Publishing UAP Allegations: Defamation and Privilege for Journalists, Researchers, and Lawyer-Commentators

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Key points

- Public officials and public figures must prove actual malice (*New York Times v. Sullivan*); private individuals need show less, so name them only with strong documentary support.
- California's fair report privilege (Civ. Code §47(d)) absolutely protects fair and true reports of official proceedings, including complaints and hearings, and reaches websites that publish regularly (*Carver*; *Jones*).
- The privilege does not reach books, interviews, or documentaries; repeat those allegations as attributed claims and keep them institutional.
- Section 230 protects against liability for users' content but not against federal criminal law or IP claims; register a DMCA agent and remove classified material users post.
- California's anti-SLAPP statute applies in federal court in the Ninth Circuit (*CoreCivic*), and the one-year limitations period and §48a correction rules shape the response to any demand (Form G1-2).

1. Summary

Anyone who publishes on this subject will repeat allegations that named officials, agencies, and contractors concealed programs, misled Congress, retaliated against witnesses, and harmed people. This site is one example. Agencies cannot sue for defamation, but individuals and corporations can. The main protections are:

- **Actual malice for public officials and public figures.** *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Curtis Publishing Co. v. Butts*, 388 U.S. 130 (1967). Senior officials and prominent contractors will be public figures for UAP-related statements; liability requires knowledge of falsity or reckless disregard.
- **Fair report privilege.** Accurate and fair reports of official proceedings and records (congressional testimony, court filings, agency reports) are privileged in most states even if

the underlying statements are false, provided the report is fair and attributed. Published congressional hearing transcripts are such sources.

- **Opinion.** Statements that cannot be proven true or false, or that are clearly opinion based on disclosed facts, are protected (*Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990) (no wholesale opinion exception, but statements not provably false are protected)).
- **Neutral attribution.** Reporting what a witness said, with clear attribution, is safer than adopting it; but republication of defamatory statements can be actionable unless a privilege applies.
- **Section 230** (47 U.S.C. §230) protects the site from liability for third-party content (comments, user submissions), not for content the site creates or materially contributes to.
- **Anti-SLAPP statutes** in many states (for example, California Code Civ. Proc. §425.16; Texas Citizens Participation Act) allow early dismissal and fee shifting; their application in federal court varies by circuit.

1A. California's fair report privilege as applied to the site

Because California law governs the site (Issue G2), Civil Code §47(d) is the privilege that matters most. It protects "a fair and true report in, or a communication to, a public journal" of a judicial, legislative, or other public official proceeding, "or of anything said in the course thereof" (§47(d)(1)), subject to the exclusions in §47(d)(2) for communications that violate Rule 3.6, breach a court order, or violate a confidentiality requirement. California cases decided since 2016 show how far it reaches:

- **Absolute, regardless of motive.** When the privilege applies, the reported statements are "absolutely privileged regardless of the defendants' motive for reporting" them. *Healthsmart Pacific, Inc. v. Kabateck* (2016) 7 Cal.App.5th 416, 431 (quoting *Hawran v. Hixson* (2012) 209 Cal.App.4th 256, 278).
- **Complaints and other filings.** "Judicial proceeding" includes the filing of a complaint, and "fair and true communications to the news media about allegations in a complaint are covered by the privilege," without any later judicial action. *Healthsmart*, 7 Cal.App.5th at 432 (lawyers' statements in a television report also posted on the station's website, *id.* at 422); *Microsoft Corp. v. Yokohama Telecom Corp.* (C.D. Cal. 1998) 993 F.Supp. 782, 784 (press release about a complaint's allegations). Reports on whistleblower complaints, FOIA suits, and UAP-related civil actions fall within this rule if they track the pleadings.
- **Press releases by parties and counsel.** A statement to the press by a party's representative about a lawsuit was not protected by the litigation privilege of §47(b) but was protected by §47(d). *Argentieri v. Zuckerberg* (2017) 8 Cal.App.5th 768, 782-787 (§47(b)), 789-794 (§47(d)). That distinction matters for lawyer-editors who comment on their own cases: §47(b) will rarely cover the commentary, so it must qualify as a fair and true report under §47(d) and must comply with Rule 3.6 to avoid the §47(d)(2) exclusion.
- **Who decides.** Whether a privileged occasion exists is for the court; whether the report is "fair and true" is for the jury if reasonable minds could disagree about its effect on the

average reader. *Healthsmart*, 7 Cal.App.5th at 431 (quoting *J-M Manufacturing Co. v. Phillips & Cohen LLP* (2016) 247 Cal.App.4th 87, 98). The practical test is whether the site's account would leave a reader with a materially different impression than the underlying record, which is why Form G1-1 requires attribution and a source-to-text comparison.

