

1 **13-1007. Defamatory communication: Defined.**

2 To support a claim for defamation, a communication must be defamatory.

3 Defamatory communications are those which tend to expose a person to contempt, to harm
4 the person[']s reputation, or to discourage others from associating or dealing with ~~[[him] [her]]~~that
5 person.

6 In deciding whether the communication was defamatory, you must consider its plain and
7 obvious meaning.

8 [In determining whether the communication was defamatory, you may consider whether
9 there are other facts in evidence known to the person to whom the communication was published
10 which, when taken into consideration with the communication, gave it a defamatory meaning.]

11 USE NOTES

12 Sometimes a communication is so obviously defamatory that the court may declare it to be
13 so as a matter of law. See *Marchiondo v. ~~[New Mexico]~~N.M. State [Tribune]Trib. Co., 1981-*
14 NMCA-156, ¶ 14, 98 N.M. 282,~~[287,]~~ 648 P.2d 321~~[, 326 (Ct. App. 1981)]~~, cert. quashed, 98
15 N.M. 336, 648 P.2d 794 (1982). This instruction is to be used when the court determines that the
16 communication, while not defamatory as a matter of law, is capable of a defamatory meaning. In
17 such cases it is for the jury to determine whether the communication is defamatory.

18 The bracketed fourth paragraph applies both to spoken and written defamation. It addresses
19 the situation where the defamatory meaning is not apparent on the face of the written or oral
20 pronouncement. Nonetheless, if the plaintiff is able to establish that the person receiving the
21 communication was aware of additional facts and circumstances which would render the
22 communication defamatory, the plaintiff can still recover.

1 [As amended, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-
2 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

3 **Committee commentary.** — The language in the initial three paragraphs is taken almost verbatim
4 from the previous relevant instruction approved by the supreme court. UJI Civ. 10.11 (Repl. 1980).
5 Its roots are found in *Colbert v. Journal [Publishing]Publ'g Co.*, 1914-NMSC-042, 19 N.M. 156,
6 142 P. 146[~~-(1914)~~]. The language in the first paragraph is also similar to that contained in the
7 Restatement (Second) of Torts § 559 (1977).

8 The bracketed fourth paragraph reflects the fact that sometimes publications [“]“are not on their
9 face defamatory, but which may become so when considered in connection with innuendos and
10 explanatory circumstances[“]”. [~~*Marchiondo v. New Mexico*]N.M. State [Tribune]Trib. Co., 1982-~~
11 ~~NMCA-156, ¶ 21[98 N.M. 282, 288, 648 P.2d 321, 327 (Ct. App. 1981), cert. quashed, 98 N.M.~~
12 ~~336, 648 P.2d 794 (1982)]]. The language contained in the third paragraph is derived from the
13 previous relevant instructions approved by the supreme court. UJI Civ. 10.6, 10.7 (Repl. 1980).~~

14 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]