CLIENT ALERTS & INSIGHTS

Is Florida the New Hot Jurisdiction for Defamation Cases?

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Authors: David D. Pope, Andrea Hoover

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Key Takeaways

- Florida is emerging as a favorable venue for defamation lawsuits because its long-arm statute makes it easier to bring out-of-state publishers into court-but plaintiffs still must clear the same substantive legal hurdles once the case gets there.
- Media companies and content publishers face increased litigation exposure in Florida, even for nationally distributed or online content, due to broad jurisdiction rules and plaintiff-friendly doctrines like conspiracy jurisdiction and "mixed opinion." However, strong First Amendment defenses still apply, meaning risk lies as much in costly litigation as in ultimate liability.
- Publishers should tighten editorial and legal review processes-especially around opinion statements, reporting on legal proceedings and anonymous sourcing-to mitigate risk. Plaintiffs, meanwhile, should focus on precise pleadings and leveraging discovery (particularly internal communications) to support actual malice and survive early dismissal.

Introduction

Florida has quietly become a hotbed for some of the country's most high-profile defamation lawsuits. This may be because Florida's long-arm statute, Fla. Stat. § 48.193, makes it comparatively straightforward for a Florida resident-plaintiff to obtain personal jurisdiction over out-of-state publishers. Under § 48.193(1)(b), a "tortious act" need not involve physical entry into the state; electronic or written communications directed into Florida can supply the jurisdictional basis where the claim arises from them. For a nationally distributed broadcast or online publication, for example, the tortious act occurs wherever the content is received-which necessarily includes Florida.

The Florida Supreme Court confirmed as much in *Internet Sols. Corp. v. Marshall*, 39 So. 3d 1201 (Fla. 2010). The court held that posting allegedly defamatory material on a website accessed in Florida constitutes a tortious act within the state. Combined with Florida's recognition of conspiracy jurisdiction-under which all alleged conspirators are subject to jurisdiction if any one of them

commits a tortious act in Florida in furtherance of the conspiracy-the jurisdictional deck is somewhat stacked in plaintiffs' favor.

It's worth noting that Florida's legislature has repeatedly (if unsuccessfully) tried to tilt the field further in plaintiffs' favor: HB 991 and SB 1220 (2023) sought to narrow the journalist's privilege; HB 757 and SB 1780 (2024) proposed a rebuttable presumption of actual malice for reliance on anonymous sources; and SB 752 (2025) would have required media to remove defamatory online content and treated its continued online presence as a "new publication" restarting the limitations period. All of these proposed measures failed, but their introduction signals a legislative inclination to be a more plaintiff-friendly defamation jurisdiction.

The four cases surveyed below are studies in whether filing in Florida actually translates into plaintiff success on the merits. As things currently stand, while obtaining jurisdiction in Florida may be relatively easy, defamation plaintiffs still face the same substantive hurdles as those who file in other states across the country.

Conspiracy Jurisdiction and the "Mixed Opinion" Theory

Trump v. Pulitzer **, No. 22-CA-000246 (Fla. Cir. Ct. July 20, 2024)**

For years, the President contended that the Pulitzer Prize Board ("the Board") wrongly awarded the 2018 National Reporting prize to The New York Times and The Washington Post for their reporting on alleged Russian collusion (as the President called it, the "Russia Collusion Hoax"), particularly after the Mueller Report found no evidence of collusion. After the President repeatedly demanded the Board rescind the prizes, the Board posted a statement on its website stating that it had commissioned reviews of the winning submissions which found that nothing in them was discredited. The Board stated: "The 2018 Pulitzer Prizes in National Reporting stand."

The President sued the Board and 19 individual members and staff for defamation by implication, defamation *per se* and related conspiracy counts, contending the Board's statement could reasonably be read to endorse the implication that the President had colluded with Russia. Eighteen of the 19 individual defendants resided outside Florida; only one was a Florida resident.

The court denied the non-resident defendants' motion to dismiss for lack of personal jurisdiction under Florida's two-pronged framework from *Venetian Salami Company v. J.S. Parthenais,* 554 So.2d 499 (Fla. 1989). It reasoned that (1) under conspiracy jurisdiction, where a plaintiff alleges a conspiracy to commit tortious acts and any member commits a tortious act in Florida in furtherance thereof, all conspirators are subject to jurisdiction; and (2) a tort for long-arm purposes requires no physical entry; electronic or written communications into Florida suffice under § 48.193(1)(b) where the claim arises from them. The amended complaint satisfied both prongs.

