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SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

Computer Mediated Discourse: Applying Defamation Laws of Slander and Libel in the 21st Century

University Honors Society Undergraduate Thesis

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1/1/2011

1.) Introduction

Internet users in the United States have reached a total of 266,000,000 or approximately 77% of the total population ("Internet World Stats"). Globally, the number sits at 30% of the world's population and will only continue to increase as technology becomes more accessible in the future. The introduction of such a powerful tool into society has consequently impacted people from generations preceding and proceeding creating a "digital divide" between socioeconomic classes. What once required large obtrusive computers is now possible with devices small enough to fit inside a pocket. The combination of smart phones and wireless internet is ensuring people are able to stay "plugged in" regardless of time or location. This constant stream of internet users has allowed websites such as; Google, Amazon, YouTube, Face book, Twitter, Wikipedia and EBay to have billions of daily visitors and gain popularity to the point of entering our daily lexicon. "Google" for example has become a verb meaning to search a topic on the company's website, EBay can be used in reference to selling an item online, and the Facebook term "unfriend" was Oxford American Dictionary's word of the year for 2009 (Gross).

The Internet is praised for connecting people from countries all over the world creating an opportunity for the sharing of ideas and information instantaneously. What is shared varies wildly from pictures of social events to more serious items like the diplomatic cables released by the website Wikileaks. During the terrorist attack on Mumbai Twitter allowed rapid dissemination of information to people in the city (Stelter,

and Cohen). On the other hand, file sharing websites have created a new form of digital piracy of movies, TV shows, music, and computer software. None could have foreseen the enormous impact the Internet had when it was created which is why regulation is only now slowly coming into existence.

The Digital Millennium Copyright Act passed in 1998 along with the landmark lawsuit against the file sharing site Napster.com have set the precedent for handling online piracy. Downloading and uploading copyrighted material is one of the easier issues to address on the internet although Google Images and Books have both been the center of controversy in the past for creating a grey area for liability and fair usage (Helft, and Rich). What has only been loosely addressed and will constitute the remainder of this paper is the subject of internet defamation.

As millions of people communicate daily through the internet, sharing ideas, opinions and thoughts, it comes as no surprise that some of the criticisms posted are not the most constructive. Heated outbursts that were previously limited to those within speaking—or shouting—distance can now be shared with ¾ of America's population. Colorful adjectives are tacked on to describe someone or perhaps the wrongdoings and injustices suffered are exaggerated for dramatic effect. Glancing at the tabloids or listening to extremist news sources it is sometimes surprising how much leeway is given in order to promote a freely flowing stream of opinions necessary for a democracy to function. The nearly uninhibited dialogue across America is possible due to one of the most commonly cited values of The United States; freedom of speech.

The First Amendment shields many from legal retaliations for harsh criticism, false statements or half-truths. However, when the language used attacks or damages the

reputation of another the protection ends. The Supreme Court over the years has carved out a list of speech protected under the First Amendment while condemning others and allowing for legal action to be taken. Injurious statements to one's reputation are classified as defamation and further broken down as slander or libel depending on the medium used to transmit the statement. Currently, online defamation is treated as libel simply because it is written (typed) text allowing for easier requirements to collect compensation. Examining the language used on Twitter and drawing from research in the field of Linguistics this paper demonstrates that not all subgenres of discourse are equal. Distinction exists between the various ways we write and speak and to gloss over these differences as the law currently does will exclude the greatest tool for communication from the freedom of speech offered by the First Amendment.

An introductory overview of the First Amendment will lay the groundwork for the following sections by showing the care the Supreme Court takes in only censoring when absolutely necessary the dialogue in America. Next, defamation, libel and slander will be defined and contrasted to show the importance of correctly classifying Computer Mediated Discourse (hereafter CMD). Five popular genres of CMD are then briefly summarized offering a broad look at general differences. Preceding the research and results, findings from a long history of Linguistic research expresses the complexity of language and the need for a non-binary model of writing/speaking. A data analysis of 100 Twitter posts follows and shows statistical evidence that grammatically speaking Twitter is more akin to speech than writing. Finally, the paper concludes with insight on how best to address online defamation as either slander or libel.

