

## MEMORANDUM

As requested this memorandum address the two issues of whether Miesi would prove that Hardy's statement as quoted in the Complaint were defamatory if he were to prove the facts and whether Goshing is immune from liability for Hardy's alleged defamatory statements under Section 230.

1. Whether Miesi would <sup>prove</sup> ~~prove~~ that Hardy's statement, as quoted in the Complaint were defamatory if he were to prove the facts?

### Defamation

Under Columbia Law defamation consists of the publication of a false statement to a third party, which approximately results in injury to another. To be false, a statement must be one of fact and cannot be one solely of opinion. If a statement is reasonably susceptible to an interpretation as either fact or opinion, its proper characterization is determined by asking whether under the totality of the circumstances, a reasonable trier of fact would conclude that the statement communicated actual fact rather than express mere opinion.

The Court in Tinsley stated "Internet forums promote a looser communication style and an outlet for users to criticize others. Users are able to engage freely and adeptly in a provocative tone." There we held under the totality of the circumstances a reasonable trier of fact would conclude that a statement posted on his calling Company executives "Liars, Losers and Crooks" expressed mere opinion rather than communicated actual fact.

The Ct further explained that "while unjustifiably offensive and demeaning" to the executives, the statement was more emotional catharsis than information.

The Ct noted however, that when things are different when a publisher labeled "Facts," recited alleged facts detailing perjury and fraud by inclusion. Such facts were not deemed as mere opinions, and a reasonable trier of fact would conclude that they ~~were~~ communicated actual fact.

Here, A review of Paragraph 5 shows that 5a and 5b contents may be construed as facts and thus defamatory because it listed ii address, and alleged facts a true of fact may deem defamatory. These were communication to more than one third person. See 3CU-Com blog. June 11, 2022

It was seen by ii business associates family members and wife'

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Therefore, Δ may be liable under defamation laws but not under section 230 discussed next.

Q. Whether Craigslist is immune from liability for Harold's alleged defamatory statement?

### Section 230: IMMUNIZATION

The legislature enacted section 230 to protect websites from liability for including or failing to remove objectionable content in order to preserve the free ~~open~~ flow of nature of internet speech and commerce w/o unduly prejudicing the enforcement of the other important law.

To that end, section 230 immunizes

- (1) "Interactive service providers" from liability arising from content created by third parties. However, it does not
- (2) Information content providers such as the Δs.
- (3) It does not immunize "interactive computer services" from liability. Δs would fall into this category.

See Columbia Valley Fair Housing.

One thing to note about immunity is that legislative intent for section 230, is to in close

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Cases resolve in favor of immunity lest websites be forced to face death by the thousands cuts fighting off a barrage of claims that they created or developed obscene content.

Such an interpretation is consistent with the intent of the legislation to preserve the free flowing nature of internet speech and commerce w/o unduly prejudicing the enforcement of the important laws.

### Conclusion:

Despite the apparent violation of Defamation Statute by the As, the law especially Section 230 appears to be in their favor for immunity. Additional information may be needed.

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