

CRIME + CRIMINALS
1990 -
Damages
rescinded
in libel
lawsuit
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Associated Press

A state appeals court in San Jose has overturned \$32,500 in damages for a Santa Cruz man who sued a women's group for libel after its newsletter named him as a would-be rapist without proof.

The trial judge failed to tell the jury that it had to find negligence by Santa Cruz Women Against Rape before awarding damages for libel, the 6th District Court of Appeal said in the ruling, issued last week. It also said the jury should have been told that a deliberate or reckless falsehood was required for punitive damages, which made up most of the award.

A lawyer for Steven Carney, whose damages were reversed by the ruling, said Monday he looks forward to a new trial.

"We'll get a better verdict," attorney David Sabih said. "Negligence is failure to investigate. . . . They admitted they never investigated this girl's complaint."

Sabih said the center had stopped publishing the names of alleged rapists in its newsletter based solely on the statements of the center's clients — the practice that led to the suit.

The center's lawyers said they are pleased with the ruling.

"Had this verdict been upheld, it threatened the existence of the organization," attorney Harold

See LIBEL SUIT, Page 2B

Appellate court's ruling may mean new libel trial

LIBEL SUIT, from Page 1B

McElhinney said. "We're prepared to prove with correct instructions that not just (the center) but other observers believed that this woman had been assaulted."

He also said the court had broken new ground by defining the subject of the center's newsletter as a matter of "public concern," increasing the standards of proof for libel damages.

The court said Karen W., a 19-year-old who worked with Carney at a drugstore, came to the center in June 1984 and told staff members that Carney and another man had taken advantage of her the previous night after she had passed out drunk. Five months later, the center printed Carney's name, description and workplace in its newsletter under the heading "assault/attempted rape."

The center admitted it had relied solely on the woman's account and its observations of her behavior, and had not tried to contact Carney or investigate in any other way, the court said. Before the trial, Karen W. sent Carney a letter, part of a settlement of suits they had filed against each other, saying she had not been raped or

had sex with either man.

A Santa Cruz County Superior Court jury awarded Carney \$7,500 for emotional distress and \$25,000 in punitive damages against the center. In reversing the damages, the court did not determine whether Carney had been libeled, but said retired Judge Robert Staniforth, who presided over the trial, had failed to instruct the jury properly on the center's conduct.

Staniforth told jurors they must find one of three things for Carney to win: that the center had acted with hatred or ill will toward him; that it had lacked reasonable grounds for believing its statement; or that it had motives other than protecting women's interests.

Those instructions allowed the jury to award damages without finding negligence, as required by U.S. Supreme Court standards, the appellate panel said. For example, jurors could have concluded the center was motivated by a dislike of men or a desire to recruit new members, two allegations made by Carney's lawyers at trial.

The 3-0 decision, written by Justice Franklin Elia, also said punitive damages required a finding that the newsletter statement was knowingly or recklessly false.