

A Formal Response to the Evangelical Christian Publishers Association

It is dismaying that the ECPA would post the press release of Living Stream Ministry and the Local Churches (see www.ecpa.org/rush/pr14.html), since the assertions made in this press release are so patently wrong in light of the actual case record.

Living Stream Ministry and the Local Churches criticized the reasoning of the Court of Appeals of the First District of Texas, and erroneously warned ECPA readers that this decision might give religious publishers “free reign to use criminal accusations to attack ministries and churches.” This was never at issue. The reasoning of the appellate court was not, as the LSM/LC reasoning requires, that accusations of criminal activity are protected if they occur in the context of religious criticism. Living Stream Ministry and the Local Churches wrote, “The Appeals Court ruled, in essence, that if one party accuses another party with allegations of criminal behavior—but does it in a ‘religious’ context—it cannot be found liable for the damages it caused.”

On the contrary, nothing in the ruling of the Court of Appeals even hints at that. The court’s reasoning was instead two-pronged: first, that so far as its *theological* definition is concerned, the term *cult* is not actionable, and for that the court gives ample legal precedent; and second, that **no accusations of criminal activity** (which would be actionable if, but only if, reasonably understood to have been made against the plaintiffs) **in Ankerberg and Weldon’s book could be understood by a reasonable person as directed either explicitly or implicitly at the plaintiffs.** I agree.

The appeals court did not decline to define accusations of criminal behavior as defamatory, but accepted that they could be *if they were directed against an identifiable person or persons*. Instead, it ruled that “the passages in the book that refer to the church are not, as a matter of law, defamatory.” Why? Because the religious context immunized accusations of murder, rape, and child sacrifice from being held defamatory? No, the court said nothing of the sort.

Instead, the court justified its ruling on the ground that

the characteristics of cults—including ... criminal acts ... “cannot reasonably be interpreted to defame every group in the book.” In other words, **the publisher and authors argue that the second element of a defamation claim—that a defamatory statement was made concerning the plaintiff** [italics original]—cannot be met. **We agree.** [boldface added].

The court focused again and again on the facts obvious to a reasonable reader, that the Harvest House book did not charge the Local Churches with criminal or illegal activities.

... [A] plaintiff has no cause of action for a defamatory statement directed to some or less than all of the group when there is nothing to single out the plaintiff. ...

... [I]n order for an alleged defamatory statement that is directed to an unidentified group of individuals to be actionable, it must create the inference that *all members* [emphasis original] of the group have participated in the activity that forms the basis of the libel suit. If the statement refers to some, but not all members of the group, and does not identify to which members it refers, it is not a statement of and concerning the plaintiff.

... [T]he Introduction of the book specifically states that “[t]he list [of the characteristics of a cult] is not exhaustive. Not all groups have all the characteristics and not all groups have every characteristic in equal measure. ...”

... In sum, considering the Introduction as a whole, we cannot conclude that a reasonable reader could believe that all groups named in the book participate in the criminal activities that plaintiffs claim as the basis of their libel action. No reasonable reader could conclude that the book accuses the church, and, in fact, every other church named in the book, of rape, murder, child molestation, drug smuggling, etc. As such, the allegedly libelous statements in the Introduction are not “of and concerning the church” and are not actionable.

... [T]he publisher and authors argue again that the second element of a defamation claim—that a defamatory statement was made *concerning the plaintiff* [emphasis original]—cannot be met. Again, we agree. . . .

Because the allegedly libelous statements in the Doctrinal Appendix are not of and concerning the church, they are not actionable.

... The gist of the church’s complaint is that, by calling it a “cult” and including a chapter on it in the book, the publisher and authors have accused it of every “immoral, illegal and despicable action” mentioned in the book. However, as we stated earlier, under the group libel doctrine, *a plaintiff has no cause of action for a defamatory statement directed to some or less than all of the group when there is nothing to single out the plaintiff.* [emphasis added] ... We have already held that nothing in the book singles out the church as having committed the “immoral, illegal, and despicable” actions alleged in its petition. Simply being included in a group with others who may have committed such “immoral, illegal, and despicable” actions does not give rise to a libel claim.

Because the court did not reason as the LSM and the Local Churches say it did, the argument of LSM and the Local Churches is a red herring. The Local Church's complaint depends on the reader reasoning thus:

[The book says that] Some cults commit illegal acts.

[The book says that] The Local Church is a cult.

Therefore [the book says that] the Local Church commits illegal acts.

But this argument is *not* reasonable, i.e., no reasonable person would draw that conclusion from the book, because (in logicians' terms) the argument commits the fallacy of undistributed middle. (The middle term, "cult" or "cults," is undistributed, i.e., it denotes only some cults, not all, in both premises.) The court recognized this and ruled correctly on this point.

If the Local Churches' claim to have been defamed by the statements in Ankerberg and Weldon's book were valid, then it would equally prove that every doctrine of every group discussed in the book should be attributed equally to every other group discussed in the book. Thus, one would have to infer that Ankerberg and Weldon claimed that every group denied the Deity of Christ, because they claimed that some groups do, and that every group also affirmed the Deity of Christ, because they claimed that some groups discussed do. That is, one would have to infer that they claimed that every group taught every doctrine mentioned and its opposite. That is absurd—as is the reasoning in LSM and the Local Churches' press release published at the "Rush to Press" section of the ECPA web site.

In Christ,

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Consensus and Agreement

The following undersigned persons have read this letter by Dr. Beisner and indicate that they are in agreement with the reasoning and sentiments expressed above. Affiliations (if any) are given for purposes of identification only; this does not imply that the affiliated organizations are aware of or agree with the contents of the foregoing statement.

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