

PART 7 OF 7

Can you write about your ex, your parents, or your siblings?

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PART 7 OF 7 | WHAT YOU CAN AND CAN'T SAY

Can you write about your ex, your parents, or your siblings?

Can you write about your ex, your parents, or your siblings? You can write about family, and nobody's permission is required. Relatives are usually private figures, so most states apply a lower fault standard than for public figures. They recognize themselves through any name change, and they can contradict you from memory. Documentation and proportion do more for a family chapter than a changed name.

Your mother has already said you wouldn't dare. Your sister remembers that summer differently and has told three people so. The manuscript is due in ninety days, and the chapters you can't cut are about people who share your last name.

I read a lot of those chapters. Family material produced more flagged passages than any other category I saw as a publisher's general counsel, and the fear in the room almost never matched the exposure on the page. Authors braced for a lawsuit that rarely came and gave away paragraphs that would have survived review intact.

Writing about relatives runs on the ordinary claims: defamation, which needs a false statement of fact, and the privacy torts, which mostly don't. What changes is the setting. Your subject knows you, was there, and can be found in an afternoon. That law varies by state, so check where your subjects live.

Do you need your family's permission?

No. American law requires nobody's consent to be written about, including the people who raised you. A release is a risk-management tool, and a publisher asking

for one is pricing an exposure it has already spotted.

private figure. Someone who has not achieved general fame or notoriety in the community and has not thrust themselves into a particular public controversy. **Gertz v. Robert Welch, Inc.**, 418 U.S. 323 (1974). Most relatives are private figures, though one who is independently a public figure gets analyzed as one.

Consent does real work when you can get it, because someone who agreed to a disclosure has trouble complaining later. What it can't do is make an inaccurate passage safe, and it doesn't bind the relatives who never signed. Your family can't stop you from writing the book. They can bring a claim after it publishes, and that claim will look like any other claim.

Why does family raise the legal exposure?

Four reasons. The fault standard is usually lower for private figures. The identification happens whether or not you name anyone. Your brother was there, kept the emails, and remembers the year. And a relative who sues usually wants an apology, which is harder to settle than a number.

In *Gertz*, the Supreme Court held that states may define their own standard of liability for defamation of a private individual, so long as they don't impose liability without fault, and that presumed and punitive damages are unavailable to a private plaintiff who hasn't proven knowledge of falsity or reckless disregard. The standard your sister would have to meet comes from her state's law rather than any national rule, and it's generally easier than the one a senator would face. Check the state where a claim would actually be brought.

Identification is the part authors get wrong most. A plaintiff doesn't need to be named. In *Bierman v. Weier*, 826 N.W.2d 436 (Iowa 2013), a suit by an ex-wife and a daughter over a self-published family memoir, the Iowa Supreme Court restated the rule: the “of and concerning” element asks only whether a third-party recipient can understand who the intended subject is, and extrinsic facts may supply the link. Your family supplies those facts by existing. What actually identifies a person, and what genuine de-identification would require, is the subject of Does changing the name actually protect you?

Bierman carries a second holding that surprises most people in publishing. The court treated the self-publishing services company as a publisher and a media defendant under Iowa case law, so the plaintiffs had to prove negligence and demonstrable injury against it. The author was a nonmedia defendant, and in Iowa libel per se stays available against a nonmedia defendant for certain statements outside matters of public importance, with damages presumed. On those facts, the company that formatted and shipped the book had more protection than the man who wrote it. Some states keep that distinction and others have dropped it, so check the one that governs where your subjects live.

Can your family sue you over things that are true?

Yes, in most states, through the privacy torts. Defamation asks whether you got it wrong. The privacy torts ask whether the disclosure was yours to make, and truth doesn't answer them. Recognition and wording vary by state, and some states reject one or more of the four torts.

public disclosure of private facts. The privacy tort memoirists collide with. The common formulation asks whether the author publicized private information that would

be highly offensive to a reasonable person and in which the public has no legitimate interest. Adoption and wording vary by state.

Courts looking at family material in books have given autobiography real room. In *Campbell v. Seabury Press*, 614 F.2d 395 (5th Cir. 1980), an author's sister-in-law sued over an autobiography describing her marriage and home life. The Fifth Circuit held that the privacy of people who haven't sought publicity is protected by requiring a logical nexus between the complaining individual and the matter of legitimate public interest, and found that accounts of the author's brother's marriage, as they affected the author, met the test. A Massachusetts trial court carried the same reasoning into memoir in *Bonome v. Kaysen*, 17 Mass. L. Rptr. 695 (Mass. Super. Ct. 2004), weighing an author's own right to disclose her intimate life against an ex-partner's privacy claim. Trial level, one state, persuasive only.

