

A statistics professor told a friend that one of the professor's graduate students had failed an introductory statistics course in the second quarter of his sophomore year in college. The friend repeated this statement to an economics professor, but the friend prefaced it with the proviso that she had heard the information from the statistics professor and had no personal knowledge of whether it was true.

The student later learned of the statement and initiated a lawsuit against the friend for slander. At trial, the student proved that he had failed the introductory statistics course in the first quarter, not the second quarter, of his sophomore year in college.

Can the student likely recover?

- A. No, because the friend merely repeated what she had heard from the statistics professor.
- B. No, because the statement is substantially true.
- C. Yes, because the friend was negligent in failing to verify the statement before repeating it.
- D. Yes, because the friend's statement was inaccurate.

Explanation:

Defamation defenses

(libel, slander, slander per se)

Absolute privileges

Truth	Truthful statements are not defamatory
Consent	Actual – plaintiff agreed to publication Apparent – defendant reasonably believed plaintiff agreed to publication
Other	Statement made during: Judicial, administrative, or legislative proceeding Communication to spouse Publication required by law (eg, emergency alert system)

Conditional privileges

Statement made:

about an important public interest
to protect defendant's interests, family members, or third party owed a legal duty (eg, business partner)
to person authorized to act in public's interest (eg, 911 call to police)
in report of official proceeding or public meeting

(lost if abused)

Defamation can be either libel (ie, written statements) or **slander** (ie, spoken statements—as seen here). To establish a defamation claim based on slander, the plaintiff must prove all of the following:

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

That type of statement would tend to harm a person's reputation.

The defendant intentionally or negligently communicated the statement to a third party.

The statement caused the plaintiff special damage (ie, monetary loss).

But since defamation requires proof that the defendant made a false statement, **truth is a complete defense**. A statement that contains **slight inaccuracies** may nevertheless be considered true and therefore **not defamatory**.

Here, the friend told the economics professor that the student failed an introductory statistics course in the second quarter of his sophomore year. Although the friend was merely repeating what she had heard from the statistics professor, she may have been negligent in failing to verify the statement before doing so (**Choices A & C**). But even

though the statement was slightly inaccurate—the student failed the class in the first quarter, not the second quarter—the statement was substantially true **(Choice D)**. Therefore, the student likely cannot recover for slander.

Educational objective:

Proof of a statement's falsity is essential to all defamation (ie, libel and slander) claims, so truth serves as a complete defense. A statement that contains slight inaccuracies may nevertheless be considered true and therefore not defamatory.

References

Restatement (Second) of Torts § 558 (Am. Law Inst. 1977) (defining the elements of defamation).

Restatement (Second) of Torts § 581A (Am. Law Inst. 1977) (explaining that truth is a defense to defamation).

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