

Libel in Fiction: Updated Analysis of Cases

An update to a 2023 Bulletin article, discussing more recent court decisions

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I. Introduction

In the Spring 2023 edition of the Authors Guild Bulletin, we examined the increase in libel claims arising from works of fiction (“[Libel in Fiction](#),” page 30 of Bulletin or page 32 of PDF).¹ Because the surge has not abated, this update provides an analysis of more recent libel in fiction cases as well as suggestions for minimizing risk. As with the cases surveyed in our 2023 article, many of the latest cases have been brought against streaming platforms, but they nonetheless provide insight into libel in fiction claims that could be made against authors, publishers, and other content creators.

Since the publication of our original article, there has also been a burgeoning of the “autofiction” genre. Autofiction, short for autobiographical fiction, is “a portmanteau of autobiography and fiction, “some combination of an author’s real-life characteristics, relationships and experiences, plus some aspects that have been imagined or invented.”² Despite the seeming recent surge, the genre is not new. The term has been credited to author Serge Doubrovsky, who in 1977 used it to explain the autobiographical nature of his novel.³ Commentators have recognized that “despite its now decades-long existence,” there has nevertheless been “a steep uptick in its popularity.”⁴ And, perhaps even more than fiction, the autofiction genre poses legal risk. An article in Jane Friedman’s newsletter aptly explains that “[w]ith the lines of fact and fabrication blurred, readers are engaged in wondering what’s real, what isn’t, and how they can figure out which is which.”⁵ With “fact and fabrication blurred,”⁶

¹ *Libel in Fiction: An Analysis of Recent Cases*, The Authors Guild Bulletin, Spring 2023, <https://authorsguild.org/app/uploads/2023/05/AG-Bulletin-2023-1.pdf>.

² Stephen Carlick, *A Guide to Autofiction*, Penguin (Nov. 19, 2025), <https://www.penguin.co.uk/discover/articles/what-is-autofiction-genre-books>.

³ Brooke Warner, *Autofiction: What It Is and What It Isn’t*, Publishers Weekly (Jan. 8, 2021), <https://www.publishersweekly.com/pw/by-topic/authors/pw-select/article/85269-autofiction-what-it-is-and-what-it-isn-t.html>; Melissa Schuh, Hywel Dix, ed., *Autofiction in English*. Palgrave Macmillan, 2018, 7(1) C21 Literature: J. 21st-Century Writings (2019), <https://doi.org/10.16995/c21.812>.

⁴ Carlick *supra* not. 2.

⁵ <https://janefriedman.com/the-how-when-and-why-of-writing-autofiction/>.

⁶ *Id.*

the risk of defamation claims also surely rises. Like docudramas, autofiction books combine fictional elements with real events, people and places from the author's life.⁷ They are frequently told in the first person; thus, it may be easier to identify characters as real individuals.

The conventional wisdom in assessing libel risk is to be wary of statements of fact about real, living people that are wrong and that could harm their reputations, such as "John Smith committed the crime" when John Smith did not in fact commit the crime. And yet, libel in fiction cases have been brought about characters and scenarios that are purportedly not real, and, in the autofiction context, may or may not be real.

Many novels, movies, television shows and other media content are inspired by true events and real individuals. In the recent cases, living individuals who may or may not have inspired the fictionalized characters have brought defamation and related claims against content creators and distributors arising out of the characters' portrayals. Whether a work expressly names a character after a real person, alludes to the person, or does neither, courts have found that a characterization that hems too close to reality can harm the reputation of a living person and may support claims for defamation, false light or an array of other torts. Simply labeling a work as "fiction" or "autofiction" does not insulate the work from such claims.

So, let's turn to the cases.

II. The Cases

The Red Hat Club

We'll start with an older "landmark" libel in fiction case, *Smith v. Stewart*, to set the parameters. In 2004, Vickie Stewart sued author Haywood Smith, a childhood friend who had known Stewart for 50 years, and her publisher, St. Martin's Press, claiming she was defamed by the fictional character Susu in Smith's novel *The Red Hat Club*.⁸

In real life, after her first husband's death, Vickie Stewart had remarried a man named Harold Stewart, not aware that he was engaged to another woman. Harold divorced Vickie, stole the insurance money she received from her first husband's death, and transferred his assets to his mistress. Vickie sued him and then, when she was over 50 years old, became a flight attendant. Author Smith, as an old friend of Stewart's, was familiar with this background. She created a character named "Susu" in her novel who got an insurance settlement after her first husband's death and remarried a man who was engaged to someone else without her knowledge, stole Susu's money and gave it to his mistress. Character Susu fought for the money and later became

⁷ Christopher H. Sterling, *Docudrama*, in Encyclopedia of Journalism (2009), <https://doi.org/10.4135/9781412972048.n118>.

