

E. Ethel Hough

LIBEL LAWS

as incorporated in court's instructions in C. V. McCoy vs Marvel Baking Co. Nov. 29, 1939- Judge Dolph Barnett Yakima Superior Court.

You are instructed that every publication by writing or printing which tends to expose any living person to hatred, contempt, ridicule or obloquy, or to deprive him of the benefit of public confidence or social intercourse, or injure any person in his business or occupation, is a libel. Any writing, therefore, which falls within the classifications above stated is libelous per se; that is to say, constitutes a wrong without any allegation or evidence of damage other than that which is implied or presumed from the fact of publication.

You are instructed that the statement referred to in the complaint is, as a matter of law, libelous per se; that is to say, the same is of such a character that the law presumes, without proof of special damages, that same is of a libelous nature, and that damages resulted to the plaintiffs by reason of the publication thereof, and that plaintiffs are entitled to recover such damages as you find by a preponderance of the evidence will fairly compensate them for any injuries sustained in consequence thereof, unless the defendant has succeeded in convincing you, by a preponderance of the evidence, that the statement contained therein concerning the plaintiff, Charles V. McCoy, is true; in which case, as you will be more fully instructed hereinafter, the plaintiffs would not be entitled to recover any damages.

INSTRUCTION NO.

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You are instructed that the statement referred to in the complaint is, as a matter of law, libelous per se; that is to say, the same is of such a character that the law presumes, without proof of special damages, that same is of a libelous nature, and that damages resulted to the plaintiffs by reason of the publication thereof, and that plaintiffs are entitled to recover such damages as you find by a preponderance of the evidence will fairly compensate them for any injuries sustained in consequence thereof, unless the defendant has succeeded in convincing you, by a preponderance of the evidence, that the statement contained therein, concerning the plaintiff Charles V. McCoy is true; in which case, as you will be more fully instructed hereinafter, the plaintiffs would not be entitled to recover any damages.

INSTRUCTION NO.

You are instructed that in an action to recover damages for libel, the law does not require that plaintiffs, in order to recover, prove that the defendant was actuated by malice in publishing the libelous statement, as malice is not an essential element of civil libel, and mere good faith or good intent of defendant in a libel action does not constitute a defense to the action.

In this connection you are instructed that under the law of this state plaintiffs in this case are entitled to recover such sum as will compensate them for the injury, if any, sustained as a result of the libel. The defendant cannot under the law be punished by way of damages for any ill-will or malice it

it is the policy of the law to accord all litigants the utmost freedom in prosecuting or defending their legal rights, but the law will not protect a man in making defamatory statements against x his opponent unless such statements are material to the protection of his rights, and the court now instructs you as a matter of law that the defamatory statements complained of i this action were not material to any matter in issue in the action brought by the defendant against the Teamsters' Union and others, and the publication of said statements in the complaint in said action was therefore not privileged, and it is no defense that said statements were made in the course of a judicial proceeding.

INSTRUCTION NO.

The charge that the plaintiff Charles V. McCoy was a labor racketeer, directing the policies of the said local Teamsters' Union means that the said McCoy was corrupt, and that he directed the policies of the Teamsters' Union corruptly and for personal gain. This charge I instruct you as a matter of law had a tendency to expose the accused person to hatred, contempt, ridicule and obliquy, and to deprive him of the benefits of public confidence and social intercourse.

Because of this, the law presumes that the publication was malicious, unless justified. For the same reason the publication of said charge is actionable unless justified, and because of the nature of the charge the plaintiff is not required to prove that he xx was actually damaged by its publication.

In the case at bar the only ground upon which the publication of this charge can be justified is, as alleged in the defendant's answer, that the matters stated were true in substance and in fact.

To justify the publication of such defamatory statements

it is not sufficient to prove that some of the statements were true or that they were partly true, but on the contrary, as the defendant has pleaded in its answer, it is necessary to prove that said statements as a whole were true in substance and the burden of proving this is upon the defendant.

INSTRUCTION NO.

You are instructed that the burden is on the plaintiffs to establish, by a preponderance of the evidence, that is, the greater weight of the evidence, the amount of damages, if any, to which they are entitled. In ascertaining the amount of such damages, if any, to which plaintiffs are entitled, you should consider the character and substance of said statement; the extent of its publication or display; the situation of the plaintiff Charles V. McCoy; the natural, reasonable and probable effects of the libel; whether it has held or will hold said plaintiff up to public ridicule, contempt or obloquy, or deprive him of public confidence or social intercourse; whether said plaintiff has suffered or will suffer by reason of its publication mental anguish, chagrin, shame or disgrace; what loss, present and future, if any, he has suffered or will suffer to his good name and fame, reputation and credit by reason thereof; and all other facts and circumstances in the case which in any manner will aid you in ascertaining the amount, if any, of plaintiffs' damages, and award them such sum as will fairly compensate them for the injuries, if any, sustained as a result thereof.

In ascertaining the amount of damages for mental anguish, disgrace, chagrin and shame, it is evident that there is no exact legal standard by which to measure such damages, and, in ascertaining the amount thereof, the jury must exercise its own judgment and sound common sense, based upon the evidence in the case.