

## CHECKLIST FOR DEFAMATION REVIEW

1. Can a reader identify the subject? (Remember: a business entity, such as a corporation, may also be defamed.) If the subject is identifiable (consider all disclosed details in addition to the name), is the person dead or the entity dissolved?
2. Would a reader's opinion of the subject be negatively affected as a result of the writer's references?
3. Does the juxtaposition of text with a photograph convey a damaging image of the subject that is not supported by facts (e.g., a photo of a woman walking down the street in a book or article on prostitution)?
4. Gave certain facts about the subject (e.g., marital status) been omitted in such a way that renders the depiction, though true, incomplete and thus damaging?
5. Is the problem passage a fair and accurate summary or report taken from court records or other public documents, therefore falling within a First Amendment permitted and protected category of reporting?
6. Is the statement clearly presented as an opinion and not a statement of fact?
7. Does the statement concern a public official, a public figure, or a private figure? The parameters of protected statements applying to each category are constantly shifting, so this determination is critical.
8. Is the statement substantially true? Although the burden of proving the truth or falsity of an allegedly defamatory statement is placed on the plaintiff, the publisher should nevertheless confirm the factual basis of the writer's reference. Are the corroborative sources available, or are they confidential?
9. Has the subject waived any cause of action, either by signing a release or consenting to an interview on tape or by posing for a photograph? Does the release meet the standards established by the publisher?
10. Is the subject's legal competence to grant consent questionable because of possible duress or misleading promises, or because of age, physical or mental infirmity, etc?
11. Does the writer have a reputation as a careful professional whose biases, if any, are clearly articulated in a preface or forward?