

## Exercise 1: Libel

Write an essay analyzing whether the news organization in the following situation can be sued successfully for libel. Consider all the elements of a libel case and how likely the plaintiff would be to prove each. Consider also whether the plaintiff is a public official, public figure or private individual. Finally, consider what defenses the news organization might use.

---

When Local 1313 of the Municipal Employees Union and the Beacon City Council negotiated a new labor contract for the city's employees last year, the union was represented by Sam Fong, its chief negotiator. The Beacon negotiations were stressful and stormy, with accusations of bad-faith bargaining made by both sides. At one point, the union threatened to strike if its demands were not met.

As the strike deadline approached, Hilda Jackson, reporter for the Beacon Daily Light, prepared a story that profiled Fong and described the union's negotiating strategy. Jackson talked to a number of people familiar with Fong and the way he conducted labor negotiations.

Jackson's story included the comments of Paula Williams, a city councilwoman, who said during a council meeting: "Fong is a first-rate bastard. That S.O.B. is trying to extort a fortune from the city. If we give him what he wants, we'll be broke, and if we don't, he'll shut down the city with a strike."

Another of Jackson's sources is Ben Davis, a union member with a grudge against Fong and a history of alcoholism. Davis said Fong had promised to keep union members informed about negotiations and to get their advice and guidance, but instead he had kept the members in the dark. Davis also said he suspected that union money had been used to hire prostitutes for union officials. He said a union bookkeeper had information that could confirm his story, but Jackson did not talk to him. Nevertheless, she included Davis' allegations in her story.

Jackson also reported that Fong had been convicted of automobile theft when he was 19 and had spent five years in a state penitentiary. Because Jackson failed to read the entire record of the case, her report was incorrect. Fong had served only 18 months of his five-year sentence and was placed on parole because of his good behavior.

Immediately after Jackson's story was published, Fong's wife sued him for divorce, alleging adultery and citing the allegation that union officials had engaged prostitutes as an instance of adultery. National union leaders also commenced an investigation of how Fong was spending his expense account money. The national union concluded that the charges of misuse of union money were groundless, but it dismissed Fong anyway for having failed to disclose his conviction for auto theft when he applied for his job.

Fong sued the Beacon Daily Light for libel.

## Exercise 2: Libel

Write an essay analyzing whether the news organization in this situation can be sued successfully for libel. Consider all the elements of a libel case and how likely the plaintiffs would be to prove each. Consider also whether each plaintiff is a public official, public figure or private individual. Finally, consider what defenses the news organization might use.

---

U.S. policy toward the Central American country of Costa Grande, where there is a civil war, has been the subject of extensive debate in Congress, a key issue in some congressional elections and a major news story for some months. As part of its coverage of the topic, the Continental Broadcasting Co.'s Nightly News program has investigated and broadcast a story alleging that three people, including a prominent federal official, were involved in sending arms and supplies to rebels in Costa Grande in violation of U.S. law.

One was Russell Starr, a retired Army general, who is considered an expert on Central American insurgency movements. He is president of an organization that has promoted the cause of the Costa Grande rebels. He has written newspaper and magazine pieces about the justness of the rebels' cause and has defended them on television talk shows. The second figure is Ronda Vernon, who recently became the third wealthiest person in the country when she inherited the fortune her father earned in the computer software business. Vernon rarely appears in public and never comments on political matters, but through various trust funds that she and her family control, she has donated millions of dollars to controversial groups, including the Costa Grande rebels. The last key figure in the Nightly News piece is Sean Grady, assistant secretary of state for Central American affairs, the member of the administration with primary responsibility for formulating and carrying out U.S. policy in that region.

The Nightly News story said that Starr had used dummy corporations and numbered Swiss bank accounts to channel money from his organization to the purchase of arms and supplies for the rebels. Several men involved in the illegal arms trade, all convicted felons, told reporters about Starr's financial arrangements. The information from the arms dealers was corroborated for the most part with information from several reliable staff members of congressional committees. The congressional staffers were familiar with classified information on Starr's dealings. Starr denied any wrongdoing and steered reporters to sources who would back him up. But the Nightly News reporters ignored Starr's sources because none had any inside knowledge.

