

Blog: Jack "Out of the Box"



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Welcome to Jack "Out of the Box." This is a spin-off of the Firm's InfoLaw Newsletter, much like "CSI: Miami" is a spin-off from "CSI." Except without all the corpses. I plan to update the blog at least weekly. Really. It's not like when I used to promise my mom to clean my room once a week. I'm more mature now. And of course, the InfoLaw Newsletter will continue every two weeks. The blog will feature shorter pieces, and ideally, reader feedback. Should be fun. Oh yeah, and informative.

Sex, Lies And Libel

Feb 14, 2014

Just in time for Valentine's Day comes a [libel lawsuit](#) filed by David Bar Katz against the National Enquirer. Katz filed the suit on February 12, seeking \$50 million in damages based on the National Enquirer's story claiming Katz was Philip Seymour Hoffman's gay lover. The National Enquirer story also claims Katz witnessed Hoffman use heroin and freebase cocaine the night before Hoffman died. Katz claims the story's allegations, including his affair with Hoffman damaged his reputation, and exposed him to hatred and ridicule.

Here's a [post from Forbes](#) that raises an ethical question – is it defamatory to claim a person is gay? The whole idea of libel is that you say something bad about someone – he's a thief, a liar, a cheat. Seems like a court would be stigmatizing homosexuality to lump it in with those slurs. And if Katz is hated and ridiculed by bigots, doesn't a damage award sort of buy right into the bigotry?

A [2004 case](#) from a federal court in Boston came to that very conclusion. It noted that it would be absurd to allow a white person to claim he was defamed by being called an African American – even if some racists held that person in contempt. Substitute homophobia for racism and the analysis is the same.

But I don't think Mr. Katz is completely out of luck. While it may not be libel to accuse him of being gay, the story accuses him of

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(what's the point of a blog without them)

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(you had to see this coming):

This blog is a periodic publication of Graydon Head & Ritchey LLP and should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult your own advisor concerning your situation and

engaging in an affair with a married man. Adultery is adultery. And if Katz has held himself out as heterosexual, than the story is calling him a liar. That's an accusation that should support a libel claim.

We'll see how this plays out. Seems like a sad situation all the way around.

any specific legal question you may have. Many states, including Kentucky, require that law firms add the statement "THIS IS AN ADVERTISEMENT" on publications of this nature.

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