

Defamation Defense: Discharge Of Official Duty

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An absolute privilege exists for statements made "[i]n the proper discharge of an official duty" under [California Civil Code section 47\(a\)](#). An absolute privilege is defined as a "privilege that immunizes an actor from suit, no matter how wrongful the action may be, and even though it is done with an improper motive." Black's Law Dictionary, 7th Ed., p. 1215.

This means that any publication of a statement made by a person in the proper discharge of an official duty is absolutely immunized. So when does this defense/privilege apply?

First, the statement must be made by a public official (in other words, only government officials). The official duty privilege does not apply to private individuals. For example, a court held that a district attorney was acting in the discharge of an official duty when he issued a press release regarding alleged violations of the Brown Act.

Second, the statement must be made in the public official's official capacity. If not, the privilege does not apply.

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