Nexus is the idea I'd want an author carrying into a legal review. The question is whether the passage connects to the story you're actually telling, and whether what you disclosed is proportionate to that connection. Your mother's drinking, in a book about growing up in her house, is the kind of detail the question was built for. The same detail in a chapter about your career has to answer it from scratch.

Haynes v. Alfred A. Knopf, Inc., 8 F.3d 1222 (7th Cir. 1993) draws the other edge. A couple sued over a nonfiction book describing the husband's heavy drinking, adultery, and neglect of his first family decades earlier. The Seventh Circuit affirmed judgment for the author and publisher, describing the core of the private-facts tort as intimate physical details whose publication would be deeply shocking, and putting past misconduct outside that core. The defamation claim failed on substantial truth, since a person has no "legally protected right to a reputation based on the concealment of the truth." Pseudonyms, the court added, would not have solved the problem.

One caution before reading any of that as a green light. In *Dresbach v. Doubleday & Co.*, 518 F. Supp. 1285 (D.D.C. 1981), a surviving brother sued over a book about the murder of their parents. The court rejected the privacy claim, holding that the public has a legitimate interest in past crimes and their investigation, that time had not made the subject private, and that material in a public trial record is absolutely privileged. Judgment went to the publisher. His libel and false light claims against the author were a separate question and were not resolved on that motion. **Truth as disclosure and truth as accuracy are different fights, and winning the first doesn't end the second.**

WHAT COURTS HAVE SAID

The decisions carrying this page. Jurisdiction matters on every one.

- ***Gertz*, 418 U.S. 323 (1974).** States set their own fault standard for defaming a private individual, with one floor: no liability without fault. Presumed and punitive damages require proof of knowledge of falsity or reckless disregard.
- ***Campbell*, 614 F.2d 395 (5th Cir. 1980).** Private facts about a family member are protected disclosure where a logical nexus connects that person to a matter of legitimate public interest.
- ***Haynes*, 8 F.3d 1222 (7th Cir. 1993).** The private-facts tort reaches facts that would deeply offend a reasonable person and in which the public has no legitimate interest. Pseudonyms would not have changed the result.
- ***Bierman*, 826 N.W.2d 436 (Iowa 2013).** A plaintiff need not be named for a statement to be "of and concerning" them. Iowa treated the self-publishing company as a media defendant and the author as a nonmedia defendant.
- ***Dresbach*, 518 F. Supp. 1285 (D.D.C. 1981).** A surviving brother's privacy claim over a book about his parents' murder failed: public interest in a past crime does not fade with

time, and a public trial record is absolutely privileged. His libel and false light claims against the author survived that motion.

Which family portrayals actually draw claims?

The portrayals that draw claims accuse someone of specific conduct, expose a body or a diagnosis, or rest on an account nobody living can corroborate. The second column is the theory a lawyer reaches for; the fourth is what to look at again before delivery.

Portrayal	Main exposure	What strengthens it	What to reconsider
Abuse or crime allegations	Defamation, since the passage accuses a living person of specific conduct	Police reports, court filings, medical notes, dated letters, a second witness	Any accusation resting only on your recollection
Medical and mental health details	Private facts where recognized, plus defamation if the condition is stated wrong	A connection to the story, and the subject's own public statements	A diagnosis you supply rather than report
Affairs and relationships	Private facts, plus defamation wherever the affair is asserted as fact	Your presence in the events, documents, the subject's own disclosures	Intimate physical detail about a third party, the core of the tort
Money and inheritance	Defamation. Theft, fraud, and hidden assets are provably true or false	Wills, probate filings, account records, public court files	Implication by arrangement, where every fact is accurate but the sequence says what you never wrote

Portrayal	Main exposure	What strengthens it	What to reconsider
Childhood events with no living witnesses	Defamation, a proof problem more than a truth problem	Anything written at the time, plus siblings who confirm it	A contested memory written as established fact

HOW A PUBLISHER READS THIS

Family memoirs get read with one question underneath every flag: what happens at the worst Thanksgiving. Counsel assumes the most motivated potential claimant shares a last name with the author, prices accordingly, and asks early whether anyone has threatened. Editors who raise that at acquisition instead of at copyedit spare the author a brutal round of cuts.