⁸ *Smith v. Stewart*, 291 Ga. App. 86, 89–90, 660 S.E.2d 822, 827 (2008).

the “world’s oldest stewardess.” Although all of those characteristics were similar to Stewart’s, they were not what led to her lawsuit. In the novel, Susu was also portrayed as an unrehabilitated alcoholic who secretly drank before and during flights, frequently became intoxicated in public, and was promiscuous, regularly engaging in one-night stands with passengers she met on flights, including married men and young “stud puppies.”⁹ When SuSu talked about having a “layover,” it “was a double entendre of galactic proportions.”¹⁰

The Red Hat Club was a work of fiction, but it contained references to actual people and real places. Indeed, the author stated that she set the action in actual restaurants, hotels, clubs and other buildings in Atlanta to add “credibility” to her book.¹¹ St. Martin’s Press published the book in 2003 and it reached number 15 on the New York Times best-seller list. When the book was published, Stewart stated that she suffered public humiliation and ridicule as her friends gossiped and questioned whether she was, in fact, “Susu,” the promiscuous alcoholic protagonist.

St. Martin’s Press included a disclaimer stating the book was a work of fiction in the paperback edition of the book, published after the lawsuit was filed.

The jury in Stewart’s case sided with her, finding that she was defamed because the Susu character had a mix of her traits and other false traits that depicted her as a promiscuous alcoholic. She was awarded \$100,000 for defamation.¹²

In essence, the Susu character was inspired by or based in part on a real, living person (Stewart), but the author had departed from reality in ways that were found to disparage that real person, who was identifiable as the character.¹³

Plaintiffs in more recent cases have made similar claims.

We Own This City

A federal judge in Maryland allowed a defamation claim to move forward in a case arising from the 2022 HBO television miniseries *We Own This City*.¹⁴ The series, based on a nonfiction book titled *We Own This City: A True Story of Crime, Cops and Corruption*, by Baltimore Sun

⁹ *Id.* at 88.

¹⁰ *Id.*

¹¹ *Id.* at 94.

¹² *Stewart v. Smith*, No. 2004-SV1137-D (Ga. Sup. Ct.).

¹³ “[T]he trial court found at least twenty-six specific examples of similarities between [Susu and Vincent.]” *Smith v. Stewart*, 291 Ga. App. 86, 93.

¹⁴ *Daniel v. Home Box Off., Inc.*, No. CV ELH-23-233, 2023 WL 8478867 (D. Md. Dec. 7, 2023).

reporter Justin Felton, concerned the Baltimore Gun Trace Task Force (“GTTF”), a now-defunct, corrupt unit of the Baltimore Police Department.

Shanea Daniel, a female exotic dancer with dwarfism, sued HBO, the distributor of the series, in federal court in Maryland in 2023, alleging that a 3-minute scene falsely implied that she had engaged in prostitution with the former leader of the GTTF, harming her reputation and causing her to suffer embarrassment and emotional distress.

In allowing Daniel’s defamation claim to proceed, the court found that despite a disclaimer acknowledging that the series contained elements of fictionalization and dramatization, an audience could interpret the scene in question as objectively factual.¹⁵

A second case was also filed about *We Own This City*. In 2025, a self-represented federal prisoner named Antonio Shropshire sued HBO in federal court alleging that he was defamed by the series falsely portraying him as having “suppl[ied] fatal narcotics to overdose victims,” “being involved in fictional criminal schemes such as robbery of drug dealers alongside Baltimore cops,” and “participating in conduct that would seriously harm his reputation in both the public and prison community.” On July 28, 2026, the court dismissed the defamation claim on a procedural basis, but without prejudice, so it could potentially be refiled.¹⁶

