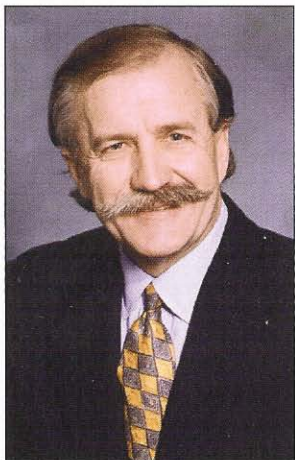


watch what you say, write



By Mati Jarve
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The success of a person in the horse industry is largely dependent on his or her personal reputation for competency and honesty. How many times have we all heard whispers of a certain trainer using illegal drugs to gain an unfair advantage? Or, of the veterinarian that failed to diagnose and cure an obvious lameness? The “crooked” judge? Or the farrier that “crippled” my horse? Whenever such accusations are made, the law of defamation is implicated.

The law of defamation is generally broken down into two different categories. The first is slander. The second is libel. Slander is an oral statement that damages an individual’s reputation or business that is either known to be false or made with reckless disregard for the truth. Libel is slander that is written. The writing must be communicated to another person and can include internet postings and e-mail. The standards for public figures are different from the standards applicable to private individuals. Public figures are deemed to have thrust themselves into the public limelight and therefore invite closer scrutiny. On the other hand, private parties have a higher expectation of privacy and are protected accordingly.

An example of a potentially slanderous statement would be an accusation that a particular trainer used banned substances to enhance a horse’s performance at a show. If the accusation is then reduced to writing it becomes libel. However if the statement is true, it is neither slanderous nor libelous. It is a well accepted maxim in the law that truth is an absolute defense to a charge of defamation. Another well accepted defense to a charge of defamation is a statement of opinion. As long as the statement is characterized as an opinion it will not usually be actionable as defamation. However some opinions may be so outrageous that they would be deemed to be slanderous.

Although it is possible to be slandered without any economic harm, it is usually necessary to prove financial damages in a claim for defamation. In other words, hurt feelings are not enough. In the above example, if the trainer can prove that the statement was false and he lost customers because of the false statements, he would be entitled to monetary damages. Without provable losses the trainer may be entitled to only nominal damages, or perhaps none at all.

Even if the trainer has a legally actionable claim, it may not be worth it. The legal and emotional costs of such a lawsuit may outweigh the potential gain. Sometimes it is better to ignore ordinary gossip rather than give credence to rumors and innuendo by protracted court battles. Often the best way to deal with the situation is to confront the gossip directly and personally. Or, a letter from an attorney placing the gossip on notice of potential legal action may be sufficient.

As everyone knows, the constitution guarantees free speech. This includes the good, the bad and the ugly. The law of defamation places limits on the bad and ugly of free speech.

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