False information; illegally obtained information

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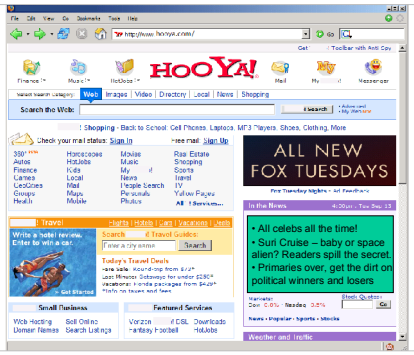
Defamation (Rest. § 558)

- A false and defamatory statement concerning another;
- Unprivileged publication to a third party;
- Fault amounting to at least negligence on the part of the publisher; and
- Either actionability of the statement irrespective of special harm or existence of special harm caused by the publication.

Who and What

The degree of protection for speech drops, and privacy rises, as we move down the scale:

public official / public figure
limited-purpose public figure
  matter of public concern
  matter of private concern
private figure

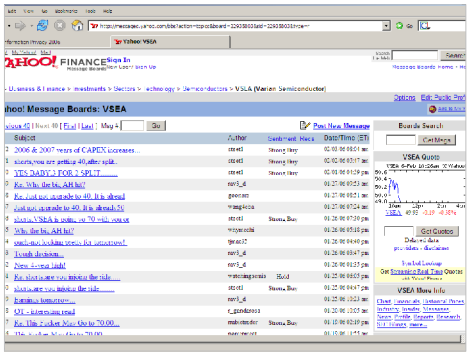


47 USC § 230 ("CDA 230," 1996)

Protection for private blocking and screening of offensive material

(a) Findings. The Congress finds the following:
  (1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens….

(c)(1) Treatment of publisher or speaker. No 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.



18 U.S.C. § 2511

- "any person who … intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection …shall be punished."

Intercepted conversation:

- 'If they're not gonna move for three percent, we're gonna have to go to their, their homes . . . To blow off their front porches, we'll have to do some work on some of those guys. (PAUSES). Really, uh, really and truthfully because this is, you know, this is bad news. (UNDECIPHERABLE).'

Boehner v. McDermott

- Florida couple gives tape to Congressman McDermott, then-chair of the House Ethics Committee, saying the tape holds a conversation, picked up with a police scanner, among Congressmen Gingrich and Boehner, among others. McDermott shares the tape with the New York Times, which publishes a transcript.
- Who can constitutionally be sued?

§ 652E Publicity Placing Person in False Light

- One who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy, if

  (a) the false light in which the other was placed would be highly offensive to a reasonable person, and

  (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.