Paul T. Goldman

Author Paul Finkelman wrote a book titled *Duplicity*, under the pseudonym “Paul T. Goldman.” In the book, he accused his ex-wife of criminal acts, including prostitution and being the “madam” of a large-scale prostitution ring before and during their brief marriage.¹⁷ The book, which was “inspired by Finkelman’s marriage,” was made into a six-episode docuseries entitled *Paul T. Goldman*, which was streamed and distributed on Peacock TV in 2023. Finkelman repeatedly stated that his story was true, but the series also included the following disclaimer: “Statements expressed by individuals in this series should be taken as speculation or opinion and do not reflect the opinions or beliefs of the producers.”¹⁸

Finkelman’s ex-wife sued in Florida state court for defamation, among other claims, alleging that she was “easily identifiable as the subject” of the docuseries.¹⁹ The trial court dismissed the case, holding that “the reasonable and common minded” viewer would not consider the statements in

¹⁵ *Id.* at 16.

¹⁶ *Shropshire v. Home Box Off., Inc.*, No. 1:25-cv-02342-ABA, Doc. No. 30 at *3 (D. Md. Jul. 28, 2026).

¹⁷ *Doe v. Finkelman*, 429 So. 3d 456, 462 (Fla. Dist. Ct. App. 2025), *reh’g denied* (Feb. 9, 2026).

¹⁸ *Id.* at 469.

¹⁹ *Id.* at 462.

the series as assertions of fact. Rather, they would understand that the series is not a documentary but rather a dramatization in which scenes and characters are “fictionalized and imagined.”²⁰

However, in December 2025 a Florida appellate court disagreed and reversed the dismissal of the case, finding that the series was reasonably susceptible of defamatory meaning. The court held that “the defamed person need not be named in the defamatory words if the communication as a whole contains sufficient facts or references from which the injured person may be determined by persons receiving the communication.” Notably, the series’ disclaimer was deemed insufficient because it “did not inform the viewer that the series was fictional.”²¹ And, the court noted that Finkelman had repeatedly stated his story was true throughout the series. The court acknowledged that although some statements can be “so obviously comedic and nonsensical that no sensible person would take them seriously,” that was not the case here.²²

Unlike *Paul T. Goldman* and *We Own This City*, a plot that includes fictional details that sufficiently distinguish a real person, such as involvement in activities or employment that the real person never engaged in, can separate a fictional character enough from a potential plaintiff so that “the requisite connection” for a legal claim cannot be drawn.

Billions

In a 2021 New York state defamation suit alleging the TV show *Billions* falsely portrayed a woman as having been involved in illegal business dealings, bribery, and blackmail of a public official, an appeals court upheld the trial court’s finding that the episode was not “of and concerning” the woman.²³ The court found that the fictional character was not “so closely akin to [the plaintiff] that a viewer ‘would have no difficulty linking the two,’” despite the character being of the same Native American tribe, surname and similar position as the woman.

On appeal, the appellate court affirmed that “the requisite connection could not be drawn” between the show’s character and the plaintiff, as fictionalized elements were given to the character, including involvement in the negotiation of real estate deals and electoral issues.²⁴

²⁰ *Id.* at 465.

²¹ *Id.* at 469.

²² *Id.* at 470.

²³ *Cayuga Nation and Clint Halftown v. Showtime Networks, Inc.*, 191 A.D.3d 573, 574, 138 N.Y.S.3d 873 (2021).

²⁴ *Id.* at 574.

No Limit

Francisco Ferreras Rodriguez, a professional no-limit freediver who set 21 world records, was married to Audrey Mestre, herself a world record-setting no-limit freediving champion. Mestre died in an accident in 2002 while attempting a new world record. Netflix marketed a 2022 film titled *No Limit* as a romantic drama about a young woman who finds deep, destructive love with her record-holding freediving instructor. The film begins with a message after the opening credits stating, “inspired by real events,” and ends with an in-memoriam for the real Mestres before transitioning to a disclaimer stating that the work is fictionalized and that “any resemblance to reality is purely coincidental.”²⁵

Despite that fiction disclaimer, Ferreras sued Netflix, the director, and other parties in California state court in April 2023, claiming the film was “a thinly disguised portrayal” of him, his wife, and the events leading to her death. He further claimed that the film defamed him by falsely implying that he intentionally caused his wife’s death.²⁶

The court, though, found that it was not enough for Ferreras to show the film “may conceivably or plausibly be construed as” referring to him; instead he needed to show that it referred to him by a clear or necessary inference.²⁷ The court considered the “totality of the circumstances,” including the “full content of the communication,” meaning the whole work, not just snippets in isolation.²⁸ The “totality” of the film and the “generic similarities” between Ferreras and the character weighed toward the film not being “of and concerning” Ferreras.