In a separate order, the court held the Board's statement was actionable "mixed opinion" rather than protected "pure opinion," because it implied numerous undisclosed facts. For example, the Board never explained its "established, formal process" or disclosed the identity, qualifications or independence of its two anonymous reviewers. Under Florida law, a statement couched as opinion that implies undisclosed defamatory facts is actionable. The court also held the statement was "of and concerning" the President, that damages were properly pled and that the conspiracy counts survived. The District Court of Appeal of Florida, Fourth District, affirmed the circuit court's denial of

the non-resident defendants' motion to dismiss. The Court of Appeal also rejected the Pulitzer Board's request to stay the lawsuit for the duration of the President's time in office. The Board appealed that decision, and the Florida Supreme Court declined to accept jurisdiction over the same.

Insight: *Trump v. Pulitzer* is a clear demonstration that Florida's long-arm statute can pull many non-resident media defendants into its jurisdiction. Additionally, the "mixed opinion" rule creates real exposure for publishers who issue conclusory statements on controversial issues without disclosing their factual bases.

The Limits of Substantial Truth and the Fair-Report Privilege

***Trump v. Am. Broad. Companies, Inc.*, 742 F. Supp. 3d 1168 (S.D. Fla. 2024)**

During a March 10, 2024 episode of "This Week," host George Stephanopoulos stated roughly 10 times that a jury had found the President liable for "rape." In fact, the jury in E. Jean Carroll's lawsuit against the President found him liable for "sexual abuse" and defamation, but specifically found he had *not* committed "rape," as narrowly defined under New York Penal Law. Judge Kaplan, who presided over the New York case, later opined in post-trial rulings that the verdict amounted to "rape" as most people commonly understand the word, but that view was the judge's, not the jury's. The President sued ABC, ABC News and Stephanopoulos for defamation under Florida law in federal court. Subject matter jurisdiction was based on diversity and personal jurisdiction was not contested. The defendants moved to dismiss on substantive grounds.

The court denied the motion to dismiss on all three grounds raised by the defendant. *First*, the court rejected collateral estoppel because defendants did not show the issues were identical and necessarily decided, as Judge Kaplan's findings arose in a meaningfully different context. *Second*, the court could not find substantial truth as a matter of law because New York law separates "rape" from other offenses and Stephanopoulos was describing a verdict. As a result, his statements were found "confusing or ambiguous" and susceptible to a defamatory interpretation, which should be left for the jury. *Third*, the court held that Florida's fair-report privilege did not warrant dismissal because it was unclear whether Stephanopoulos was reporting the jury's verdict or Judge Kaplan's later interpretation, and the privilege does not protect media where omitted context renders a report misleading.

The case settled in December 2024, with ABC agreeing to contribute approximately $15 million toward the President's future presidential library and foundation, plus roughly $1 million in legal fees, along with an editor's note expressing regret.[1]

Insight: This could be a lesson for media. Reporting on legal proceedings imprecisely-by, for example, conflating a jury's verdict with a judge's later gloss-carries significant exposure which cannot be negated by the fair-report privilege.

Per Se vs. Per Quod Pleading and the "Joke" Defense

***Loomer v. Maher*, No. 5:24-CV-625-JSM-PRL, 2025 WL 756549 (M.D. Fla. Jan. 16, 2025)**

Laura Loomer, a Florida-based conservative media figure and former congressional candidate, sued Bill Maher and HBO over Maher's "Real Time" statement on September 13, 2024, suggesting she "might" be having an adulterous relationship with the President. She brought claims for defamation *per se*, *per quod* and by implication. As a public figure, Loomer had to plead actual malice.

The court granted the motion in part and denied it in part. The defamation *per se* claims survived: Maher's statements were actionable statements of fact, not protected opinion or comedic hyperbole. The word "might" did not convert the statement into protected conjecture, and the remarks were made during a serious panel discussion that "drew more groans from the audience than sparse laughter." The court also found actual malice adequately pled, as Loomer alleged Maher fabricated the statement with no basis in fact.

On the other hand, the court dismissed the defamation-by-implication claim without prejudice because Loomer failed to allege "literally true" facts were manipulated, juxtaposed or omitted to create a false impression-a required element of that theory. The defamation *per quod* claim was also dismissed without prejudice for failure to plead special damages (*i.e.*, actual, out-of-pocket losses).

The litigation progressed to summary judgment, where the court granted the defendants' motion for summary judgment and entered final judgment in their favor on April 22, 2026. Ultimately, the court determined that viewing the segment in its full context, no reasonable viewer would have understood Bill Maher's remarks about Laura Loomer as a statement of fact rather than a joke delivered by a well-known comedian on a late-night comedy show. The court further held that, even if the statement were treated as factual, Loomer (a public figure) produced no evidence that Maher acted with "actual malice," since he had no reason to doubt his remark given the widespread media speculation about her closeness to the President, and failures to seek comment, to retract or investigate do not automatically establish malice.

As of early June 2026, Loomer had filed an appeal of the summary judgment decision to the Eleventh Circuit Court of Appeals.

