

A disgruntled science teacher had recently been fired from her job at the local high school. She told a parent, who was the communications chairperson for the high school's parent-teacher organization, that the principal was having an affair with the married assistant principal. The parent immediately sent a group email to all of the parents at the high school that included the following statement: "I'm not sure if this is true or not, but the science teacher said that the principal is having an affair with the assistant principal!"

The principal, who was not having an affair with the assistant principal, subsequently sued the parent for libel.

Is the principal likely to prevail?

- A. No, because the parent expressed a lack of knowledge as to the truthfulness of the science teacher's statement.
- B. No, because the parent identified the science teacher as the originator of the statement.
- C. Yes, because the original statement made by the science teacher was false.
- D. Yes, because the parent repeated a defamatory statement.

Explanation:

Libel is defamation in words that are **written, printed, or otherwise recorded** in permanent form. Most courts addressing the issue have held that **email messages** are categorized as libel. A libel claim requires proof of the following:

The defendant knowingly made a false statement about the plaintiff or negligently failed to determine its falsity.

The statement was defamatory, meaning that the statement would have a general tendency to harm the plaintiff's reputation.

The defendant published the statement by intentionally or negligently communicating it to a third party.

A **third party who repeats** (ie, republishes) a defamatory statement to someone else is **independently liable** for defamation. This is true even if the republisher identifies the originator of the statement and expresses a lack of knowledge as to its truthfulness.*

Here, the science teacher's statement to the parent, whether knowingly or negligently made, was false and harmful to the principal's reputation at the school. The parent then repeated the defamatory statement to all of the parents at the high school via email. Although the parent identified the science teacher as the statement's originator and expressed a lack of knowledge as to its truthfulness, the republication makes the parent liable for defamation. Therefore, the principal is likely to prevail in his libel suit (**Choices A, B & C**).

*Note that secondary publishers who merely disseminate material published by others (eg, bookstores, newspaper vendors) are liable only if they know or should know of the defamatory statements in the material.

Educational objective:

A third party who repeats (ie, republishes) a defamatory statement to someone else is liable for defamation even if the republisher identifies the originator of the statement and expresses a lack of knowledge as to its truthfulness.

References

Restatement (Second) of Torts § 578 (Am. Law Inst. 1981) (republisher's liability for defamation).

Defamation liability

