

Case Illustrates How Some Judges Just Don't "Get" Defamation

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I run into this attitude from judges occasionally. Thankfully, I've always been able to turn them around, but when I read about it, it still raises my hackles a little.

The attitude of which I speak was most recently illustrated by a New York judge named Harold Baer. The case involved a couple of former girlfriends of Matthew Couloute Jr., a New York Lawyer. The women went to the website LiarsCheatersRUs.com and allegedly posted bad comments about Couloute. (One denies making the posts, the other says they were truthful.)

If the comments had been limited to statements about how he was a cheap date or a lousy kisser, I would defend to the death their right to say such things. But as is often the case, someone who is mad enough to go to such a hate site is someone who wants to inflict pain, so they stray far afield. One of the women allegedly posted the comment, "He is very, very manipulating, he's an attorney so he's great at lying and covering it up without batting an eye."

In anyone's book, that is defamatory. The statement "great at lying" states not only that he has lied, but that he had lied on multiple occasions to the point that he is great at it. The "without batting an eye" comment means that he has no compunction against lying, so that is a slam on his ethics. But here was the judge's reasoning for throwing out the case:

"The average reader would know that the comments are 'emotionally charged rhetoric' and the 'opinions of disappointed lovers.'"

With all due respect Judge (judges hate it when you say that), that does not make the comments non-defamatory or otherwise permissible. Yes, the circumstances of a statement can dictate whether the statement was meant to be taken as true, but you don't get to call someone a liar and

get a pass because the reader knows you were mad when you said it. The circumstance that allows you to get away with calling someone a liar is if the reader would know that you simply don't have sufficient knowledge to know whether someone is a liar, as illustrated by [another case I wrote about](#).

Now, in the judge's defense, Couloute made the huge mistake of not hiring Morris & Stone to prosecute the action, and as a result it appears the law firm he did hire failed to properly plead the case. According to [this article](#), the judge "also refused to let Couloute revise his suit to include charges of defamation." Thus it appears that Couloute's attorney was trying to prosecute the case under an interference with prospective economic advantage claim. That is supported by another statement in the article, that the judge said "Couloute failed to prove the women were using their words to poison clients against him."

The moral of the story? Know that when you sue for defamation, depending on the judge, you can run into some very provincial attitudes.