

Publications

SCOTX Internet Defamation Ruling Helps Mitigate Damages

Related Professionals

Whitney C. Gibson

Related Services

Litigation and Appeals

AUTHORED ARTICLE | 10.1.2014

Texas Lawyer

Whitney Gibson co-authored an article for *Texas Lawyer* titled "SCOTX Internet Defamation Ruling Helps Mitigate Damages." The article highlighted the significance of the Texas Supreme Court's ruling in an internet defamation case, *Kinney v. Barnes*.

The article states:

"In an opinion delivered on Aug. 29, the court held that authors of defamatory online posts can be required to remove those posts from the Internet. The ruling didn't go quite as far as some business owners had hoped. The plaintiff's request for a permanent injunction that would restrict the defendant from publishing the same or similar statements online was denied. The court found this to be an unconstitutional prior restraint.

*As noted in the opening sentence of Justice Debra Lehrmann's opinion, prior restraints are 'heavily disfavored' both under the United States and Texas constitutions. Although the statements at issue in *Kinney v. Barnes* were unprotected, restraining the future publication of statements that are the same or similar to those adjudicated defamatory could 'impermissibly risk chilling constitutionally protected speech,' the court held.*

Nevertheless, it is notable that the court found that requiring someone to delete defamatory online speech is not a prior restraint, as this allows for a new remedy for online defamation matters in Texas."

To read the entire article, visit the *Texas Lawyer* [website](#). (Subscription may be required).