

Clifford v. Trump: The Ongoing Battle Between Fact and Opinion

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This article discusses the ongoing legal debate over what published statements constitute actionable statements of fact for purposes of defamation and what statements qualify as nonactionable opinions. A recent forum for this debate can be found in the unpublished decision in *Clifford v. Trump*, a lawsuit in which Stephanie Clifford (professionally known as Stormy Daniels) sued President Donald Trump for defamation. In this article, Litigation partner David Halberstadter describes the background of the lawsuit, including the nature of the dispute between Ms. Clifford and Mr. Trump, which involved Ms. Clifford claiming that the President accused her of lying about being threatened over her cooperation with a magazine to reveal details about their relationship. The US District Court for the Central District of California ruled that Mr. Trump's tweet was not actionable as defamation because it constituted "'rhetorical hyperbole' normally associated with politics and public discourse in the United States." The US Court of Appeals for the Ninth Circuit affirmed the dismissal of Ms. Clifford's complaint, agreeing that the tweet in question constituted an opinion, which is not a basis for a defamation claim.

"Perhaps there is no way to draw a clear line between the two, and perhaps the context in which a statement is made is the most critical factor. But without some way of clearly distinguishing between actionable statements of fact and nonactionable expressions of opinion, two outcomes are likely: some free expression will be chilled, and more litigation will be filed," David writes.

Read, "[Clifford v. Trump: The Ongoing Battle Between Fact and Opinion](#)," in its entirety.

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