Power

In a case arising from *Power*, an American crime drama television series that aired on Starz, Cory Darnell Holland claimed that he was defamed by the portrayal of the Ghost character as a murderer.²⁹ The show, set in Manhattan, follows the actions of James “Ghost” St. Patrick, the owner of a successful nightclub who was also a successful drug kingpin. The show contained numerous murders, love affairs, FBI raids, court cases, investigations and “ruthless wrestling of political and economic power.”³⁰ At the end of each episode, disclaimer was displayed reading:

²⁵ *Rodriguez v. Netflix, Inc.*, No. B338932, 2025 WL 2475832, slip op. at 2 (Cal. Ct. App. Aug. 28, 2025), review denied (Dec. 10, 2025)

²⁶ Complaint, *Ferreras Rodriguez v. Netflix, Inc.*, No. 2:23-cv-02302, at 13 (C.D. Cal. Mar. 29, 2023), ECF No. 1.

²⁷ *Supra* note 24, at 5.

²⁸ *Id.* at 7.

²⁹ *Holland v. Lions Gate Ent. & Films*, No. 21-CV-2944 (AT) (JLC), 2024 WL 1925424 (S.D.N.Y. May 2, 2024), report and recommendation adopted, 2024 WL 3634737, at *2 (S.D.N.Y. Aug. 1, 2024), reconsideration denied, 2025 WL 449325 (S.D.N.Y. Jan. 29, 2025).

³⁰ 2024 WL 1925424, *supra* note 28, at 4.

“[T]he characters and events depicted in this motion picture are fictional and any similarity to actual persons, living or dead, is purely coincidental.”³¹

A federal court in New York rejected Holland’s claim that his shared nickname with the fictional character made him identifiable, finding that “merely sharing the same nickname has generally been insufficient to establish that a fictional character (or a fictional work more broadly” is ‘of and concerning’ a plaintiff.”³² The court found that Holland failed to demonstrate a similarity between Ghost and himself that was “more than . . . coincidence” and that clearly designated him “in such a way as to let those who knew the plaintiff understand that he was the person meant.”³³

As demonstrated in the *No Limit* and *Power* cases, the mere sharing of a nickname or other unique characteristic between a character and a real person may not be enough to make the real person identifiable so as to support a libel claim.

Similarly, in other recent cases, works of fiction have expressly named and depicted real people, but fictionalized the plot, details, or characterizations to such a fantastical and unbelievable extent that no reasonable person would understand the representation as portraying facts sufficient to support a defamation claim.

The Wasp Network

The Wasp Network was scripted from and inspired by Brazilian author Fernando Morais’ spy thriller novel, *The Last Soldiers of the Cold War*.³⁴ The Netflix film focused on spies from Cuba’s Ministry of the Interior who were dispatched to Miami in the early 1990s and whose activities led to the death of four Americans in 1996. In his lawsuit, a Bay of Pigs veteran who formed Brothers to the Rescue, Inc. (“BTR”), claimed that the film falsely portrayed BTR and him as terrorists.

The court, however, found that the film was a “docudrama,” or a dramatized version of real events and that “a reasonable viewer watching *The Wasp Network* would know within the first two minutes that he is not watching a documentary film that consists mainly of historical footage and interviews with the historical figures. Instead, he would understand that most of the film uses actors to portray historical events with some amount of artistic license.”³⁵ The claim was thus not actionable.

³¹ *Id.*

³² 2024 WL 3634737, *supra* note 25 at 2.

³³ *Id.*

³⁴ *Basulto v. Netflix, Inc.*, No. 1:22-CV-21796, 2023 WL 7129970, at *22 (S.D. Fla. Sept. 20, 2023).

³⁵ *Id.* at 23.

Kleptocracy

Inna Khodorkovskaya, the wife of a Russian dissident, brought a lawsuit against the playwright and director of the fictional play *Kleptocracy*, for statements made in the play that she claimed falsely portrayed her as a prostitute and murderer.³⁶ A federal appeals court in Washington, D.C., though, found that the context of a theatrical drama for a live audience, along with several unbelievable and fantastical aspects, weighed in favor of the conclusion that the production could not reasonably be interpreted by the audience as conveying actual facts. These “fantastical” devices included the apparition of a ghost, a recitation of an “absurdist poem” by Vladimir Putin’s character, and Putin being flanked by a “companion” Siberian tiger.³⁷ Therefore, the claims were not actionable.

