



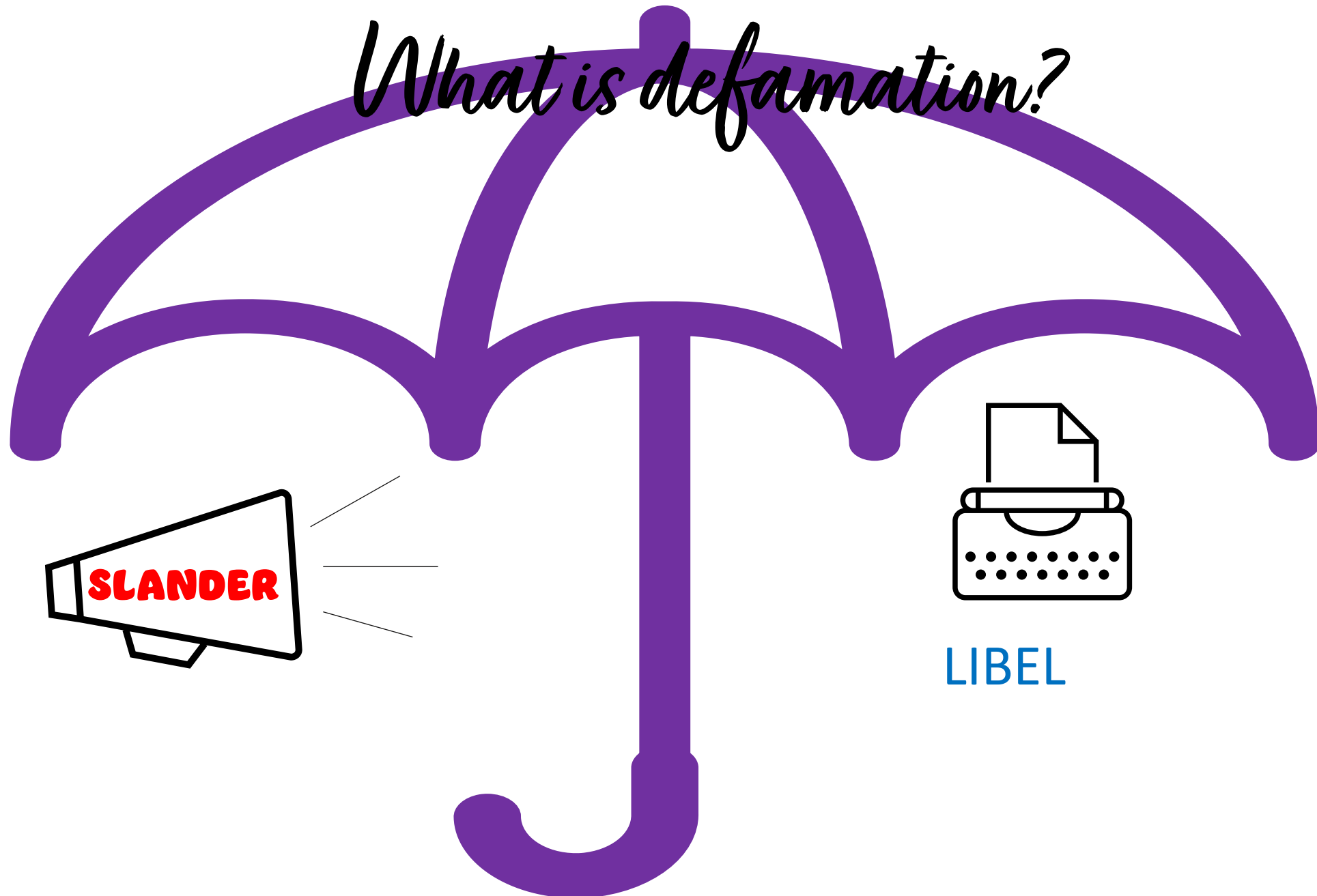
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Weaponizing Defamation Litigation To Silence Survivors



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What is defamation?



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Defamation - Basic Elements

- ① Statement must be a provably false fact
(as distinguished from opinion)

Defamation - Basic Elements

Fact vs. Opinion



“the Court concludes that Phillips’s statements that Sandmann ‘blocked’ him and ‘wouldn’t allow [him] to retreat’ are objectively unverifiable and thus unactionable opinions.”

Defamation - Basic Elements

LOATHESOME
DISEASE



IMPUTING
FORNICATION



- ② Statement must have a defamatory meaning
(harm to reputation)

IMPUTES
COMMISSION OF
CRIME



UNFITNESS/LACK
PROFESSIONAL INTEGRITY



LACK OF ABILITY
BUSINESS/TRADE/PROFESSION



Defamation - Basic Elements

- ③ Statement cannot be privileged



Defamation - Basic Elements

④ Fault



Negligence
(Low standard)

Failure to take proper care regarding the truth



Actual Malice
(High standard)

Knowledge of falsity/harbors serious doubts about truth

Defamation - Basic Elements

⑤ Damages (presumed in Illinois)





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Weaponizing Defamation Real World Examples

