

BROADCASTING LAW – DEFAMATION

What is Defamation?

Any statements that harms a person's reputation or makes an ordinary listener think worse of any person, group or company.

What Sort of Statements?

Saying or suggesting that someone is:

- Guilty of a crime;
- Has behaved improperly;
- Calling people dishonest, a liar, a coward, a drunk, saying they have low morals;
- Saying that a person, firm or company is in financial difficulty or bankrupt;
- Calling someone incompetent or unfit for their job;
- Making someone look ridiculous;
- Saying anything that could make other people avoid or even pity them – such as, they are insane or have an infectious disease.

You can defame someone even when you don't mention their name if listeners can guess who you mean.

You can defame someone even when what you are saying is true.

- If someone thinks you have harmed their reputation they can sue you for defamation. THEY do not have to prove you have defamed them. YOU have to prove you have NOT.
- You cannot defame a dead person, but if what you say hurts their living relatives, they can sue you.

How Can We Express our Point of View?

- Be fair and accurate. If there are two sides to a story – say so.
- You may make "fair comment" but it must be clear you are giving an opinion and not stating a fact.
- Gather a list of introductory phrases, for example, "I think", "It seems to me", "In my opinion", "It looks to me as if...".
- If your genuine opinion is that someone is, for example, dishonest, **you must have the facts to prove it.**
- Your comments must be in the public interest, which usually means you can't talk about people's private lives.
- You cannot defame if you had the person's permission to say what you said.

These Excuses Are No Good

- I made a mistake.
- I got it out of the newspaper.
- Someone else told me it was true and I believed them.
- I said it was just a rumour – I didn't say it was true.

REMEMBER

- If you get the facts wrong, you have no defence.
- You don't have to name someone to defame them.
- You can also defame a company if it can prove your comment is likely to cause financial loss.
- You can also commit defamation if you criticise a group of people.
- Discuss the issue or the action, not the person.
- Producers and presenters are responsible for what other people say on their show during talkback or interviews.

Contempt of Court

You are in contempt of court if:

- You fail to obey a court order such as name suppression, or an order not to broadcast certain information.
- You abuse or unreasonably criticise a judge.
- You broadcast anything likely to prejudice a fair trial.

Observing the Basic Standards

You are bound by New Zealand Broadcasting Standards. The three main ones are:

- Observing good taste and decency.
- Maintaining law and order.
- The privacy of the individual.

If You Have to Defend Yourself in Court

What you said on air is presented on paper and out of context. An audio tape of what you said is not always permitted in court. So, even if you said something as a joke, this will not always be obvious in your defence.

Prepared by Plains FM Christchurch from the text of "A Journalist's Guide To The Law" by Professor John burrows.