

What is the statute of limitations for a slander/defamation claim in Massachusetts?

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Answer: Three years from when you know or with reasonable diligence should have known the harm done and the identity of the defamer.

The Massachusetts Supreme Judicial Court recently decided the case of *Harrington v. Costello*. 467 Mass. 720 (2014). It is a current expression of the law on timing and the statute of limitations with respect to defamation suits. It is also a good example why one should not sit on legal rights or investigating into facts or assessing a legal cause of action in a timely fashion.

Initially, the general rule is that you have three years from when the claim "accrues." Mass. Gen. Law. c. 260 § 4. in other words, you have three years from when the clock starts to tick. When a claim legally "accrues" is subject to judicial interpretation. *Harrington v. Costello*, 467 Mass. 720, 725 (2014). The general rule is that a claim starts to accrue when the defamatory material is published (stated to a third party). *Id.* If a plaintiff wants to bring a claim after that time period, the burden is on him to show why the claim can proceed. *Id.*

The discovery rule can come into play here. With respect to defamation, it generally stands for the rule that a claim does not accrue until the plaintiff has an awareness that he has been harmed and of the identity of the defamer that caused the harm. *Id.* at 725-726.

In *Harrington*, the plaintiff/victim was a priest. He was informed that there was an accusation that he had stalked a young boy. *Id.* at 722. There were two other priests that published this false story, claiming it came from a parishioner. *Id.* Harrington denied the accusation and his efforts to learn the identity of the young boy to address the matter were unsuccessful. *Id.* at 722-723. Although Harrington knew that there were two other priests repeating the story, Harrington thought that the two other priests had a conditional privilege, (which is something that allows someone to technically defame someone), because of their obligations to protect people in the church. *Id.* at 725. Harrington thought that they were doing their job. Due to this Harrington did not bring a claim against the two other priests, and time past. Harrington was subject to harassment and ridicule due to the false accusation. *Id.* at 723.

Years later, Harrington learned that there was no accusation at all. Instead, the other two priests had made it up "entirely out of whole cloth." *Id.* at 727. He did learn this within 3 years of the original publication. A few years later, Harrington then brought his claims against the other two priests. *Id.* at 723. When the two other priests raise the defense that the statute of limitations had past, he argued that the discovery rule should save the claim. *Id.* at 727. But the Massachusetts Supreme Judicial Court dismissed his claims citing the statute of limitations. Despite the fact that Harrington thought the other two priests held a valid defense to the action, the SJC said the clock started to click once he knew of the harm and the identity of the two other priests. Essentially, the SJC stated a plaintiff only needs to know that he was harmed and who harmed him, and

the claim is not tolled until a plaintiff believes he has a good legal claim, such as learning there is no conditional privilege to a claim. Id. at 729-730.

It is axiomatic to say that Mr. Harrington should have put more effort into investigating the facts of the matter earlier, should have considered taking legal action right away against the unknown “parishioner” (that he thought at the time defamed him) that would have led to the truth, or at least taken legal action right away upon learning of the deceit of the two other priests.

If you are faced with a situation similar to Harrington, there is hope, but you probably need help. Feel free to give this office a call, as there are actions this office can take and techniques to employ on your behalf that may help you get justice.

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