The Nightly News said that Vernon had contributed \$3 million to Starr's organization in full knowledge that some of the money was being sent illegally to the Costa Grande rebels. This part of the story was based on interviews with various people who had helped manage some of the Vernon family trust funds and on financial statements. Because of a reporter's arithmetic error, however, the Nightly News exaggerated the size of Vernon's contributions to the Costa Grande rebels by \$700,000.

As for Grady, the news broadcast said he had used his official position in order to persuade the FBI to ignore the trio's illegal activities. Nightly News' only source for this was another State Department official, who is known to covet Grady's job. The official said he learned about Grady's efforts to obstruct any federal investigation of Starr and Vernon when a glitch in the telephone system enabled him to overhear a conversation between Grady and an FBI agent. The network's reporters failed to check with the bureau to find out whether any of its agents had even tried to investigate the flow of arms and cash to the Costa Grande rebels.

Starr, Vernon and Grady all sued the network for libel.

## Exercise 3: Privacy

Write an essay analyzing whether the news organization in this situation can be sued successfully for invasion of privacy. Consider all four forms of invasion of privacy and decide whether the plaintiff would be able to prove any of them.

---

Jasmine Lynd is a model-turned-actress who has appeared on the covers of many fashion magazines and in several major motion pictures. She attended a reception at the governor's mansion and stayed late for a private cocktail with the governor. The next day, Lynd reported to the police that the governor had raped her. The incident drew intense coverage from the press, including the *Weekly Intelligencer*, a tabloid newspaper sold mainly in supermarkets. In the past, Lynd had angered *Intelligencer* editors by refusing requests for interviews and threatening libel suits. One editor told the reporters covering the case, "This is our chance to pay her back."

Lynd would not talk to *Intelligencer* reporters, so they spoke to a number of her friends and acquaintances. One friend described Lynd's high school career, saying that she had been a "party girl" who had barely passed her courses and had frequently been in trouble with school authorities. Another source mentioned that Lynd had overcome, with great effort, a severe stuttering problem as a teenager.

Other *Intelligencer* reporters examined court records and learned that Lynd had three arrests for speeding and one for drunken driving. Other records showed that her husband had divorced her because she had been unfaithful. Her ex-husband said in an interview with reporters that he had discovered Lynd's infidelity when she gave him a venereal disease she had picked up from her lover, a professional wrestler. The wrestler told reporters that Lynd had an irrational fear of food preservatives, chewed her fingernails compulsively and always slept in the nude. Lynd has denied none of these statements.

The divorce records on file in district court also provided reporters with information about Lynd's finances, including the fact that she had purchased a controlling interest in a television production business and several pieces of commercial real estate, all of which more than tripled in value in only two years. One of Lynd's former friends, a woman who had known her in high school but had not seen her for 15 years, said that Lynd never made a business investment without consulting the famous astrologer Wesley Wilson. Wilson denied that Lynd was one of his clients, but the *Intelligencer* published the assertion anyway.

The *Intelligencer's* editors dispatched two teams of photographers to get photos for the story. One team followed Lynd wherever she went—work, shopping, social events—constantly snapping photos. On one occasion, trying to get a photo of her driving on the freeway, they maneuvered their car so close to hers that she swerved to avoid them and grazed a safety railing. Another team of photographers stationed themselves at the side of a highway on a hill overlooking Lynd's expensive home. From that location, the photographers used powerful telephoto lenses to get pictures of Lynd sunbathing and swimming in her back yard (which is surrounded by a high privacy fence).

Even though Lynd had not talked to reporters since she charged the governor with rape, the *Intelligencer* promoted its story about her with an advertisement in several newspapers saying, "Meet Jasmine Lynd. Find out what Lynd told the *Intelligencer* that she would tell no one else. You can depend on the *Intelligencer*—just as Lynd does—to deliver the truth!"

Lynd has filed a lawsuit alleging that the *Weekly Intelligencer* has invaded her privacy by placing her in a false light, giving publicity to private facts, intruding upon her solitude and seclusion and appropriating her name and likeness.

### **Exercise 3 Follow-Up Question:**

**ETHICAL ISSUE:** Most state laws neither conceal the names of rape victims nor forbid their publication. Nevertheless, most news organizations refrain from publishing such names. Should the Weekly Intelligencer have refrained from identifying Jasmine Lynd as a rape victim?