2.) Free Speech, Defamation, Slander, and Libel

The First Amendment grants unto the American people the protection that, "Congress shall make no law…abridging the freedom of speech, or of the press." In contradiction to the statement "no law" the Supreme Court has offered several examples of speech it considers unprotected such as a man yelling "Fire!" in a crowded theater (Schenck v. United States). As Justices change and cases are reinterpreted the list of protected speech becomes long, complicated, and even contradictory as seen in Figure 1.1.

Type of Speech	Protected under the First Amendment
A Klu Klux Klan meeting	Yes
Burning the American Flag	Yes
Burning a Draft Card	No
Wearing an armband as a sign of protest in high school	Yes
Publishing material that was illegally obtained by a third party	Yes
Obscene speech on the radio during waking hours	No
Protesting at funeral sites	Yes
Soliciting for a politician within 100 feet of a voting area	No

Figure 1.1

Considering the broad scope of topics the First Amendment includes, it is impossible "to expect that a single formula will prove productive" (Shiffrin, and Choper 2) in categorizing speech as protected or unprotected. In lieu of a single formula, the opinions of previous Justices are drawn upon as both support and a means of dissent when deciding a case. Ultimately, the current Justices have the power to reject or accept previously established standards dealing with free speech. In the 1964 case New York Times Co. v. Sullivan the Court exercised its power and redefined the statues for printed defamation in journalism.

Prior to New York Times Co. v. Sullivan, publishing a criticism of public officials was protected under the First Amendment only so long as it could be proved that the claims were true. After publishing an ad constructed by a pro Civil Rights group the New York Times was sued for libel and sentenced to pay $500,000. The case advanced to the Supreme Court where the Justices overturned the lower courts ruling and shifted the burden of proof to those seeking damages. The Court's reasoning for the rejection of previously established standards is summarized by Justice Brennan's opinion,

> A rule compelling the critic of official conduct to guarantee the truth of all his factual assertions—and to do so on pain of libel judgments virtually unlimited in amount—leads to a comparable "self censorship." Allowance of the defense of truth, with the burden of proving it on the defendant, does not mean that only false speech will be deterred. [Under] such a rule, would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so (New York Times Co. v. Sullivan).

It was the goal of the Court to reduce the degree one might self censor for fear of legal prosecution as they envisioned that a healthy democracy requires an informed population which is only possible through a freely flowing stream of ideas and opinions. Tort law involving defamation has evolved into a complex and confusing entity but it is pivotal to understand the terms so that the issue of categorizing CMD can be successful.

The definition for defamation ranges greatly but a common theme shared amongst States is that of damage done to one's reputation. Other factors for determining if

defamation has occurred include; context, recipient of the message, time and location, the statement as a whole, gestures, employee dismissal, humor, etc. (Sack 2. 18-62). Slander and libel are the subordinate terms of defamation, each referring to defamation dependent on how the thought was communicated. Robert Sack gives the following definition for libel and slander, "Libel is written or visual defamation; slander is oral or aural defamation" (2. 10). Outside of this, each State has defined other mediums of communication as slander or libel in different ways. For instance, Maryland does not classify televised broadcasts as libel or slander preferring to label it as the broader term of defamation. Georiga has recognized that television is a combination of both slander and libel and therefore created a new term "defamacast" (Sack 2. 10).

In the states that do recognize slander and libel as separate entities the following three reasons are given as grounds for distinguishing the two terms:

(1) the written word leaves a more permanent blot on one's reputation

(2) the written word is capable of wider circulation than that which is communicated orally

(3) reducing a defamation to writing evidences greater deliberation and intention on the part of one who records it. (Sack 2. 11)

Written defamation can therefore be distinguished from oral on the grounds that it is: long lasting, easily communicable, and showing forethought on behalf of the writer. Jurisdictions differ in the strength of a case needed to advance on a slander or libel suit but generally speaking it is easier to take action on libel likely due to the reasons defined above by the courts. Thus, citizens are given more protection for what they "say" as opposed to what they "write."

