

Blog Yourself into Court

Blogging is a great way to interact on the web. You can meet new people and get links back to your blog or website. It is also a way to make very visible your expertise and also your point of view. However, remember that you are publishing information to a public forum. Say the wrong thing and you may find yourself in court.

Don't We Have Freedom of Speech?

You do have the right to free speech, it is an inalienable right, but that doesn't mean that you can say anything that you want. Consider this,... it doesn't cost much to file a claim against you. Can you afford to defend yourself? Can your adversaries use the court system to silence you? Yes they can and they will.

According to the First Amendment to the Constitution of the United States you have the right to freely express yourself. With that you are free to endure the consequences of that expression.

Before you can defend your rights you have to have your rights taken away. The U.S. government won't censor you unless you breach the peace or cause violence. However, others will censor you if they don't like what you have to say. They might be the controllers of media such as a television station or a web hosting provider.

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If you are shut down, you might want to investigate if your rights are being trampled upon, but be wary of those agreements you accepted on line. Chances are you will need to seek other channels to voice your opinion.

So far the litigation concerning bloggers has been mostly about defamation and the publication of trade secrets. The blogging community is looking very closely at some of the few lawsuits that are being filed. It is new territory for law and technology.

Of specific concern is the liability of website owners who run blogs or forums where guests make comments that may be considered defamatory. Who is liable? The anonymous poster or the guy that runs the website?

So far according to [Cornel University Law School](#) (scroll down to C:1) the website owner won't be liable for what others post as defamatory comments. However, if the website owner posts it again then they are taking on that liability. Further, if

the website owner gets a cease and desist letter they should be humble and remove the offending material.

Anonymous Free Speech



It is no wonder why many bloggers are anonymous. They can vent with a made-up identity. If you can't sue the blog administrator how do you go after ghosts? The answer lies with the server administrator and a subpoena to reveal the owner of an assumed identity. You would need a strong case to pursue the identity of an anonymous author because of the importance of the First Amendment as it pertains to anonymous free speech. [Read more from EFF about anonymity.](#)

In most cases a court may uphold the First Amendment to preserve the right of the blogger's anonymity. By in large the internet and especially on blogs and forums, the information is generally opinion and not relied on as factual. Once you start calling someone out by name you run the risk of the court to side with the plaintiff and your true identity may be revealed.

With that in mind, if you have a legitimate gripe about something be prepared to prove it. Hopefully you have a lawyer retained. If you are in Arizona or Massachusetts and you need legal advice contact the [Law Offices of Marc Paquette](#)

Common Sense

There are thousands of blogs coming online every day and the amount of lawsuits on bloggers is still very small. Keep in mind that a lot of new lawyers are graduating from law school every year and many bloggers feel that they can still rant and rave all they want. I think we will see more and more blog related lawsuits.

If you want to stay out of trouble, don't slander! Slander is when you speak about someone publicly and what you say causes harm or discredits them. Libel is when you put something in writing and publish it and it does harm to someone.

You can debate without defaming. Make sure that what you are saying is true and not just someone else's opinion. If they are wrong, you could be dragged into court just the same. All journalists have to check their facts.

Information can be used to hurt. If you have a grudge towards someone nobody can stop you from clicking the “post entry” button. If you release hurtful information into the public like an address or any personal information about someone, you can be setting yourself up for a hefty lawsuit. Everyone has a right to privacy.

Employee Bloggers

Here is where it gets complicated, corporate blogging, employees blogging about their jobs or about their industry. This is an area that a blogger has to step gingerly. If they are an employee, they might be saying something that could get their employer into hot water.



It is tenuous to consider employees as “bloggers”, but this is a new age and we need to adapt. Many companies are setting forth blogging policies for their employees. Mostly to protect the company from the employee, but also to consider blogging as part of their job.

The most critical liability is publishing trade secrets. This is where company policy needs to be very clear and understood by the employee. Not only can an employee be fired, but also sued for damages.

A disgruntled employee may call into effect the whistleblowing laws in which they can expose illegal activities by their employer. Whistleblowing laws can help shield them from being fired. But let’s face it, do you think they will have a job there long any ways? If they are right about their allegations, the whistleblowing laws should protect them from being sued by their employer.

Oh Yes, There is More...

A very interesting place to look for guidance at least initially might be found here at the EFF, the [Electronic Frontier Foundation](#). Now don’t go running around screaming that you’ve got rights just yet. This is a grass-roots level organization that is concerned about your rights to free speech on the internet. They have a lot of great information there to help you, but if you do get into trouble, get yourself an attorney.

If you like writing and producing video you might want to look up [MLRC](#) the Media Law Resource Center. Of particular interest when writing this article was the MLRC resource on [Lawsuits Against Bloggers](#).

Disclaimer

This article is not intended to be legal advice. This article is intended to provide only general, non-specific legal information. This article does not cover all the issues related to the topic presented. If you have questions regarding the law you should consult with an attorney familiar with the issues and the laws of your state. If you are in Arizona or Massachusetts and you need legal advice contact the [Law Offices of Marc Paquette](#).

Posted on August 10th, 2008 by Karl Knelson