

Can User Comments on Your Website Result In Defamation Claims?

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Many organizations allow their website visitors to post comments on articles and other site content. What happens if a user makes a comment on your site that defames a third party? Could your organization be liable as well?

A federal court in Mississippi was the latest to consider this scenario. Raycom Media, doing business as television station, WLOX, has a corresponding news-based website. An article about WLOX's former producer, Toni Miles, was posted on the site. The article discussed Ms. Miles' October 2008 arrest during a drug raid at a home she was visiting. Visitors to the site made various comments on the article, which were not edited by WLOX. Ms. Miles filed a lawsuit against Raycom Media for, among other things, "allowing cyber libel" and for "subsequently allow[ing] unfiltered online comments which contained false information." Thus, Ms. Miles did not allege that the article itself contained any inaccurate information, but that certain user-generated comments on the article were false.

Raycom Media filed a motion to dismiss the defamation claims. In considering the motion, the court considered Section 230 of the Communications Decency Act (CDA). This statute provides, in part, that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." In granting the motion, the court concluded that Ms. Miles did not allege that Raycom Media wrote or revised the false comments nor gave any indication that Raycom Media encouraged defamatory comments on the website and, thus, Raycom Media was entitled to immunity under the CDA.

If you allow visitor comments on your site, you can bolster your position under the Communications Decency Act by posting clear terms of use prohibiting users from engaging in defamatory conduct and stating that your organization is not responsible for any such comments. You should also refrain from revising any comments and you should block any users who are engaging in defamatory or other inappropriate conduct.

For more information about legislation or litigation involving technology, intellectual property protection of information technology assets or any other Information Technology law issue, contact your Miller Canfield attorney.