A defamation case begins with a lawsuit claiming one has been slandered or libeled. Although defamation is summarized as reputational damage it is difficult to provide proof. To provide compensation there are two types of damages awarded; presumed damages and special damages. Presumed damage can be awarded in slander or libel suits without requiring evidence of pecuniary loss. In order to collect special damages it falls on the plaintiff to show that as a result of the defamatory statement a monetary loss has occurred. Again, to circumvent the requirements, the courts have created special circumstances for written/spoken discourse which they have labeled as slander and libel per se. Although the terms share the phrase "per se" what constitutes libel per se is not the same as slander per se. A remark uttered orally which fits into one of the below categories is considered slander per se:

(1) allegations that the plaintiff committed a crime

(2) allegations that would tend to injure the plaintiff in his or her trade, business, profession, or office

(3) allegations that the plaintiff has contracted a loathsome disease, historically either leprosy or venereal disease or

(4) imputation of unchastity to a woman or serious sexual misconduct to either a man or a woman (Sack 2. 111-112)

To be considered libel per se the statement in question must be defamatory on its face value. Sack offers a clear description of the two, "the term 'slander per se' has to do with the *nature* of the *charges* made, while the term 'libel per se,"… relates to whether the statement is injurious to reputation *on its face*" (2. 109)

To further confuse the issue, a statement that is slanderous per se is not necessarily libelous per se and vice versa,

> However degrading a statement, however injurious to reputation, however outrageous, however plain the defamatory meaning on the face of the statement and therefore however clear that the statement when written is libelous per se, unless the defamatory charge falls within one of the four specific slander categories, it is not slanderous per se when merely spoken (Sack 2. 119-120)

Sack gives the example of the word "coward" which when written is considered libel per se but if spoken is not considered slander per se because it does not fall within the four categories that define slander per se.

What is important to recognize in the complexity of defamation tort law is simply that discourse treated as libel requires less strength and proof of damage to collect compensation. A person may be lambasted orally but by avoiding any phrases that constitute slander per se action is not as likely to succeed against the orator. If all forms of CMD are considered libel solely because of the medium they share then a degree of self-censorship is needed when posting material online. As the following section will show, however, a surface overview of CMD shows differences in how communication plays out between interlocutors.

3.) <u>Genres of Computer Mediated Discourse</u>

In this section five popular types of CMD are examined: chat rooms, message boards (or forums) e-mail, social networking websites, and blogs. Before addressing the

issue of what material on the Internet should be classified as slander or libel it is first necessary to be familiar with the different genres of online communication.

Chat Rooms

Traditionally, a chat room can either be an independent software program such as mIRC one of the most well known chat programs, or embedded within a website such as Tinychat. Both operate on the same premise; creating a virtual "room" for users to enter into and discuss a variety of topics. Each person selects a username which is used to distinguish between participants and conversation begins. Conversation occurs synchronously between users through typed messages that are displayed for others to read. Messages do not appear letter by letter on the receiver's screen as they are being written although some programs show an indicator that a message is being typed. Once a message has been typed the user sends it which then appears within typically a second on the screens of other users. Depending on the number of active participants the number of simultaneous conversations can increase or decrease. Typically, one topic is decided upon and users respond to it until a new one is introduced. Conversation continues in this manner until participants take their leave which is often announced by the program with a message such as "Person A has left the room." Similar messages are also displayed for those joining the chat room.

In many aspects, chat rooms share similarities to spoken conversation including synchrony, speaker, listener, and floor (Stein and Zitzen). A standard conversation involves a speaker taking the floor for a short time while the other interlocutors listen. Once it has been established that the speaker is finished the floor shifts to another person for response. This is similar in many regards to a chat room with the biggest difference

being turn taking. Often times a cluster of messages will appear together either staying on the previously established topic or attempting to start a new one and it is up to chat participants to decide to which messages they will respond. The issue of turn taking and topic selection is different in face-to-face conversation due to clearly established turn taking indicated by who is speaking.

Message Boards

Message boards, or more commonly known as forums, are a form of communication unique to the internet and not easily comparable to any subgenre of spoken or written discourse. A forum can be either a small subsection of a website or serve as the sole purpose for the site. Each forum has different rules with some requiring registration of a user name and others allowing anonymity. Users have two options; they can create a new discussion or join in on an already existing one. Most sties display a list of topics (or threads) which users can enter into similar to a chat room. However, conversation within each thread is asynchronous. After a thread is made the creator may leave and browse other threads while waiting for responses.

