

**ASSEMBLY BILL**

**No. 998**

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**Introduced by Assembly Member Wagner**

February 26, 2015

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An act to amend Section 48a of the Civil Code, relating to libel.

LEGISLATIVE COUNSEL'S DIGEST

AB 998, as introduced, Wagner. Civil law: libel: damages.

Under existing law, in any action for damages for the publication of a libel in a newspaper or of a slander by a radio broadcast, the plaintiff is required to recover no more than special damages unless a correction is demanded and the correction is not published or broadcast. If a correction is demanded and the correction is not published or broadcast in a specified manner in the newspaper or on the broadcasting station, existing law authorizes the plaintiff to recover general, special, and exemplary damages provided certain requirements are met.

The bill would expand these provisions to additionally include libel in a magazine or other periodical publication, either in print or electronic form.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 48a of the Civil Code is amended to read:  
2 48a. 1. In any action for damages for the publication of a libel  
3 in a newspaper, *magazine, or other periodical publication, either*  
4 *in print or electronic form*, or of a slander by radio broadcast,  
5 plaintiff shall recover no more than special damages unless a

1 correction be demanded and be not published or broadcast, as  
2 hereinafter provided. Plaintiff shall serve upon the publisher, at  
3 the place of publication or broadcaster at the place of broadcast,  
4 a written notice specifying the statements claimed to be libelous  
5 and demanding that the same be corrected. Said notice and demand  
6 must be served within 20 days after knowledge of the publication  
7 or broadcast of the statements claimed to be libelous.

8 2. If a correction be demanded within said period and be not  
9 published or broadcast in substantially as conspicuous a manner  
10 in said newspaper, *magazine, or other periodical publication,*  
11 *either in print or electronic form,* or on said broadcasting station  
12 as were the statements claimed to be libelous, in a regular issue  
13 thereof published or broadcast within three weeks after such  
14 service, plaintiff, if he pleads and proves such notice, demand and  
15 failure to correct, and if his cause of action be maintained, may  
16 recover general, special and exemplary damages; provided that no  
17 exemplary damages may be recovered unless the plaintiff shall  
18 prove that defendant made the publication or broadcast with actual  
19 malice and then only in the discretion of the court or jury, and  
20 actual malice shall not be inferred or presumed from the publication  
21 or broadcast.

22 3. A correction published or broadcast in substantially as  
23 conspicuous a manner in said newspaper, *magazine, or other*  
24 *periodical publication, either in print or electronic form,* or on  
25 said broadcasting station as the statements claimed in the complaint  
26 to be libelous, prior to receipt of a demand therefor, shall be of the  
27 same force and effect as though such correction had been published  
28 or broadcast within three weeks after a demand therefor.

29 4. As used herein, the terms “general damages,” “special  
30 damages,” “exemplary damages” and “actual malice,” are defined  
31 as follows:

32 (a) “General damages” are damages for loss of reputation,  
33 shame, mortification and hurt ~~feelings;~~ *feelings.*

34 (b) “Special damages” are all damages which plaintiff alleges  
35 and proves that he has suffered in respect to his property, business,  
36 trade, profession or occupation, including such amounts of money  
37 as the plaintiff alleges and proves he has expended as a result of  
38 the alleged libel, and no ~~other;~~ *other.*

39 (c) “Exemplary damages” are damages which may in the  
40 discretion of the court or jury be recovered in addition to general

1 and special damages for the sake of example and by way of  
2 punishing a defendant who has made the publication or broadcast  
3 with actual ~~malice~~; *malice*.

4 (d) “Actual malice” is that state of mind arising from hatred or  
5 ill will toward the plaintiff; provided, however, that such a state  
6 of mind occasioned by a good faith belief on the part of the  
7 defendant in the truth of the libelous publication or broadcast at  
8 the time it is published or broadcast shall not constitute actual  
9 malice.