

Someone spread derogatory information about me to others, what can I do?

You might have grounds to sue them for defamation. Defamation is somewhat of a catch all word and specifically means slander and/or libel. Slander is by spoken word, libel is by writing. Generally, the elements for slander are: 1) a publication (making an oral statement); 2) to at least one third party (not to only the victim himself); 3) that is derogatory; 4) that causes special (economic) damages. (There are additional elements and concerns if the victim is a public official or the statements are considered a matter of public concern.). Although technically it is not an element of this tort in Massachusetts, in all reality the statement made has to be false as well. This is because, generally, if a potential defendant can show the statement is true he is likely to defeat the suit. (Additional concerns may apply to this.)

The statement is considered defamatory if it: "hold[s] the plaintiff up to contempt, hatred, scorn, or ridicule or tend[s] to impair his standing in the community, at least to his discredit in the minds of a considerable and respectable class in the community." Tartaglia v. Townsend, 19 Mass. App. Ct. 693, 696 (1985).

You may be thinking why you don't see more slander lawsuits, seeing as these elements must be satisfied very often. Maybe you have been a victim more than once. The reason lies with the damages. As stated, a victim must plead in his case economic damages. This means actual "hard" economic damages that can be demonstrated. So, having people stay away from you or not like you really isn't enough. It may be if you can show people made decisions based on the statements that caused you damages, like losing or not being hired for a job, it may be enough. But in most instances, a victim is unable to allege economic damages.

However, certain types of derogatory statements are considered slander *per se*. This should be thought of as slander *by law*. Essentially society has recognized that some statements are so hurtful or damaging to the reputation that a victim should not need to have realized actual (economic) damages to bring forth a claim. Rather, the fact finder (judge or jury) will decide what to award, which includes emotional damages and harm to the victim's reputation.

Generally, there are 4 types of statements that are considered slander *per se*. They are statements: 1) in writing (libel); 2) that the victim committed a crime; 3) that the victim has certain diseases; 4) that prejudice the victim's business or occupation, including that a person lacks the characteristics to perform their lawful business or occupation; (and possibly a fifth ---that a women (possibly a man as well) is unchaste. An example of the 4th exception was decided in Ravnikar vs. Bogojavlensky, 438 Mass. 627 (2003). In that case the Massachusetts Supreme Judicial Court decided that it was defamatory to say a doctor was dying of cancer because, they reasoned, it would prejudice the doctor's practice and occupation.

We have all heard the saying *sticks and stones may break my bones but names will never hurt me*. But then we grew up, we realized that wasn't true. Names often include implied derogatory statements that really hurt, and cause damage. If you think you have been the victim of slander, slander *per se*, or libel, it may be time to call an attorney if you seek to bring a claim.

Contact: George E. Bourguignon, Jr., Esq.

(413) 746-8008

[gbourguignon@bourguignonlaw.com](mailto:gbourguignon@bourguignonlaw.com)

[www.bourguignonlaw.com](http://www.bourguignonlaw.com)