

List/Journ 445/Reckless Disregard for the Truth

This memo outlines some of the basic considerations in attempting to determine if a journalist has been guilty of **actual malice (knowing falsity or reckless disregard for the truth)**, which is generally determined by how closely professional standards have been followed.

A key question is: Did the journalist have **serious doubt** as to the truth of the story? (**St. Amant v. Thompson – 1968**)

Serious doubt has to do with the journalist's state-of- mind while reporting, writing and publishing the story. The court might determine serious doubt by asking about the following:

1) Sources

Sources for the story should be reliable, which means they are knowledgeable and have no ax to grind or conflict of interest in regard to the subject of the story or to the journalist.

Direct quotations should be materially accurate.

Information provided by the source should be checked against other sources if possible. If the material is controversial, the journalist should have at least two sources.

And because the source's credibility goes to the heart of the matter, the journalist may be asked to identify the source. If he/she refuses to do so, the judge may instruct the jury to assume there was no source.

Because an ethical journalist will not reveal a source's identity, the journalist should have other information to back up the story.

2) Information

Any information included in the story should be relevant and verified.

Facts should be checked.

Documents should be cited if possible.

Any questions should be investigated and answered.

3) Context

The story should make sense in terms of knowledge and understanding of the larger context.

If the story seems inherently improbable, it probably is.

4) Balance

The story should not only be accurate, but fair.

The journalist should have made some attempt to explore opposing viewpoints and to give the subject of the story the opportunity to respond.

5) **Transparency**

The journalist should be as open as possible about the methods of reporting and about problems encountered during the reporting and how they were resolved.

6) **Accountability**

The journalist, if it is standard practice at a given news organization, should have conferred with an editor or editors about any difficulties with the reporting or questions about the story.

If the story is problematic, input should have been sought from more experienced colleagues.

7) **Time**

As all of these points are considered, the more time the journalist had to work on the story, the higher the expectations in regard to each of these principles.

While the principles remain constant, working on deadline can mitigate a journalist's having taken some short cuts.

The bottom line is that following **ordinary professional standards** as they are outlined above should negate the possibility of finding reckless disregard for the truth. Conversely, not following professional standards may be seen as evidence of reckless disregard for the truth and, therefore, actual malice.