Opinion or satire can insulate authors and other creators from liability for depictions of real people in works of fiction. But a work that portrays a factual event that is not clearly crafted as opinion or satire risks libeling by implication.

Inventing Anna

Convicted fraudster Anna Delvey sued Netflix in Delaware federal court in 2022 over her portrayal in the docudrama *Inventing Anna*. Delvey claimed that the show depicted her as “greedy, snobbish, disloyal, dishonest, cowardly, manipulative and opportunistic.”³⁸ Specifically, in one key scene at issue, Delvey was portrayed as having abandoned a depressed friend in Morocco.³⁹

In response to Delvey’s claim, Netflix argued that, even if that description was accurate, “these terms are non-actionable opinions” and are thus protected “no matter how vituperative or unreasonable the opinions may be.”⁴⁰ Netflix also argued that the combination of opinions with “substantial truth ... protects the creators’ artistic license.”⁴¹

The court determined, on a preliminary motion, that these allegedly defamatory scenes—opinion or not—were enough for Delvey to have a cognizable defamation claim. The mere fact that Delvey left the friend in Morocco may be different from the implication of “abandoning” her—something that can be proven as true or false.⁴² While the case ultimately settled before going to

³⁶ *Khodorkovskaya v. Gay*, 5 F. 4th 80 (D.C. Cir. 2021).

³⁷ *Id.* at 86–87.

³⁸ *Def.’s Mem. of Law in Supp. of Mot. to Dismiss the Compl. for Failure to State a Claim, Williams v. Netflix, Inc.*, No. 1:22-cv-01132-CFC, at 12–13 (D. Del. Nov. 4, 2022), ECF No. 15.

³⁹ *Williams v. Netflix, Inc.*, No. 22-1132-CFC, slip op. at 6 (D. Del. Mar. 26, 2024), ECF No. 65.

⁴⁰ *Supra* note 37, at 12–13.

⁴¹ *Id.* at 13.

⁴² *Supra* note 38, at 6.

trial, it illustrates that artistic license should not be used to exaggerate real facts, unless doing so is clearly satire or opinion.

III. Conclusion: Minimizing Risk

These are just some of the recently reported libel in fiction cases. Of course, many cases are settled by the parties without reported court decisions. And there is no way to know how many claims have been resolved before ever making their way into the courts. But the cost of responding to and defending against even claims that don't lead to lawsuits—in both money and time—is, of course, high.

What can authors and other creators do to minimize the risk that such a claim will be brought?

- (1) Work with an attorney to craft an appropriate disclaimer, including its positioning and prominence.** As with *No Limit*, disclaimers may serve to make it clear that a work is fictionalized. But disclaimers are not foolproof. In *Inventing Anna*, a disclaimer stating “this whole story is completely true. Except for all of the parts that are totally made up” was not enough for the court to grant Netflix's motion to dismiss.
- (2) Change identifying details about real, living people so that they are beyond recognition.** Mash up multiple inspirations into one character, making any individually identifiable features too attenuated to link. Alter factual depictions that may correlate with identifying details available on the internet. Merely changing a name likely will not be sufficient - make your character as unidentifiable as possible. Have fun fictionalizing!
- (3) Avoid disparaging any inspired characters.** If you're going to draw inspiration from a real person who might be identifiable, exercise caution if your work will exaggerate the person's conduct into more negative behavior, such as in the landmark *The Red Hat Club* case. If you are going to alter real-life events, do not make facts about living, potentially identifiable individuals more critical or disparaging than the truth without building in fantastical literary devices.
- (4) But if you're going to disparage—be funny and/or topical.** Parody or satire may offer protection. In *Inventing Anna*, the depictions of Delvey as uncaring toward her friend during otherwise accurate events were not enough to render the scene as opinion or satire at the motion to dismiss stage. Literary license, including making depictions satirical and adding creative flair, can be used as protection that also engages the audience.

While nonfiction authors routinely have their books legally vetted for potential issues before publication, authors of autofiction and pure fiction should also consider undertaking a legal review process if their work is based on real events, places or people. Identifying and minimizing legal risk before publication is the best protection against possible future claims.