Unlike chat rooms, there is no pressure to respond immediately to what others post. Threads can remain for an indefinite period of time until deleted by a website administrator or being automatically deleted due to inactivity and lack of web space. If a website allocates a maximum of 100 threads to be stored at a time then when the 101st thread is made a thread must be deleted to make space. Typically threads are arranged in order of activity meaning that a thread posted in one second ago will be at the top of a list and a thread replied to a year ago will likely be last. This means that often the thread with the oldest response will be deleted. In contrast, the topic for a chat room will often be

pushed off screen in a matter of seconds due to the rapid discussion taking place which does not allow late comers to view previously posted messages. The issue of turn taking in chat rooms is not as common for message boards. Each thread has a clear topic which should be discussed and those deviating from this are sometimes chastised by other posters. The issue of two responses occurring close together is not an issue due to the slower pace of discussion. As with chat rooms though users are free to decide which messages to respond to or ignore.

E-mail

Electronic mail, or e-mail, can be considered the closest to written discourse on a language continuum representing a contrast to chat rooms in many ways. E-mails are usually between two people, the sender and the receiver. Topics for e-mail can range from formal business style requests to something as simple as making dinner plans with a friend. A standard e-mail exchange starts with the writer entering a title for the e-mail, filling out the body, and ending with a parting remark. As with a message boards, response time to e-mail can be quick as a few seconds or up to several days later.

A feature that distinguishes e-mail from the previously mentioned genres of CMD is that response is not always necessary. Student submission of homework, memos, news letters, and other types can be worded in such a way that response is not only unnecessary but possibly even frowned up.

Blogs

A blog (web log) can be compared to a more informal version of a newspaper publishing. In fact, many websites such as CNN, BBC, and New York Times all have active blogs. Each blog entry is accompanied by the writer's name, the date it was

published along with a title and the content of the article. This can include personal stories or technology and health related information. A 2007 estimate states there are over 70 million weblogs receiving a total of 1.5 million posts a day (Sifry). Controversy surrounding blogs in the past has been focused more on the responses rather than the blog post itself.

Blogs can be created in such a way that users, either anonymous or registered, are allowed to comment on the material of the post. At the end of a blog entry one can find comments from users starting from the most recent and ending with the first response. The legal issue for these comments is less a matter of libel vs. slander but rather of who is responsible for the comments. Section 230 of the Communications Decency Act states that

> No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

freeing the creator of the blog from any liability of the comments made by others.

Social Networking Websites

In a ranking of the world's top 500 websites spots 2 and 9 belong to the social networking giants known as Facebook and Twitter ("Alexa"). The popularity of these websites cannot be understated. Mark Zuckerberg, the creator of Facebook, was recently named Time 2010's Person of the Year and the website boasts 500 million active members ("Facebook"). As of July 2010 Twitter is reported to have 190 million users tweeting (posting messages) 65 million times each day (Schonfeld). Part of the marketing

for smart phones is the ability to receive constant updates from these two sites to ensure one is constantly up to date on the latest information.

For this paper we are interested in a form of CMD referred to as “Tweets” by the creators of Twitter. Twitter offers users a venue to post their current thoughts, plans, opinions, or anything they would like to share with the world in 140 characters or less. Currently, no data exists as to the amount of time spent preparing a Tweet but data does show that the average user Tweets a few times a day. However, users with more followers (or popularity one might say) are seen to be tweeting on average 22 times in one day. Regardless of popularity, a recent study has shown that of the millions of Tweets posted 71% are not given a response. Data show that the window of time for receiving a response is one hour, after to which messages are rarely replied. Of the messages that do draw attention 85% are responded to once, 10% twice, and only 1.5% are responded to three times ("Sysomos"). This phenomenon is explainable through the concept of “lurking” or lurkers which refers to people.

Lurking is described as the act of reading online material but either not participating or doing so to a very small degree. One study estimates that lurkers make up 90% of users in a group (Nonnecke, and Preece). Determining the number of lurkers is difficult yet possible to do internet traffic monitoring. Websites are able to collect data from the daily number of unique visitors which could then be compared to the amount of posts made creating a rough approximation of lurkers vs. posters. However, without monitoring the number of posts each user makes this can skew the data; the average Twitter poster for example posts more than once each day. Of the three cases of internet

defamation examined in this paper all were the result of Twitter posts and all were treated as instances of libel.

