--Identified by Issue

ISSUE	CASE NAME
Libel	*People's Bank & Trust v. Globe* *Miller v. Nestande* *Carney v. Santa Cruz Women* *Lafayette Morehouse v. The Chronicle* *Bowers v. Loveland Publishing* *Geller v. Randi* *Friedgood v. Peters Publ. Co.* *Cox, Hyde Post v. Thrasher* *Desnick v. ABC* *Henrichs v. Pivarnik* *Schonberger v. Bangor Daily* *Matusevitch v. Telnihoff* *Michigan Microtech v. Federated* *Covey v. Detroit Lakes Printing Co.* *Speer v. Ottaway Newspapers* *Turf Lawnmower v. Bergen Record* *Food Lion v. Cap. Cities/ABC* *Grav v. Stachewicz* *Brooks v. ABC* *Mutscher v. Commerce Publishing* *DeLord v. Harry Breen & NAGE* *Scheffey v. Continental Casualty* *Russell v. Thomson Newspapers* (1990, 1991) *Richmond Newspapers v. Lipscomb* *Dixon v. Ogden*
Infliction of Emotional Distress	*People's Bank & Trust v. Globe* *Carney v. Santa Cruz Women* *Lafayette Morehouse v. The Chronicle* *Green v. Chicago Tribune Co.* *Schonberger v. Bangor Daily* *Crowley v. Fox* *Covey v. Detroit Lakes Printing* *Russell v. Thomson Newspapers* (1990, 1991)
Invasion of Privacy	*People's Bank & Trust v. Globe* *Carney v. Santa Cruz Women* *Lafayette Morehouse v. The Chronicle* *Geller v. Randi*

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Invasion of Privacy (Cont'd)	*Green v. Chicago Tribune Co.* *Desnick v. ABC* *Crowley v. Fox* *Food Lion v. Cap. Cities/ABC* *Cain v. Houston Chronicle* *Russell v. Thomson Newspapers*
Anti-SLAPP Suit Statute	*Lafayette Morehouse v. The Chronicle*
Interference With Contract/Prospective Advantage/ Loss of Consortium	*Geller v. Randi* *Crowley v. Fox* *Turf Lawnmower v. Bergen Record* *Scheffey v. Continental Casualty* *Russell v. Thomson Newspapers* (1990)
Breach of Contract	*Desnick v. ABC* *Weldy v. Piedmont Airlines*
Fraud	*Desnick v. ABC* *Food Lion v. Cap. Cities/ABC*
Conspiracy	*Food Lion v. Cap. Cities/ABC*
Trespass/Illegal Wiretapping	*Desnick v. ABC*
RICO	*Turf Lawnmower v. Bergen Record* *Food Lion v. Cap. Cities/ABC*
Enforcement of Foreign Judgment	*Matusevitch v. Telnihoff*
Civil Rights	*Brooks v. ABC*
Prima Facie Tort	*Mutscher v. Commerce Publishing*
Trade Secrets	*CBS v. Davis*
Independent Appellate Review	*DeLord v. Harry Breen & NAGE*