

Libel ruling could freeze news

By Paul Ertelt
Of the Emerald

The public's access to important information may be curtailed by a recent court ruling making it easier for a private party to win a libel suit against the media, says Jeremy Cohen, University journalism professor.

In an Oct. 12 decision, the Oregon Court of Appeals ruled that in order to win a libel suit against the news media, a private figure needs only to prove that false and defamatory statements were a result of simple negligence — not malice.

Cohen's concern is that the media, afraid of a possible lawsuit from a private citizen involved in a public issue, will shy away from relating information the public needs to know.

For a private individual, the Supreme Court has allowed the standard to be set by the states. Many other states use the standard of "gross negligence," a sort of middle ground which says a reporter was "acting with a degree of awareness of the probable falsity" of the statement, Cohen says.

"You have to prove more than a little carelessness," he says.

The Oregon ruling stems from a \$7.4 million libel suit brought against the Willamette Week newspaper by a Portland banker. The suit claimed the paper published a defamatory story about the bank without adequately checking its sources.

But this ruling goes beyond this as yet unsettled case and will have a major impact on the way the news is reported in Oregon, Cohen says.

Making it too easy to win a libel case "will bring the attorney into the editorial process. Then the question becomes 'Can we prove this story in court?' instead of 'Is this something the public needs to know?'" Cohen says.

Law Prof. James O'Fallon doubts the ruling will have any real impact on the outcome of libel cases. What it will do, he says, is force journalists to establish a professional standard.

The difference between gross negligence and simple negligence is vague, says O'Fallon. What needs to be established is a professional standard based on the steps a "reasonable person" would do in order to establish the

veracity of a story.

"This would be the same as the standards for doctors in medical malpractice suits," O'Fallon says. These standards would be based on what is actually done by other journalists, he says.

"One way of establishing this would be by using other reporters as expert witnesses to testify to what they would have done in the same circumstances," he says.

Although the media win 75 percent of libel cases against them, defense costs can be as high as \$100,000. "When you're dealing with a small newspaper and a big business, you have a problem," Cohen says.

One small California weekly won a Pulitzer Prize for its expose of a drug rehabilitation center, but went bankrupt defending itself against subsequent libel suits, he says.

But most newspapers carry libel insurance, O'Fallon says. "It's the insurance companies that end up paying."

The press should not be penalized for "honest mistakes," Cohen says. "And although every precau-

tion should be taken to insure a story is correct, deadline pressures and timeliness make this difficult, he says.

The amount of money often awarded in libel cases is not proportionate to the damage done, Cohen says. "It's hard to believe that anyone's reputation is worth millions of dollars."

But if the damage claimed by a party can be proved, that party has every right to collect those damages, O'Fallon says.

The Oregon Constitution balances the press's freedom with individuals' rights to protect their reputations, O'Fallon says. Both Cohen and O'Fallon believe this balance should be maintained, but differ on how these rights should be divided.

"I'd rather see a few people defamed from time to time, without recourse to collecting full damages, than to see the freedom of the press violated," Cohen says.

Yet, O'Fallon says, "There is a general media trend to think that the First Amendment belongs to them, and there are no other significant rights."



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Local fraternity nabs second place among chapters

The University's chapter of Phi Gamma Delta fraternity finished second in the international fraternity's 1982-83 Condon Cup competition.

University students Lloyd Athearn, a sophomore history major, and Peter Wilcox, a junior management major, went to a convention at Ohio State University earlier this fall to receive the award.

The University of Denver won the cup, which is awarded annually to the chapter displaying the greatest improvements in academics, pledge education, house maintenance and budgeting and relations between active members and alumni.

Each of the 124 Phi Gamma Delta chapters in the United States and Canada submitted reports of improvements to a committee of fraternity alumni, which selected the winners.



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