4.) <u>Twitter Defamation Cases</u>

Courtney Love, Kim Kardashian, and Amanda Bonnen are all defendants in the first known cases of Twitter defamation. At the writing of this paper the case against Amanda Bonnen has been dismissed but Courtney Love and Kim Kardashian are still awaiting trial.

After a tiff with fashion designer Dawn Simorangkir Love posted a series of allegedly defamatory remarks on her Twitter and MySpace page. Accusations made against Simorangkir claimed that she had a history of dealing cocaine as well as prostitution and questioned the quality of the products produced by the fashion designer. Upon seeing the comments Simorangkir filed suit claiming the remarks were libelous and untrue.

Returning to the previous discussion of slander and libel per se it is evident that Courtney Love's out lash is actionable as it is injurious on its face and because it falls within one of the four categories of slander per se set forth by the courts. The comment about prostitution falls within the category of slander per se pertaining to a woman's chastity, and the comment about the poor workmanship of the dresses produced would undoubtedly cause reputational damage in the world of fashion design. Spoken or written, Love's choice of words presents a strong case for defamation and barring an exception of the jurisdiction the case proceeds in it is highly likely that this will be the first successful

lawsuit over Twitter. Kim Kardashian and Amanda Bonnen contrast the open and shut case of Courtney Love with statements with considerably less venomous words.

In a case of simple misunderstanding Dr. Sanford Siega has filed suit against Kim Kardashian for her claim that his cookie diet is “unhealthy.” A third party website to both parties falsely claimed that Kim was on Dr. Siega’s diet. Dr. Siega then made mention of it on his website which was later discovered by Kim. In response to the claim that she was on the Dr.’s cookie diet she tweeted the following:

> Dr. Siegal's Cookie Diet is falsely promoting that I'm on this diet. NOT TRUE! I would never do this unhealthy diet! I do Quick Trim!

Referring to a marketed weight loss diet as “unhealthy” by a professional model could have an impact on the number of followers of Siegal’s diet. Categorizing Kardashian’s statement as slander or libel would tip the scales allowing for a greater chance of compensation or dismissal of the case.

Horizon Realty sued Amanda Bonnen, a tenant in a Chicago apartment, for an allegedly defamatory post on Twitter that read as follows:

> @JessB123 You should just come anyway. Who said sleeping in a moldy apartment was bad for you? Horizon Realty thinks it’s okay.

Bonnen was accused of spreading false information about the company and a libel lawsuit was filed. Defense for Bonnen asked that the case be thrown out due to the weak evidence submitted that defamation had occurred and citing the strict requirements in Illinois for advancing on a defamation lawsuit. The judge overseeing the case granted the defense’s request for dismissal without addressing the issue.

As it stands, the law has taken a very binary or black and white approach to categorizing speech. The complexities and stylistic differences of writing and speaking are neglected for a model that examines only the medium of a statement. Research in Linguistics that dates back nearly 100 years examined the differences between writing and speaking and found certain grammatical structures appeared in greater numbers depending on the subgenre. Viewing language as either oral or literate does not allow for accurate categorization and brings to light the importance for a new model to be used by the courts.

5.) <u>Language as a Continuum</u>

Research into the differences between spoken and written discourse dates back as far as the 1920s when a study was published comparing the speeches of famous figures to their written works (Brochers 1927). It was discovered that the speeches contained more imperatives, first and second person pronouns, and interrogatives. In the 1930s a study was done on 10th grade students who were asked to speak or write about a topic and then repeat the process 12 days later. Results showed more complex sentence structure in the written data and also fewer errors (Bushnell 1930). Another study done compared writing, typing, and steno typing and showed evidence that as writing speed increases language takes on more characteristics of spoken language (Horowitz & Berkowitz 1964). The amount of research done has been quite extensive and those seeking a full reference should consult Wallace Chafe and Deborah Tannen's *The Relation Between Written and Spoken Language* (383-390).

