

AMENDED IN SENATE JUNE 25, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**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 amended, 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 revise these provisions relating to libel to provide that the publication of a libel be in a daily *or weekly* news publication, as defined. This bill would also make legislative findings regarding libel.

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. It is the intent of the Legislature to ensure that
- 2 *weekly and* online publications are afforded the same protection

1 under Section 48a of the Civil Code as is afforded to a ~~printed~~  
2 *daily* newspaper to the extent that the ~~online publication performs~~  
3 *weekly and online publications perform* the same  
4 news-disseminating function as a ~~printed daily~~ newspaper. The  
5 Legislature finds and declares that the rulings in *Burnett v. National*  
6 *Enquirer, Inc.* (1983) 144 Cal.App.3d 991 and *Condit v. National*  
7 *Enquirer, Inc.* (2002) 248 F.Supp.2d 945 ~~correctly state that the~~  
8 ~~purpose do not fully recognize that the policy~~ of Section 48a of  
9 the Civil Code ~~is~~ to protect enterprises engaged in the immediate  
10 dissemination of news on matters of public concern, insofar as  
11 time ~~does~~ *constraints do* not reasonably permit such enterprises  
12 to check sources for accuracy and stories for inadvertent ~~errors.~~  
13 *errors, should extend to online publications and weekly*  
14 *newspapers, which publish breaking news on deadlines*  
15 *indistinguishable from daily newspapers.* It is not the intent of the  
16 Legislature that Section 48a of the Civil Code should apply to  
17 periodicals that publish at ~~weekly or~~ longer *than weekly* intervals,  
18 nor is it the intent of the Legislature that Section 48a of the Civil  
19 Code should apply to casual postings on a social networking  
20 Internet Web site, chat room, electronic bulletin board, discussion  
21 group, online forum, or other related Internet Web site.

22 SEC. 2. Section 48a of the Civil Code is amended to read:

23 48a. 1. In any action for damages for the publication of a libel  
24 in a *daily or weekly* news publication, or of a slander by radio  
25 broadcast, plaintiff shall recover no more than special damages  
26 unless a correction be demanded and be not published or broadcast,  
27 as hereinafter provided. Plaintiff shall serve upon the publisher,  
28 at the place of publication or broadcaster at the place of broadcast,  
29 a written notice specifying the statements claimed to be libelous  
30 and demanding that the same be corrected. Said notice and demand  
31 must be served within 20 days after knowledge of the publication  
32 or broadcast of the statements claimed to be libelous.

33 2. If a correction be demanded within said period and be not  
34 published or broadcast in substantially as conspicuous a manner  
35 in said *daily or weekly* news publication, or on said broadcasting  
36 station as were the statements claimed to be libelous, in a regular  
37 issue thereof published or broadcast within three weeks after such  
38 service, plaintiff, if he pleads and proves such notice, demand and  
39 failure to correct, and if his cause of action be maintained, may  
40 recover general, special and exemplary damages; provided that no

1 exemplary damages may be recovered unless the plaintiff shall  
2 prove that defendant made the publication or broadcast with actual  
3 malice and then only in the discretion of the court or jury, and  
4 actual malice shall not be inferred or presumed from the publication  
5 or broadcast.

6 3. A correction published or broadcast in substantially as  
7 conspicuous a manner in said daily *or weekly* news publication,  
8 or on said broadcasting station as the statements claimed in the  
9 complaint to be libelous, prior to receipt of a demand therefor,  
10 shall be of the same force and effect as though such correction had  
11 been published or broadcast within three weeks after a demand  
12 therefor.

13 4. As used herein, the terms “general damages,” “special  
14 damages,” “exemplary damages” and “actual malice,” are defined  
15 as follows:

16 (a) “General damages” are damages for loss of reputation,  
17 shame, mortification and hurt feelings.

18 (b) “Special damages” are all damages which plaintiff alleges  
19 and proves that he has suffered in respect to his property, business,  
20 trade, profession or occupation, including such amounts of money  
21 as the plaintiff alleges and proves he has expended as a result of  
22 the alleged libel, and no other.

23 (c) “Exemplary damages” are damages which may in the  
24 discretion of the court or jury be recovered in addition to general  
25 and special damages for the sake of example and by way of  
26 punishing a defendant who has made the publication or broadcast  
27 with actual malice.

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

34 5. For purposes of this section, a “daily *or weekly* news  
35 publication” means a publication, either in print or electronic form,  
36 that contains news on matters of public concern and that publishes  
37 at least ~~five days~~ *once* a week.

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