

Jury Returns Verdict of No Liability in Massachusetts

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Late last week a federal jury returned a verdict in the defendant's favor in a libel case from Massachusetts that has attracted national attention. The case, Noonan v. Staples, came into the spotlight because of a ruling from the First Circuit Court of Appeals that the plaintiff's libel claim could go to trial even if the communication at issue were true or substantially true. We wrote about the decision here, noting the consternation the decision had drawn from First Amendment advocates for its implication that a truthful publication, if published with common-law malice, could constitute actionable defamation. Such an outcome erodes the principle, long taken as gospel in libel jurisprudence, that truth operates as an absolute defense to liability.

The lawsuit involved a private-figure plaintiff who sued his former employer (Staples) for sending out a mass email discussing his termination of employment. The plaintiff contended that the email, which asserted that Staples had fired Noonan "for cause" because Noonan allegedly "padded his expense reports," was libelous. The trial court dismissed the claim at the summary judgment stage, holding that the email at issue was true or substantially true and therefore could not be actionable as a matter of law.

The First Circuit reinstated Noonan's claim, focusing on a Massachusetts statute that predated the Supreme Court's seminal New York Times v. Sullivan decision and that provides:

The defendant in an action for writing or for publishing a libel may introduce in evidence the truth of the matter contained in the publication charged as libelous; and the truth shall be a justification unless actual malice is proved.

The First Circuit reasoned that while the statute could no longer be applied as a constitutional matter in public-figure or private figure/public concern cases after Sullivan, it still could operate in defamation actions brought by private figures such as Noonan over matters of private concern.

The case therefore went to trial on the question of whether Staples representative sent the truthful email with malice. The jury answered the question negatively, which precluded any liability on the part of Staples. However, Staples still was put to the time and expense -- not to mention the risk -- of a jury trial on a defamation claim involving a communication that was true. Courts have long recognized that the mere prospect of facing trial -- even on a legally deficient claim -- can have

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a chilling effect on speech.

So while the final outcome was a good one for Staples, the legacy of this case may be troubling for media organizations and other defendants who are sued by private-figure plaintiffs, at least in Massachusetts. Even though Staples ultimately prevailed, the First Circuit's summary judgment decision remains good law unless addressed by the Massachusetts legislature. The decision is binding on district courts in the First Circuit and available to be cited as persuasive authority in the state courts of Massachusetts and elsewhere, and it therefore may lead to other libel defendants proceeding to trial on claims of dubious validity.