Chafe states that one study in particular by Douglas Biber presented in his book *Variations Across Speech and Writing* that examined a corpus of written and spoken

language for several grammatical factors across 23 different subgenres shows that there is no single element that distinguishes written discourse from spoken (391). Instead, Biber offers that writing and speaking can be contrasted using 7 dimensions that represent variation of the grammatical structures used in the different subgenres. An example of this would be the use of contractions. Data showed that contractions along with many other grammatical structures indicate an "involved" manner of speaking as opposed to "informational." The subgenres of discourse with the highest frequency of these factors (contractions, private verbs, etc) were telephone and face to face conversations. While this may suggest contractions or other related grammatical structures are an indication of spoken discourse Biber shows that writing styles such as personal letters and romantic fiction can also include contractions. He therefore proposed the use of the terms "oral" to refer to any subgenre, whether written or spoken, that makes use of the grammatical structures commonly found in speech. Texts found to contain complex grammar forms found in formal or academic writing are described as "literate." A love letter, then, would be considered more oral due to the content even though it is written down. Rehearsed speeches, although spoken, are more literate despite its medium.

The boundary between writing and speaking is not clearly defined. In order to properly represent the two modalities of speaking and writing as genres with overlapping boundaries it is necessary to discard the binary view currently held by the courts in favor of a continuum. Oral and literate would serve as the opposites on the continuum but without examining CMD on a micro level it is impossible to place the different subgenres. In Biber's study he was able to scale different subgenres of speaking and writing by analyzing the grammatical structures used in each. Unfortunately, at the time of Biber's

study the Internet was not yet a predominant means of communication in society and consequently CMD is not addressed. However, the 7 dimensions presented still serve as an excellent tool for distinguishing between the genres of CMD.

6.) Data Collection

100 random messages on Twitter were obtained for analysis in this study. Twitter offers no way of obtaining random Tweets and therefore the data was collected by selecting the newest messages posted on Twitter. By accessing the Twitter Feed it is possible to view the newest Tweets posted and this served as the data for the experiment. Tweets found to be incomprehensible (containing no complete words or written in a foreign language) were excluded. In addition, blatant advertisements of products by companies were not included. The goal of the research was to compare what the researcher believes are non-media affiliated posts composed of "everyday" users to media affiliated posts which is represented by The New York Times in this study. 50 Tweets were selected from the non-media affiliated members with the remaining 50 coming from The New York Times. By selecting two different types of authors it was hoped that differences of grammatical structures used might appear. The data underwent a micro comparison to 3 of the dimensions from Biber's study; (1) Informational versus Involved Production, (3) Explicit versus Situation-Dependent Reference, and (5) Abstract versus Non-Abstract Information.

7.) Research Methods and Results

Three dimensions out of the possible seven have been selected for use as they offer the clearest distinction of grammatical structure usage between speech and writing.

However, Biber states that "even in these cases [dimensions 1,3,5], there is considerable overlap" (161) and it is worth mentioning again that there is no single grammatical structure unique to speech or writing. For each dimension, with the exception of

Grammatical Structure	Frequency
Private Verbs	16
"that" deletions	7 out of 8 possible
Contractions	15 out of 22 possible
Nouns	108 out of 585 words
Word Length	4.08
Prepositions	50 out of 585 words

dimension 1, the top 3 factors were compared to the data to ascertain two things; does Twitter share similarities to speech, and are there differences between media and non-media affiliated posts? Messages were hand checked for grammatical structures and the findings are displayed in the following tables.

Non Media Affiliated Tweets - Dimension 1 (Informational v. Involved Production)

Non Media Affiliated Tweets - Dimension 3 (Explicit v. Situation Dependent Reference)

Grammatical Structure	Frequency
WH in Subject Position	0
WH in Object Position	1
Pied piping	0

Non Media Affiliated Tweets - Dimension 5 (Abstract v. Non-Abstract Information)

Grammatical Structure	Frequency
Conjuncts	0
Agentless Passives	1
Past Participle Clauses	0

Media Affiliated Tweets - Dimesion 1 (Informational v. Involved)

Grammatical Structure	Frequency
Private Verbs	8
“that” deletions	1 out of 1 possible
Contractions	2 out of 2 possible
Nouns	184 out of 411 words
Word Length	4.95
Prepositions	52 out of 411 words

Media Affiliated Tweets - Dimension 3 (Explicit v. Situation Dependent Reference)

Grammatical Structure	Frequency
WH in Subject Position	0
WH in Object Position	0
Pied-piping	0

