

These guidelines for reviewing letters to the editor were printed in *The Fourth Estate*, the newsletter of the Mississippi Press Association. They were written by attorney Malissa Winfield.

Just because it's a "Letter to the Editor:" does not mean the newspaper is immune from liability. Letters to the editor are subject to the same general rules regarding defamation and privacy as news articles, editorials, advertisements and photographs. Both the original author and the newspaper as the re-publisher of the alleged defamatory statement are open to a defamation action.

When publishing letters to the editor, newspapers should be mindful of the elements that create a defamation cause of action. Generally, any statement in a publication that harms the reputation of the person about whom the statement is made is potentially defamatory unless the statement is privileged because, for example, it accurately reports the allegations contained in a complaint filed in court that is not under seal.

A letter to the editor could also be the source of a privacy cause of action. Any statement about persons that places them in a false light, intrudes into private affairs, publicizes private information, or commercially appropriates their name or image may possibly violate their privacy rights.

Most defamation actions are coupled with a privacy claim. The same defenses to a defamation claim, such as a privilege, are also defenses to a privacy claim. Privacy causes of action can be often times easily avoided by exercising common sense when determining whether a statement in a letter to the editor might be an invasion of privacy.

Instances where the parties are private individuals, as opposed to public officials or public figures, the defamation or privacy plaintiff may only have to prove that the newspaper was merely negligent in publishing the letter to the editor. For example, under certain circumstances, not investigating the facts before running a letter to the editor may be sufficient for a case to go to the jury and allow it to find negligence.

Although Joe Citizen is free to write a letter to the editor accusing a local business-person of bigotry, a newspaper is always free not to publish it. Newspapers should not print a letter to the editor "as is" without carefully reviewing its content.

Finally, if a paper gets a call or a letter demanding that the paper retract or correct statements included in a letter to the editor, the paper should always consult an experienced defamation attorney before making a final decision about whether a retraction is called for.