

LAW

ISSUES AFFECTING OFFICIALS

Defenseless Against Out-of-Line Barbs Online

By Donald C. Collins

Although officials may want to bring defamation suits against people who write things about them on electronic media such as Twitter and Facebook, that approach probably isn't an efficient way of stopping e-bashing of sports officials.

Sports officials no doubt are soundly criticized on Twitter and Facebook. However, it is more likely that the sites of choice for e-bashing sports officials are sports message boards and chat rooms where users write under handles. That anonymity is a license to bash officials.

Defamation boils down to the communication of an objectively false statement. Modern e-media has undoubtedly led to an exponential increase in negative comments about

Courts don't want to make websites editors, so websites are generally not responsible for the content their users post.

officials. However, some oddities in the law limit officials' opportunities to succeed in a defamation lawsuit against online abusers.

First, the official doesn't always have a worthwhile entity to sue. In the old days, the only people who could publish were newspapers and magazines. Members of the general public didn't have a great ability to publish or distribute. An official only had to sue the newspaper, which had the money, and the local columnist, who wrote the story. You might win, you might lose, but at least you were in the ballgame.

In the e-world, you can't usually sue a website for a poster's comments. Courts don't want to make websites editors, so websites are generally not

responsible for the content their users post.

Since you can't sue the website, you can't get at the group that has the money. Thus, Facebook, Twitter and many sports message boards will not have to pay you. You also may not be able to sue the person who wrote the untrue comments about you. You may be able to find the poster if he or she is on Twitter or Facebook, where people frequently use their real name. However, if the person posts anonymously, you'll have to sue the website to tell you who wrote the offensive comments. The website won't always reveal those names.

Once you've located the poster, it's still not easy for an official to win a defamation suit. The law protects opinions — no matter how offensively expressed — as long as the person expressing the opinion doesn't imply that he has some secret knowledge. In other words, a person can say, "Larry umpires like a drunken sailor." A person can't say, "I know that Larry is a drunk and a sailor and it affected his umpiring yesterday." Most of the millions of people who criticize officials online are probably just finding new and creative ways to say, "The official stinks." An official probably won't win a defamation suit against those people.

An official has to ask himself or herself whether a defamation suit will do more harm than good. The local community is going to eventually find out that the official sued somebody, fans are not likely to be deterred by the lawsuit; indeed, some fans may boo you more. The sad reality is that lawsuits may not be the best forum to stop the social tendency to treat officials poorly.

Donald C. Collins is executive director of the San Francisco section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This material is for informational purposes only and is not legal advice. □

Consider Law, Source Before Using Video

Before embarking on any training program using videos of actual games, association officers should be certain that neither the copyright laws nor any state privacy laws will be violated in the process. Failing to investigate the legality of using such materials may lead to costly legal consequences. While consultation with your association's attorney is advisable, it is good to know the basic restrictions on putting together training materials from game films or other digital images. Consider the source: Ownership of the film and the reason why it was produced may have a bearing for training purposes. Consider the law: In the United States, federal copyright legislation allows limited use for educational and other purposes under a set of legal principles known as "fair use." Various criteria have been used by the courts to exempt certain publication and viewing of copyrighted material from the restrictions of the copyright law prohibiting unauthorized use.

Working Alone is Risky Business

Many officials have arrived for a game only to find the second official does not show up. When confronted with such a situation the most important concept to keep in mind is that it is the school's responsibility to provide proper officiating personnel for the game, not yours. The fact that the second contracted official is not present is not your fault and it does not make you responsible to provide a replacement official. That responsibility still rests with the host school. And the athletic director may not be able to find a qualified replacement. Working the game alone could expose you to potential legal liability. That is especially true in states in which a state association policy mandates a minimum number of officials to work a game. Violation of such a written policy would expose both the working official and the hiring school to legal liability.

PRESENTED BY



Go to www.naso.org and click on member benefits for more on MICP.