Insight: This case is something of a lesson in bad jokes and pleading mechanics alike. There is a fine line between a "joke" and a defamatory statement, and the use of the word "might" will not necessarily defeat a claim where the statement reads as factual in context. And on the flip side of the coin, in order to sustain a claim for defamation-by-implication, a plaintiff must affirmatively identify the true facts that were arranged or omitted to create the defamatory impression. The contrast between the motion to dismiss decision and the summary judgment decision shows just how difficult it can be for a public figure like Loomer to establish as a matter of law that a defamation defendant acted with actual malice.

Building the Actual-Malice Proffer for Punitive Damages

***Young v. Cable News Network, Inc.,* No. 03-2022-CA-000608, 2023 WL 11891581 (Fla. Cir. Ct. Aug. 03, 2023)**

Zachary Young, a Navy veteran and former government operative, ran a private security and evacuation consulting practice through Nemex Enterprises, Inc., a company incorporated in Florida. On November 11, 2021, CNN's "The Lead with Jake Tapper" aired a segment about private operators helping Afghans flee the Taliban, using terms like "black market," "exorbitant" fees and "exploit," reinforced by an on-screen "Black Market" chyron. Young, who was the only operator profiled by name, sued CNN for defamation *per se*, defamation by implication and trade libel.

After filing his complaint, Young filed a motion to add a punitive-damages claim. Under Fla. Stat. § 768.72, "no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages." The finding of a reasonable basis for punitive damages under this statute "requires a legal determination by the trial court that the requirements of section 768.72(1) have been met," and the standard that is applied is similar to the standard that is applied to determine whether a complaint states a cause of action. *Young*, 2023 WL 11891581, at *2. The trial court found that the Plaintiff met his burden to demonstrate a reasonable basis for the recovery of punitive damages, and that his proffer of evidence demonstrated both actual and express malice.

The evidence proffered turned out to be quite bad for the defense. Internal CNN communications described the segment as "incomplete," "80% emotion, 20% obscured fact," and "full of holes like Swiss cheese," yet CNN's pre-publication review body still approved it. Young also warned CNN of factual inaccuracies hours before publication, but CNN published anyway. Internal messages further revealed personal animus-employees called Young a "shitbag" and said they were "going to nail this Zachary Young." The court held this sufficiently demonstrated actual malice, express malice and outrageous conduct to support a punitive-damages claim.

Ultimately, the case proceeded to a jury trial in Bay County, Florida in January of 2025. The jury found CNN liable and awarded approximately $5 million in compensatory damages. CNN subsequently reached a settlement with Young before the punitive-damages phase of the trial concluded.

Insight: This case presents a textbook example of compelling actual malice evidence against a media defendant: internal communications expressing doubt, evidence the publisher was warned of falsity and proceeded anyway, and messages showing hostility toward the plaintiff. For plaintiffs, discovery of internal editorial communications is one of the most valuable tools against a media defendant.

Practical Guidance for Would-Be Defamation Plaintiffs

Drawing on the four cases above, defamation plaintiffs may want to keep the following in mind:

- **Plead with precision.** Distinguish defamation *per se* (damages often presumed) from *per quod* (special damages required); for implication theories, allege the true facts that were manipulated or omitted; and frame the challenged statements as false statements of fact, not opinion.
- **Anticipate merits defenses.** Substantial truth and the fair-report privilege are fact-bound and often go to the jury, but precise, context-rich allegations help defeat early dismissal.
- **Remember: easy jurisdiction does not mean an easy win.** Florida applies the same robust First Amendment protections as every other state. Getting into a Florida courtroom is the beginning, not the end, of the fight.

Conclusion

Florida's long-arm statute may give it a slight edge over other states for defamation plaintiffs, but it is not without its limitations. Unlike other jurisdictions (such as New York), which expressly carve defamation claims out of certain long-arm provisions (*see* CPLR 302), Florida's statute contains no comparable defamation exclusion and permits jurisdiction over nonresidents who remotely commit tortious acts in the state. That does not mean every out-of-state publication about a Florida plaintiff will support jurisdiction; plaintiffs still must satisfy constitutional due process requirements. But Florida offers plaintiffs a relatively smooth path to bringing reputational injury claims in Florida court.

Whether Florida's long-arm statute or pure coincidence is what's driving the uptick in high-profile defamation actions in the state remains to be seen. Either way, plaintiffs should maintain focus on carefully worded, factual and precise pleadings to increase their chances of surviving dismissal.

Benesch's Crisis Management & Defamation team continues to actively monitor the implications of defamation litigation across the country. Benesch client alerts and legal publications are available for you to receive by signing up HERE.

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[1] Michael R. Sisak, Associated Press, *ABC agrees to pay $15 million to Trump's presidential library to settle defamation lawsuit*, PBS (Dec. 14, 2024), https://www.pbs.org/newshour/politics/abc-agrees-to-pay-15-million-to-trumps-presidential-library-to-settl