

Defamation Defense: Judicial Proceedings

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Continuing in our series on defamation defenses, today we're going to cover the defense of statements made in a judicial proceeding, also known as the [litigation privilege](#).

A publication made in a judicial or quasi-judicial proceeding is absolutely privileged. [Civil Code § 47\(b\)](#). This means that you cannot prevail in a libel or slander case if the statements are privileged. In other words, the law allows people to make certain statements in certain settings, e.g., in a judicial proceeding.

The following requirements are necessary to meet the litigation privilege:

- the communication must be made in a judicial or quasi-judicial proceeding;
- by litigants or other participants authorized by law;
- to achieve the objects of the litigation; and
- the communication has some connection or logical relation to the action.

[Silberg v. Anderson \(1990\) 50 Cal.3d 205, 212.](#)

The primary purpose of the litigation privilege is to allow litigants and witnesses the freedom to use the courts without being worried that they'll be harassed by subsequent lawsuits. The litigation also promotes a more effective judicial system because it allows lawyers to vigorously advance their client's interests. In short, the litigation privilege is one of the most powerful defamation defenses. It is also one of the more complicated defenses.

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