



[More News on the News Page](#)

Tuesday, March 28, 2000

Get E&P's FREE weekly e-mail newsletter.

Enter E-mail Address

HTML Text

Sign Up!

SINGLE PUBLICATION RULING PROTECTS WEB PUBLISHERS Judge Says Libel Statute Of Limitations Still Applies

by Lawrence Savell

In a decision that may provide some comfort to Internet publishers, the New York Court of Claims ruled this month that the single publication rule applies to allegedly defamatory publications on the Internet.

The court said the posting of an article is a single event starting the running of the applicable statute of limitations, and not a continuous publication that might start it running anew each day it remains posted online. The ruling rejects the claim by a libel plaintiff that the item's ongoing presence on the Web created a virtually perpetual statute of limitations, which might allow a lawsuit to be brought at any time.

The ruling, one of the first in the nation and apparently the first in New York to address this issue, came in a somewhat unlikely context. *Firth v. State of New York* was a libel action brought by a former employee of the New York Department of Environmental Conservation regarding a report issued by the Inspector General which was thereafter republished on the Internet.

Under New York civil procedural rules, a lawsuit for libel must be filed within one year after the material is published. The report in this case was published on Dec. 16, 1996, and posted on the Internet that same day. However, the plaintiff did not file the action until March 18, 1998, more than a year after the publication and posting.

In an attempt to prevent his suit from being tossed out for being too late under the statute, the plaintiff argued, among other things, that each day the report was available on the Internet constituted a new publication triggering a new accrual date for his libel claim. The court disagreed, noting that, in New York, the single publication rule provides that the publication of a statement in a single issue of a newspaper or other periodical is, in legal effect, one publication which gives rise to one cause of action. Under that rule, the applicable statute of limitations runs from the date of that publication.

Format for printer

E-mail this story!

Your e-mail address (from)

Your friends' e-mail address (to)

separate addresses with commas

[Send a Letter to the Editor](#)

SINGLE PUBLICATION RULING PROTECTS WEB PUBLISHERS
Judge Says Libel Statute of Limitations Still Applies

PRIVACY BILLS WORRY ONLINE ADVERTISERS
Will the Industry Fight Back?

BYLINE STRIKE REQUEST IGNORED BY PUBLISHER
Knoxville News-Sentinel Staffers Names Printed



COMPLETE INTERACTIVE NEWSPAPERS 2000 CONFERENCE COVERAGE

**WEEKLY NEWS
COLUMNS**

WEB TREND
WATCH

REPORTER'S
DIGITAL HOW-TO

SYNDICATE
WORLD

E&P ARCHIVES

By contrast, a "republishing" will occur only if and when the article is placed in a new form (such as a paperback book as opposed to a hardcover) or edited in a different manner. A republishing will normally re-start the running of the statute of limitations.

The plaintiff cited a somewhat-obscure 1998 decision by the Court of Appeals of Tennessee, which held that a new cause of action arose for statute of limitations purposes each time defamatory information maintained on an online database was accessed. The New York court declined to follow that precedent, and instead was guided by a 1999 decision by the New York Court of Appeals in a case involving libel claims brought against Internet service provider Prodigy Services Co. Although the Prodigy case involved issues different from the Firth case, it did provide guidance suggesting that the actions of Internet entities should be assessed through established legal doctrines and guidelines applied to traditional businesses.

The decision is a victory for Internet publishers, allowing them the comfort of knowing that while the posting of an item on the Internet may start the running of the statute of limitations, its ongoing presence there will not re-start the period running anew each day. Thus, the publishers' potential liability regarding that item is of limited duration.

However, this is the ruling of only a single court, which could be appealed and which is not binding on other courts, although they may look to it for guidance. (Indeed, a similar case involving *The New York Times* is reportedly pending before the U.S. District Court for the Southern District of New York.) Moreover, publishers should bear in mind that, should the online item be significantly edited or otherwise changed following its initial posting, or published in another medium, such actions may constitute a republishing starting the limitations period running again.

Lawrence Savell (lawrence.e.savell@chadbourne.com) is a media law attorney in the New York office of Chadbourne & Parke LLP.

Return to [More News](#)