

Reputation Injured Based on Distribution of Letters

Homeowner Sues Association Attorney for Libel



BY JOEL M. KRIGER, ESQ.

The Lindholms filed a lawsuit over two defamatory letters distributed to everyone in their condominium complex. *Lindholm v. Swedelson*, (2003) Cal. App.

Unpub. Lexis 4596. One of those letters was written by the Association's attorney who had been hired to defend the Redondo Beach Condominium Complex against the Lindholms' allegations that board members had stolen money, failed to provide sufficient security against vandalism and were guilty of "relentless harassment." In response to the allegations against the Board, the association's counsel distributed a letter to all

residents living in the complex. The letter accused the Lindholms of being "on a personal mission to bring down the board as part of a vendetta against the Board." In addition, association counsel called the allegations of the Lindholms "nonsensical" and reported that Mr. Lindholm had "misrepresented facts" in court in order to wrongfully obtain a restraining order against the board. It is this letter that triggered a lawsuit against the association's legal counsel for libel.

Association's counsel filed a motion to have the libel lawsuit dismissed without going to trial. The Court refused to dismiss the case. Counsel argued that because the letters were written in the course of a lawsuit, to achieve the objectives of the lawsuit, the attorney

could not be sued for libel based on the letters' content. Under California's litigation privilege, counsel was correct. Unfortunately, the Court found that the careless distribution of the letter to nonparticipants in the litigation went beyond the privilege granted participants in litigation. Generally the participants are permitted to virtually say anything about each other so long as it is in the context and framework of the litigation. Since this went beyond its boundaries, the Court held the case would not be dismissed and that the Lindholms would be permitted to take the association's counsel to trial on the issue of damages for injury to their reputation based on those letters. ■

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