

husband of television personality Joan Lunden was, at a minimum, a limited purpose public figure for purposes of his defamation action

---

*Where the plaintiff is a "public figure" or public official, the plaintiff must prove a higher degree of "fault" on the part of the media, known as "actual malice."*

---

against the tabloid newspaper that published an article stating that he had had an encounter with a prostitute. The reason: for many years he and his ex-wife sought public attention in television shows, books, videos, and columns, assumed positions of public prominence, and had regular and continued media access.

The court noted that "libel plaintiffs who seek media attention are to be considered limited purpose public figures," and that "marital or family disputes of public figures are legitimate subjects of public attention."

In *Farrakhan v. N.Y.P. Holdings Inc.*, the New York Appellate Division in April affirmed a finding that the Nation of Islam and its leader were public figures for purpose of their libel action against a newspaper. As in the Krauss case, the plaintiff failed to prove that the publication of a widow's statement, that the Nation of Islam leader was involved in her husband's murder, was published with actual malice.

It concluded that the reporter's "reliance on a transcript of Dr. Shabazz's interview, three published biographies and a

---

## Part II

# Recent Libel Law Developments

*Understanding the dynamics between "public figures" and the media when determining actual malice.*

By Lawrence Savell

**W**here the plaintiff is a "public figure" or public official, the plaintiff must prove a higher degree of "fault" on the part of the media, known as "actual malice." Many libel cases focus on the determina-

tion of whether a particular person is or is not a "public figure."

In *Krauss v. Globe International Inc.*, the New York Supreme (trial) Court ruled that the plaintiff television producer, author, newspaper columnist, and ex-

*(Continued on page 7)*

---

## Recent Libel Law Developments

(from page 5)

documentary film on Malcolm X, the affidavit of a confessed and convicted assassin, an interview he conducted with a former close aide of Malcolm X, and the published writings and speeches of plaintiff Farrakhan conclusively demonstrates that the article was not published 'with knowledge that it was false or with reckless disre-

gard of whether it was false or not.'"

### "Actual Malice"

In a case that has potential application to magazines that republish material from other sources, the Massachusetts Superior Court in *Spitler v. Young* ruled that the actions of the defendant, a paperback book publisher who was republishing a book of another publisher, did not constitute actual malice. The book in question was about activities of the plaintiff, a World War II navy officer during

---

the attack at Pearl Harbor. "By its own admission, [the paperback publisher] did not conduct an independent fact investigation of [the book], nor did it verify [the author]'s sources. Instead, [the paperback publisher] did what it claims was customary in the publishing industry: it relied on [original hardcover book publisher]'s fact investigation. In the Court's opinion, such evidence might support a claim that [the paperback publisher] was negligent; however, under no circumstances can these facts be relied upon to show that [the paperback publisher] acted with reckless disregard for the truth."

The court noted that "it is significant that the defendant republished a book that had originally be[en] issued by a respected and reputable publishing house. Although the court is unwilling to recognize a republisher's 'immunity' from defamation suits . . . a republisher's reliance on the fact investigation of another publisher is relevant to the issue of fault."

Similarly, in *Bryks v. Canadian Broadcasting Corp.*, the United States District Court for the Southern District of New York ruled that the plaintiff rabbi failed to demonstrate that CNN's rebroadcast, without checking the material, of a news story supplied to it by another media company (CBC), constituted "gross irresponsibility" under New York law.

The court noted that the plaintiff had offered no evidence that the supplying company was generally unreliable as a news source or that anything in the report gave the network substantial reason to question the material's accuracy. It observed that, as a republisher, CNN was

entitled to rely upon the research of the original publisher absent a showing that CNN had or should have had substantial reasons to question the accuracy of the report or the good faith of the reporter. It stated that "a failure to investigate can give rise to liability only if an investigation would have raised concerns about the general reliability of CBC as a news source or the specific reliability of [this particular] story."

Finally, it rejected the argument that the assertion of three prior legal claims against CBC evidenced a general unreliability of the network's reporting: "It is not unusual for a major news agency to be named as a defendant in a lawsuit. If anything, CBC's litigation track record, as suggested by plaintiff's submissions, of three lawsuits and one known damage award for libel over twelve years is fairly good; many major news agencies are sued more often."

### Liability of Parent Company

On January 21, a petition for certiorari to the U.S. Supreme Court was filed in *Dangerfield v. Star Editorial*. In an unpublished opinion, the Ninth Circuit had upheld a trial court decision dismissing *Star* magazine's parent company, GP Group Inc., from a libel suit brought by Rodney Dangerfield, in light of his failure to demonstrate that the parent company took a responsible part in causing the allegedly libelous article to be published.

*Lawrence Savell is Counsel in the New York City office of the law firm Chadbourne & Parke LLP, where he concentrates on products liability and media law litigation and counseling. He can be reached at 212-408-5343, by fax at 212-541-5369, or online at lawrence.e.savell@chadbourne.com. ♦*

# Editors Only.

The Newsletter for Editorial Achievement

275 Batterson Drive  
New Britain, CT 06053

Tel.: 860-224-0386

Fax: 860-224-9094

E-mail: editorsonly@mcimail.com

WWW: <http://www.tiac.net/users/wid>

*Editors Only* is published monthly by Editors Only Publications, 275 Batterson Drive, New Britain, CT 06053. ISSN: 0735-8490. Subscriptions are \$89 in the U.S., \$95 in Canada and Mexico and \$105 elsewhere. Printed in U.S.A. Copyright © 1997 by Editors Only Publications. All rights reserved. This newsletter is confidential and for subscribers only. Reproduction without prior permission is prohibited.

William Dunkerley  
Editor

Patricia Donohue  
Managing Editor

*Ask Editors Only!* As a service to readers, we invite you to send us any questions you may have about editing. Perhaps you have a question about editorial management, or how other editors have handled a problem you are facing. Whatever question you have, we'd like to help. If our staff can't provide an answer, we'll seek advice from outside experts and get you the answers you need. Just contact us via e-mail, telephone, or fax with your questions.