



Defamation 1: Constitutional Analysis

Eric E. Johnson
ericejohnson.com



Konomark
Most rights sharable



Public official?

- Police officer with duties as a “normal street patrolman” of the lowest rank in a town of 30,000
- **Yes.**
Gray v. Udevitz (10th Cir. 1981)

Public official?

- Police informant who received no salary, but was reimbursed some expenses
- **No.**
Jenoff v. Hearst (4th Cir. 1981)
- But noting: “We do not rely solely on Jenoff’s lack of formal government position for our conclusion that he is not a public official. It is conceivable that an individual holding no formal public position, and standing in no employment or even contractual relationship with government, nevertheless may participate in some governmental enterprise to such an extent that the policies underlying *New York Times Co. v. Sullivan* ... would demand that he or she be classified a public official.”

Public official?

- Financial aid director at a public college
- **Yes.**
Van Dyke v. KUTV (Utah 1983)



Public figure?

- Bose - makers of the heavily advertised Bose Wave Radio
- **Yes.**
Bose v. Consumers Union (Consumer Reports magazine) (U.S. 1984)



Public figure?

- Telemarketer of subscriptions to newsletters employing 500 telephone representatives and reaching 15,000 customers per week
- **Yes - limited-purpose public figure.**
American Future Systems, Inc. v. Better Business Bureau of Eastern Pennsylvania (Pa. 2007)

Public figure?

- Government contractor that provided civilian interrogators for U.S. Army intelligence brigade
- **Yes.**
CACI Premier Technology, Inc. v. Rhodes
(4th Cir. 2008)

Public figure?

- Larry Klayman, founder and former chair of Judicial Watch, a public-interest law firm; frequent guest on TV, cable, radio; and has "celebrity status within the non-profit legal/political community"
- **Yes - general-purpose public figure.**
Klayman v. Judicial Watch (D.D.C. 2009)

Public figure?

- Rev. Norwood Thompson, Jr., pastor of the First Zion Baptist Church in New Orleans, civically active, and the subject of some local media coverage regarding his activities
- **Yes - general-purpose public figure.**
Thompson v. Emmis Television Broadcasting
(La. App. 2005)

Public figure?

- Local television news reporter who broadcast more than 1,000 stories, participated in at least four public charitable events and considered herself a local celebrity.
- **No.**
Wayment v. Clear Channel Broadcasting (Utah 2005)

Public figure?

- Owner of business that customized jetskis who posted to internet news group rec.sports.jetski and who was interviewed by *SPLASH* magazine
- **Yes - limited-purpose public figure.**
Hibdon v. Grabowski (Tenn. App. 2005)
- Court noted that rec.sport.jetski is an internet site that “is accessible worldwide.”

IMPORTANT NOTE:
confusing ≠ confused

Remember: If you find it all confusing, it doesn't mean you are confused; it's actually a leading indicator that you understand.