

## Understanding Defamation

### Who is considered a private person in a libel suit?

Because the fault standard depends on the status of the plaintiff, the outcome of a libel case often hinges on whether the plaintiff is considered a public official or figure or a private person. This is not always easy to determine, and many libel verdicts have been overturned by appeals courts on the basis that the wrong fault standard was imposed on the plaintiff.

Generally, a libel plaintiff who does not meet the definitions of either a public official or a public figure is considered to be a private person, meaning that in most states it is easier for him/her to prove that the media defendant was at fault in publishing the allegedly libelous statement.

A private person may be well known in the community, but he/she has no authority or responsibility for the conduct of governmental affairs and has not thrust himself or herself into the middle of an important public controversy.

**Example:** A person with nationwide name recognition was involved in a highly publicized divorce case, but she was held to be a private person in a libel case that originated when a magazine misstated the grounds for granting the divorce. The court held that a divorce -- even one that attracted widespread public attention -- was a private matter, not a public controversy.

**Another example:** Elmer Gertz was widely known in several contexts in Chicago. As a lawyer, he had represented defendants in highly publicized cases; he was an author and an amateur actor and had served on various citizens' committees in Chicago.

He became a plaintiff in a libel case after he agreed to represent a family in a civil suit against a Chicago police officer who had been found guilty of murder in the shooting of a youth. A John Birch Society magazine then falsely accused Gertz of having a criminal record and being a "Leninist" or a "Communist front."

Despite his prominence, the Supreme Court ruled that Gertz was a private person for the purposes of his suit because he had done nothing to inject himself into the controversy surrounding the shooting and subsequent criminal trial of the policeman, which was the focus of the magazine article. In representing the family in a civil action, Gertz was just practicing his profession and acting in the capacity of a private person, the Court held.

[Supreme Court opinion in Gertz v. Welch](#)

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