



Defamation: Of and Concerning the Plaintiff

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Konomark
Most rights sharable

Of and concerning the plaintiff

- Explicit identification suffices.
- Identification can also be implicit.
- Identification can even be accidental.

Realotheticals...

Fawcett Publications v. Morris

True magazine



Of and concerning the plaintiff?

- Magazine story implies that the Oklahoma University football team uses stimulant drugs. More than 60 people, including plaintiff are on the team.
- **Yes - every member of the Sooners football team was defamed.**
Fawcett Publications v. Morris (Okla. 1962)

Neiman-Marcus v. Lait

U.S.A. Confidential

Of and concerning the plaintiff?

Regarding the Neiman-Marcus store in Dallas:

"The sales girls are good, too – pretty, and often much cheaper – twenty bucks on the average."

382 female sales employees

→ No. Suit dismissed.

"Neiman's put in a men's store. ... [M]ost of the sales staff are fairies, too."

25 male sales employees

→ Yes. Suit permitted.

Neiman-Marcus v. Lait (S.D.N.Y.1952)

Stanton v. Metro Corp.

Boston Magazine “The Mating Habits of the Suburban Teenager”

- Boston Magazine published “The Mating Habits of the Suburban Teenager,” reporting an increase in teenage casual sex.
- An accompanying photo depicted five students at a high school dance.
- A disclaimer said: “The photos on these pages are from an award-winning five-year project on teen sexuality taken by photojournalist Dan Habib. The individuals pictured are unrelated to the people or events described in this story. The names of the teenagers interviewed for this story have been changed.”



Photo used with Boston Magazine story, by Dan Habib.

“It's all pretty random. We just get together in small groups of kids and drink a lot and then hook up with whoever.” Christine, a curly-haired pixie in the under-90 weight range, chimes in. “Sometimes we'll hook up for two or three months at a time with one person. But no one really ever goes steady. Dating is just really uncommon. No one wants that kind of responsibility, you know? Most of us just go out and get drunk and whatever — hook up at someone's house.”
- *from the article*

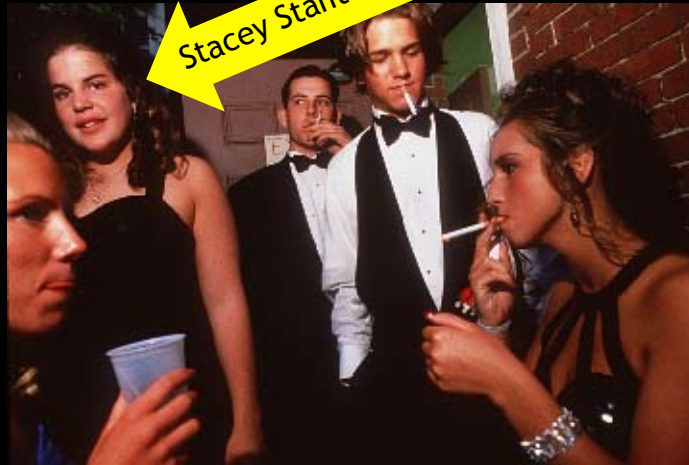
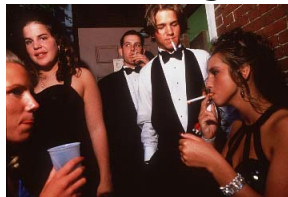


Photo used with Boston Magazine story, by Dan Habib.

Of and concerning the plaintiff?



- ~~No. The disclaimer avoids identification. Suit dismissed. *Stanton v. Metro Corp.* (D. Mass. 2005)~~
- **Reversed!**
- **Yes.** The reasonable reader might miss the second sentence of the disclaimer. *Stanton v. Metro Corp.* (1st Cir. 2006)

Stanton v. Metro Corp. (1st Cir. 2006)

Here, the disclaimer occupies the field between the body of the story and the byline, making it easy enough to overlook between the larger fonts of both. The disclaimer is also separated from the column of text by a horizontal line, accompanied by an arrow directing the reader to turn to the next page, where the story continues. We cannot say that no reasonable reader would follow this visual signal and simply flip to the next page after reading the entirety of the text on the first page, but before reaching the disclaimer.

Stanton v. Metro Corp. (1st Cir. 2006)

Nor can we say that any reasonable reader who notices the disclaimer would necessarily read the crucial second sentence, i.e., “[t]he individuals pictured are unrelated to the people or events described in this story.” It is at least conceivable that a reader might take the first sentence of the disclaimer, which states that “[t]he photos on these pages are from an award-winning five-year project on teen sexuality by photojournalist Dan Habib,” as a satisfactory explanation of the photographs and therefore stop reading the disclaimer before the second sentence.