

## Group Exercise: Libel and Privacy Laws

Name: \_\_\_\_\_

COMA 323

**For each of the following situations, consider whether the plaintiff can establish each element of libel and, if so, whether a defense is available if the item is published and results in a libel suit. (Assume plaintiff in each instance claims story is false.)**

1. (Newspaper play review) John Playwright denies that he is an addict, but he must have written “Dear Ole State University” during one of his frequent bouts with booze and drugs.

Plaintiff has no case because \_\_\_\_\_ (element of libel) is not present.

All libel elements are present; the common-law defense is:

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2. (Newspaper restaurant review) Unless you’re in the mood for a middle-of-the-night visit to the hospital emergency room, don’t eat at the Country Style Delights restaurant. The desserts are pretty good, but the rest of the food isn’t fit for a dog to eat.

Plaintiff has no case because \_\_\_\_\_ (element of libel) is not present.

All libel elements are present; the common-law defense is:

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3. (Newspaper news brief) John X. Doe, 2468 Kingston Ave., was arrested for DUI after an accident at Green and Main streets last night. (*Hint: Does this sentence have attribution?*)

Plaintiff has no case because \_\_\_\_\_ (element of libel) is not present.

All libel elements are present; the common-law defense is:

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4. (Magazine article) “You are a murders!” Sarah Bitter screamed from the witness stand as she pointed at the defendant, John E. Smith.

Plaintiff has no case because \_\_\_\_\_ (element of libel) is not present.

All libel elements are present; the common-law defense is:

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**Consider the following situation in terms of privacy. Tell which privacy tort the plaintiff would best claim. Then tell what defense, if any, would apply. Finally, which side is likely win to if a privacy suit is filed?**

5. Suzy Goodtan, movie celebrity, was sunbathing nude in her backyard, which is surrounded by an 8-foot-high privacy fence. A freelance photographer stands on a 10-foot ladder to look over the fence and take Suzy's picture. The picture is never published.

Privacy tort that best applies: \_\_\_\_\_

Best defense against that tort: \_\_\_\_\_

Likely winner of case: \_\_\_\_\_

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### **Journalism and the Law Cheatsheet**

In order to prove libel, the plaintiff (the person suing the media) must meet all of the following conditions:

- Defamation: Reputation damaged
- Publication: Story appears in mass medium
- Identification: Person clearly identified
- Falsehood: Story is NOT true
- Fault: If **all** of the above are met, burden of proof depends on whether plaintiff ("victim") is private or public person

Common-law defenses against libel:

- Truth: Information is factually true
- Fair comment: Opinion is protected, though it needs to be *generally based on facts*
- Qualified privilege: Officers of court/cops need to be able to accuse people of crimes, and journalists are generally free to report on those accusations