

"Repose in Cyberspace: The Single Publication Rule Online," Los Angeles Daily Journal

Publications

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In this article, which is the November 2011 “Content Matters” column in the *Los Angeles Daily Journal* and *San Francisco Daily Journal*, Jenner & Block Partner Andrew J. Thomas examines how the uncertainty about the application of the single publication rule to Internet publications may unnecessarily inhibit online speech. Mr. Thomas notes that, beginning with the New York Court of Appeals’ decision in *Firth v. New York* in 2002, courts across the country have applied the single publication rule to Internet publications and have held that the statute of limitations begins to run from the first Internet posting of a statement, even if the posting stays up for years and is subsequently accessed and downloaded many times. However, he poses the question, “But what happens when a Web publisher makes changes to content posted online years before? Does a new publication occur for statute of limitations purposes if the website operator moves content to a different part of a website, gives it a more prominent or different heading, or updates an article to correct outdated information or report on further developments?” Mr. Thomas concludes that analysis of several decisions on this point suggests that a Web publisher should be able to safely update archived reports and articles “provided that the new information is not itself defamatory (or otherwise actionable) and does not have the effect of presenting the old material to a new audience.” However, he also believes that legislative action may be necessary “to ensure that Internet publishers have the peace of mind to correct and update their online stories without fear of resetting the statute of limitations and exposing themselves to the risk of endless litigation.”

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