Media Affiliated Tweets - Dimension 5 (Abstract v. Non-Abstract Information)

Grammatical Structure	Frequency
Conjuncts	0
Agentless Passives	1
Past Participle Clauses	0

Dimension 1 is titled Informational v. Involved Production and represents two distinct styles of discourse. An informational text is said to contain high frequencies of nouns, prepositions and longer word length. Nouns convey much of the information in a sentence and prepositions further increase the amount in a single sentence. Shorter words are also more commonly used to express general meaning whereas longer words tend to be specialized and carry a high amount of information. In contrast, an involved production would contain private verbs, “that” deletions, and contractions. Private verbs such as think, feel, love, hate, express the hidden emotions of the writer making the reader more involved with the text. “that” deletions and contractions both represent surface reduction; a sign of “generalized, uncertain content” (Biber 106). To summarize,

a high frequency of private verbs, “that” deletions, and contractions occur more often in “spoken” discourse. Longer word length, as well as high noun and preposition usage are used frequently in “written” discourse.

Dimension 3 is used to show Explicit v. Situation Dependent Reference texts by looking for a high number WH relative clauses along with pied-piping. An example of a WH relative clause would be “the woman who likes candy.” Pied-piping is the term used to refer to the fronting of a phrase consisting of more than a single WH word, “the manner in which he was told” (Biber 235). Biber states that official documents and academic prose “require high explicit, text-internal reference” and would make use of the above grammatical structures. Therefore, texts incorporating a high frequency of WH relative clauses and pied-piping would be closer in structure to writing.

Finally, Dimension 5 categorizes subgenres as Abstract or Non-Abstract in terms of the information provided. Conjuncts, agentless passives, and past participle clauses were the grammatical structures found to be present in academic prose and other formal writing. Conjuncts have been used throughout this very paper and include words like however, moreover, and therefore. An agentless passive is a passive sentence where the agent has been deleted, “A man was killed (by a stray bullet).” Past participle clauses contain the past participle of a verb in a clause, “Built in a single week, the house would stand for fifty years” (Biber 233). As with Dimension 3 a high occurrence of these grammatical structures would indicate a subgenre closer in comparison to writing.

8.) <u>Analysis of Results</u>

Dimensions 1, 3, and 5 all show evidence that the grammatical structures used in Twitter posts are those found more often in speech. Media and Non-Media Affiliated Tweets were found to show a difference in usages but both contained the structures presented in Dimension 1. The almost complete lack of the grammatical forms listed in Dimension 3 and 5 are also strong supporters that the language used in Twitter posts are distanced from professionally constructed texts such as academic prose and formal letters.

Using the language continuum model Twitter would then fall closer to the oral side. Separating Twitter into Media and Non-Media Affiliated makes for only a minor distinction in terms of placement as evidenced by figure 1.2 below.

