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ARTICLES

In defamation law, false statements alleged to be fact are outside the protection of the First Amendment. The Supreme Court has struggled with the issue of how to apply a falsity standard to works of non-fiction that do not make descriptive truth claims, such as journalistic reporting and parody. The "falsity" analysis developed by the Court includes an inquiry into whether the statement contains a factual assertion and is capable of being proven false. Such an analysis fails to take into account fundamental differences between fiction and non-fiction. This Article suggests that works of fiction are not given adequate protection and proposes modest alterations to defamation law. Incongruity, or satiric fantasy, should be treated as another category of non-fiction, in addition to hyperbole. Whereas hyperbole is exaggeration built upon a "kernel of truth," incongruity shows the viewers exactly the opposite of what is expected, with no base factual assertion. Courts have avoided this by saying that completely unbelievable fiction is immune from liability, leading to wildly unpredictable judgments and a resulting chilling effect on satire. In addition, this Article encourages the Court to give more weight to qualifiers such as "I think," or disclaimers such as "opinion" or "satire." The current law requires ignoring all clues exterior to the text itself in determining whether a statement is purportedly fact, or if it is an idea protected by the First Amendment. Disclaimers could be taken at face value if the Court gave consideration to the full context of the statement and broader social impact.

Tonya Harding's Case: Contractual Due Process, the Amateur Athlete, and the American Ideal of Fair Play

Following the attack on figure skater Nancy Kerrigan in 1994, it was nearly impossible to avoid stories in the mass media regarding Tonya Harding. Nearly two years later, the story has disappeared from the tabloids, but the implications of Harding's case on amateur athletics still resound today. This Comment examines the degree of due process required under the Amateur Sports Act of 1978, the United States Olympic Committee's rules of incorporation, and the charter of the United States Figure Skating Association. After exposing weaknesses in the current law, this Comment concludes by proposing changes in this area of law, specifically by including amendments to the Amateur Sports Act.