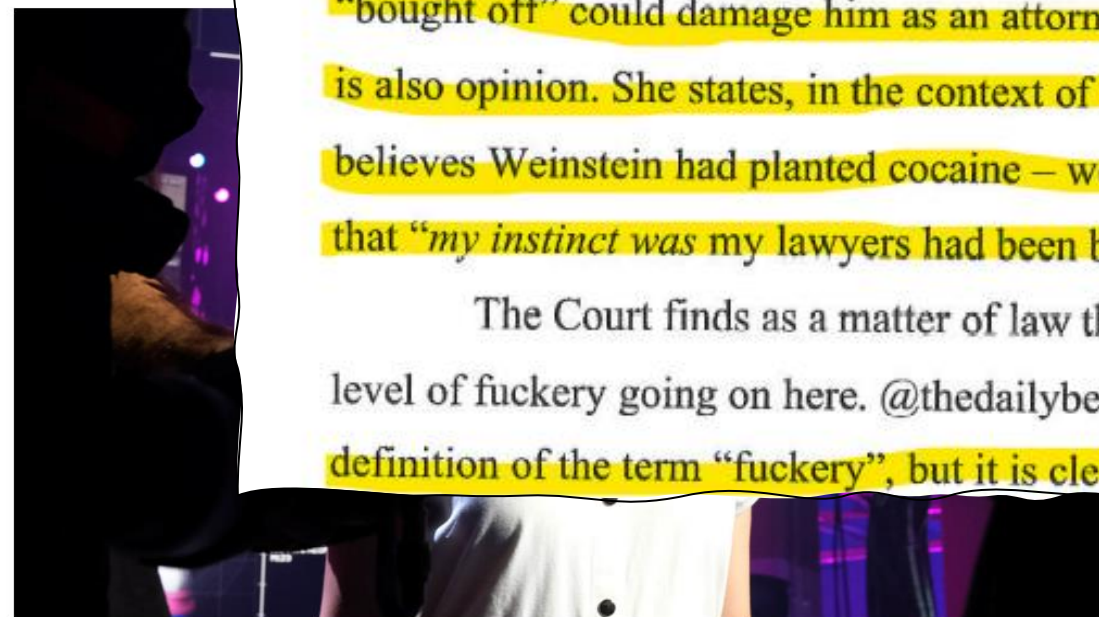
Rose McGowan Dine Don Lawrence for joining Harvey

Weinstein's

SMALL WORLD

Two members of the
defended the actress

Lachlan Cartwright
Editor At Large



Mike Marsland/Getty

In the *Shadiness Statement* McGowan spoke in reference to Baez's representation of McGowan in the McGowan Virginia Case and his subsequent representation of Weinstein in the Weinstein New York Case. A statement that an attorney lacks integrity in the discharge of his professional duties and accuses him misconduct can be defamation *per se*. *Missner v. Clifford*, 393 Ill. App. 3d 751 (2009). Baez is right to claim that an allegation of disloyalty or having been "bought off" could damage him as an attorney. But when read in the context of the statement, it is also opinion. She states, in the context of learning that her attorneys in her case - where she believes Weinstein had planted cocaine - were now Weinstein's lawyers an opinion and feeling that "my instinct was my lawyers had been bought off" (emphasis added).

The Court finds as a matter of law that the statement, "I'm not even surprised by the level of fuckery going on here. @thedailybeast" is not defamation *per se*. The Court offers no definition of the term "fuckery", but it is clearly a matter of opinion.

"This is a major conflict of interest but I knew there was shadiness going on

ay.

by lawyers had

and I wouldn't have

IS

ILED

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ryder

JULIE B. PORTER,

Defendants.



The Insider ✓ @Insider · Aug 10, 2020

Daniel Snyder, in legal filing, accuses former team employee of spreading false stories



washingtonpost.com

Daniel Snyder, in legal filing, accuses former team employee of spread...
The request for discovery accuses a former executive assistant of acting as an intermediary for unnamed adversaries.



Liz Clarke ✓ @lizclarktweet · Aug 26, 2020

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Latest allegations arrive at a perilous time in Daniel Snyder's ownership of the Washington Football Team.

COOK COUNTY RECORD

Tuesday, September 13, 2022

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Richard Dent | Facebook

Illinois Supreme Court says Richard Dent can't learn the IDs of people who accused him of sexual harassment, public drunkenness

Witness Statement Form

Witness's Name: Jane Doe Date of Incident: _____

Your Name: _____

Address	City	State
---------	------	-------

Telephone Number	Work Number	Other Numbers
------------------	-------------	---------------

Occupation	Relationship	Age
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STATEMENT

This is a true account of what he did and what happened to me.

100

The information I have provided in this report is true and correct to the best of my knowledge. The information report contains everything I can recall.

Date _____ Witness Signature Jane Doe.

Date _____ Witness Signature _____



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What should I consider before speaking out?



*What should
I consider?*



*What should
I consider?*



**TIME'S
==UP**



What should I consider?



irresponsible

slutty

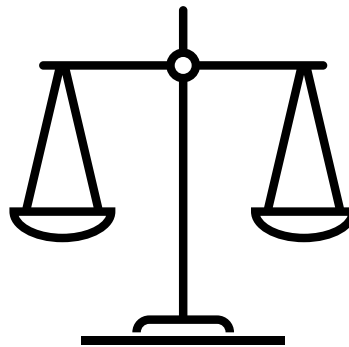
histrionic

emotional

crazy

selfish

conniving





Questions?

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