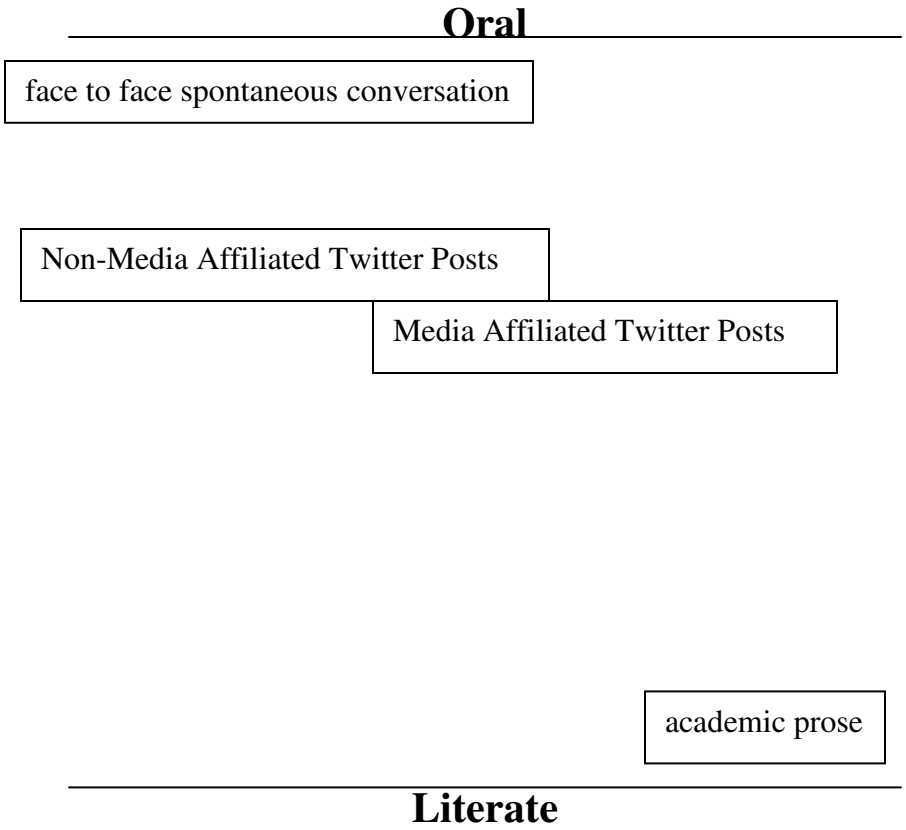

Figure 1.2

Conclusion and Going Forward

There are three limitations that need to be addressed before concluding to avoid drawing too strong of a conclusion from the data.

To begin, the data sample was small in comparison to the language corpuses Biber drew upon in his study. For Biber's study a multitude of resources containing a startling amount of words were analyzed over several years. A larger analysis of Twitter posts that incorporates all 7 dimensions as well as the encompassing grammatical structures may yield different results.

Second, journalism is a subgenre of writing akin to love letters, fiction, or academic prose. It is possible that the structures used by the New York Times may not be indicative of all Media Affiliated Tweets. Advertisements, for example, may show markedly different use of forms. Even still, Twitter as a whole has shown to be more oral than literate from the data presented.

Finally, Twitter is restricted to 140 characters per message. Long sentences involving complex grammatical structures are not as feasible to produce when Tweeting. Examination of other subgenres of CMD unrestricted by entry length may show greater usage of the grammatical structures absent in the study.

Language is highly complex. Variations within genres are as evident as the distinctions in dialects based on the region in which a person is raised. Data has been presented to show results consistent with earlier findings in Linguistics; differences exist in speaking and writing. Twitter posts of Media and Non-Media Affiliated users were found to incorporate grammatical structures more commonly found in oral subgenres. Based on these findings CMD, and all forms of communication, cannot continue to be

subjected to the current model of defamation. A continuum similar to the one presented previously offers a fairer assessment of a defamatory remark by examining the content of the statement, not the medium.

The court's reasoning that the written word leaves a more permanent blot is questionable. Kanye West's unscripted quip that George. W. Bush does not care about black people has remained the most troubling moment for the former president (Chappell). Communicability is the strongest point of the internet and so offering easer compensation for the written word remains founded in logic. However, CMD has the benefit of being able to be deleted whereas traditional print sources must be rounded up physically when a retraction is warranted. Lastly, the courts statement that writing evidences greater forethought would imply that speaking shows less planning. As we have seen, what constitutes "speaking" are key grammatical structures found in writing as well as CMD. Thus the foundation upon which the current model of defamation is built is shaky at best. The fluidity of language has no doubt been troubling for legal experts and defining where one genre ends and the other begins is a tricky task but the evidence presented shows that a new model is necessary to ensure our First Amendment rights.

The Supreme Court has painstakingly analyzed issues of First Amendment protection so as not to impose unnecessary restrictions on speech. Furthermore, the Court has shown in the past the willingness to reject long established traditional law in order to uphold the ideas and rights framed in the Constitution. All courts must move towards a model of defamation that separates slander and libel as either "oral" or "literate" as opposed to spoken or written. Upon request for a defamation case the content of the message in question would be analyzed to determine if the remark was more oral or

literate in terms of grammatical construction. Therefore, an oral subgenre of writing would be subject to the requirements of slander under the new model of defamation. In doing so this creates breathing room for online posters by ensuring that their thoughts and opinions are not associated with professionally constructed forms of writing from reputable sources simply because they chose to express their concerns through text. The internet is an extraordinary tool for communication and to silence it while in its infancy would deprive citizens of a venue necessary to ensure they are able to openly participate in and exchange ideas and thus fulfill their roles as members of a democracy.

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