- **Websites as "public journals."** A newspaper's website is a public journal under §47(d). *Carver v. Bonds* (2005) 135 Cal.App.4th 328, 351. Federal courts applying California law have gone further: an online-only outlet that "regularly publishes news articles" qualifies, and so does a Patreon page where it reposted them. *Jones v. Inner City Press, Inc.*, No. 2:23-cv-09623, 2024 WL 4403746, at *3-4 (C.D. Cal. Aug. 7, 2024) (appeal filed, 9th Cir. 2025); see also* Heitkoetter v. Domm*, No. 1:22-cv-00368, 2024 WL 325134, at* 11 (E.D. Cal. Jan. 29, 2024) (YouTube channel). No published California appellate decision has addressed a standalone legal-information site. The site improves its position by publishing on a regular schedule, dating every report, and presenting reports of proceedings as reporting, separate from its commentary.
- **Congressional hearings and agency reports.** Hearings are "legislative … proceeding[s]" within §47(d)(1). Whether an AARO historical report or an agency FOIA release is an "other public official proceeding" has not been addressed in a UAP case; treat official reports as covered only when they record an official act or finding, and attribute them precisely.

Anti-SLAPP in federal court (Ninth Circuit). If the site is sued in federal court in California (for example, on diversity jurisdiction), the special motion to strike remains available: "The special motion to strike provision of California's anti-SLAPP statute applies in federal court." *CoreCivic, Inc. v. Candide Group, LLC*, 46 F.4th 1136 (9th Cir. 2022) (defamation claim over Forbes.com articles; motion granted in part). The en banc court later held that a district court's denial of a California anti-SLAPP motion is not immediately appealable under the collateral order doctrine, overruling *Batzel v. Smith*, 333 F.3d 1018 (9th Cir. 2003), while expressly not reconsidering the rule that the statute applies in federal court. *Gopher Media LLC v. Melone*, 154 F.4th 696 (9th Cir. 2025) (en banc), cert. denied, 146 S. Ct. 2726 (2026). A defendant who loses the motion in federal court must therefore litigate to final judgment before appealing, which makes a strong record on the first motion more important.

1B. Books, interviews, and other unofficial sources

The fair report privilege protects reports of official proceedings and records. It does not protect repeating what a book, a podcast guest, or a documentary says. A publisher who repeats a former official's allegation that a named company held recovered craft, or that a named official lied, adopts the risk of that allegation unless another defense applies. The 2026 account by a former director of the Navy's UAP Task Force (Jay Stratton, *Out of the Shadows*) is a current example: it names contractors and describes named officials as obstructing UAP work. Report such accounts as what the author says, with the chapter cited, and keep the allegations about institutions where possible. Where the account names a private individual or accuses a public figure of a crime, either corroborate it from official sources or leave the name out. That is the rule this site follows. It also explains why the site states its premise about AARO in institutional terms and does not accuse individual officials (Issue F4).

1C. Platform rules for a site with a community

- **User content and Section 230.** 47 U.S.C. §230 protects a site from liability as the publisher of content provided by users. It does not apply to federal criminal law or to intellectual property claims (§230(e)(1)-(2)), and it does not protect content the site creates or materially develops.
- **Copyright.** A site that hosts user uploads should register a designated agent with the Copyright Office and follow the notice-and-takedown procedure to keep the safe harbor for infringing material posted by users (17 U.S.C. §512(c)).
- **Classified or controlled material posted by users.** Section 230 does not protect against the Espionage Act, and a site that keeps classified documents a user posted can face the retention problem in Issue B4. Moderators should remove marked material, preserve a record of the removal, and follow the newsroom protocol (Form B4-2). Posting technical data on an open forum can also put it in the public domain for export-control purposes, which a contributor may not have the right to do (Issue A5).
- **Other torts.** California recognizes false light and public disclosure of private facts; reporting a witness's medical or mental health information without consent invites both (Form G1-1, standard 7).
- **Time limits.** The limitations period for libel and slander in California is one year (Cal. Code Civ. Proc. §340(c)), and under the single-publication rule an online item is published once, when first posted (Cal. Civ. Code §3425.3), though a substantive revision may restart the clock.
- **Retraction statute.** For a "daily or weekly news publication," including one in electronic form that publishes at least weekly, a plaintiff who does not serve a timely correction demand, or whose demand is met by a timely correction, is limited to special damages (Cal. Civ. Code §48a; Form G1-2).
- **Insurance.** Media liability insurance is available to small publishers and usually requires prompt notice of any demand.

2. Editorial rules (this site's practice)

1. State allegations as allegations, with source and date ("In sworn testimony before the House Oversight Committee on July 26, 2023, [witness] stated that …").
2. Prefer official sources (hearings, filings, reports) to secondary accounts.
3. Do not name private individuals (non-public figures) as wrongdoers without strong documentary support.
4. Separate analysis (opinion based on disclosed facts) from factual assertions.
5. Seek comment before publishing new allegations about named people or companies.
6. Correct errors promptly; maintain a corrections log.

7. Moderate user content; do not edit it in ways that change meaning (Section 230).
8. Keep records of sources and editorial decisions.