

**C**  
Lemke v. Keiser & Auzenne, L.L.C.  
La.App. 3 Cir., 2006.

Court of Appeal of Louisiana, Third Circuit.  
Paul A. LEMKE  
v.  
KEISER & AUZENNE, L.L.C., et al.  
No. 05-893.

Feb. 1, 2006.

**Background:** Attorney who represented estate in a succession proceeding brought separate defamation action against lawyer and law firm that represented decedent's heirs in the succession proceeding, arising out of statements made by counsel for decedent's heirs in their pleadings in the succession proceeding. The Ninth Judicial District Court, Rapides Parish, No. 217,996, Bert Dexter Ryland, J., granted exception of prematurity filed by counsel for decedent's heirs. Attorney for estate appealed.

**Holding:** The Court of Appeal, Thibodeaux, C.J., held that qualified privilege applied to statements made about attorney for estate by counsel for decedent's heirs.

Affirmed.  
West Headnotes

[1] Libel and Slander 237 41

237 Libel and Slander  
237II Privileged Communications, and Malice Therein  
237k40 Qualified Privilege  
237k41 k. In General. Most Cited Cases

Qualified privilege applied to statements made about attorney for estate by counsel for decedent's heirs in pleadings in succession proceedings, and thus attorney for estate's separate defamation action against counsel for heirs was premature when filed before termination of the succession proceedings, even though counsel for heirs were not themselves parties to the succession proceedings; statements about attorney for estate were material to the underlying motion by heirs to have executor removed from his position, and arose out of the same set of

operational facts.

[2] Libel and Slander 237 41

237 Libel and Slander  
237II Privileged Communications, and Malice Therein  
237k40 Qualified Privilege  
237k41 k. In General. Most Cited Cases

A qualified privilege provides parties to pending litigation protection from being sued for defamatory statements made during judicial proceedings.

[3] Limitation of Actions 241 55(1)

241 Limitation of Actions  
241III Computation of Period of Limitation  
241III(A) Accrual of Right of Action or Defense  
241k55 Torts  
241k55(1) k. In General. Most Cited Cases

During the time that judicial proceedings are pending, the one-year period that applies to the filing of a defamation action for statements made during the proceedings is suspended.

[4] Libel and Slander 237 41

237 Libel and Slander  
237II Privileged Communications, and Malice Therein  
237k40 Qualified Privilege  
237k41 k. In General. Most Cited Cases

Libel and Slander 237 51(1)

237 Libel and Slander  
237II Privileged Communications, and Malice Therein  
237k51 Existence and Effect of Malice  
237k51(1) k. In General. Most Cited Cases

Under qualified privilege for statements made during judicial proceedings, a party to litigation is safe from an action for defamation arising out of such statements pending the termination of the underlying litigation; however, any such statements made by them in judicial proceedings must be material and must be made without malice and with probable cause.