Can your mother stop the book?

Almost certainly not before publication. Courts treat an order barring a book from distribution as an extraordinary remedy, and privacy interests have not generally been enough to get one.

In *Doe v. Roe*, 638 So. 2d 826 (Ala. 1994), a trial court had permanently enjoined distribution of a novel based on a real family murder to protect the children's privacy. The Alabama Supreme Court reversed, holding that free speech under Article I, § 4 of the Alabama Constitution was not overcome by the privacy interests raised, and that events already covered in the media and detailed in a public trial transcript were matters of public interest. The ruling rests on one state's constitution, so treat it as an illustration and not a national rule.

What actually happens looks nothing like an injunction. A relative's lawyer sends a letter to the publisher, it costs the house money to answer, and it lands at the worst point in the production schedule. In my own review practice, that pressure moved

more manuscripts than litigation ever did, because a demand letter is cheap and a lawsuit is not. The publisher deciding whether to hold your chapter is weighing that cost, the subject of “I don’t care if I get sued.” Your publisher does.

WHAT THIS MEANS FOR YOUR MANUSCRIPT

Mark every passage where a relative is portrayed unfavorably and write two lines in the margin: the factual claim a reader takes away, and the evidence you have beyond your own memory. Where the second line is empty, you have a choice to make before your publisher makes it for you. Convert the claim into your account of it, narrow it to what you can support, or find the document. Do it before delivery, when revision is still free.

If you're looking at a passage in your own manuscript and you're not sure which side of the line it falls on, that's the conversation I have most often. Happy to have it with you.

Book a free clearance consultation

What to do before you turn in a family chapter

Build the inventory before you build the argument. Give every unfavorably portrayed relative a row: the claims the book makes about them, the evidence beyond your memory, and anything they’ve already said about it. That document turns a nervous legal read into a short one, and a clearance review gets built around it. It feeds the four moves in Why memoir is the riskiest category in publishing, and how to de-risk yours too.

QUESTIONS TO ASK BEFORE YOU TURN IT IN

- For each unfavorable portrayal, can I state the factual claim in one sentence and support it with something beyond my recollection?
 - Which passages assert conduct that is provably true or false, and which are clearly framed as my perception?
 - Have I disclosed intimate physical details, or a medical condition, about someone other than myself, and does it connect to the story?
 - Would the subject's five closest people recognize them from job, city, timeline, and relationships, whatever name I used?
 - Has any relative already objected, threatened, or hired a lawyer, and have I told my publisher?
 - Where a sibling remembers events differently, does the manuscript say so, or does it flatten a contested memory into a fact?
-

"In the manuscript review I ran, the letters that arrived rarely came from the famous names in a book. They came from the kitchen-table chapters. Family knows what's true, knows what's private, and knows exactly when the book comes out."

Guy Muller, former general counsel of a US publishing company with global reach

Most of this has a fix short of cutting the chapter. Attribute the claim to its source. Narrow it to what your documents support. Move an assertion from stated fact to signaled memory. **The thing you were afraid to write is usually keepable. What has to change is the unsupported sentence next to it.** More of the framework is in the main guide.

If the family chapters are already flagged, or you'd rather find the problems before your publisher does. I run flat-fee manuscript clearance reviews: a passage-level read of your draft, the exposure each flag carries, and the smallest fix that keeps your point intact. Quoted up front, based on length, no hourly meter.

[See Manuscript Clearance pricing](#)

Common questions

Can my mother sue me for my own memoir?

Yes. Anyone can file, and family relationships create no immunity. Defamation needs a false statement of fact about her that damaged her reputation, with fault set by her state's standard for private figures. A privacy claim targets a true disclosure instead, and courts have protected autobiography where the family material bears a logical nexus to the author's story.

Does my ex have any claim over shared history?

Shared history isn't jointly owned property, and a former partner has no general veto over your account of your own life. The exposure runs through the ordinary claims: false factual assertions, or intimate disclosures unconnected to your story. Separation agreements and divorce decrees are the wild card, since a non-disparagement or confidentiality clause can restrict statements no tort would reach. Read the paperwork before you write the chapter.

What if my sibling remembers events differently?

Competing memory is a proof problem more than a defense. A defamation plaintiff generally carries the burden of proving falsity, but a legal review asks whether you can support your account. The safest handling is the most honest one: present the event as your account of it, and say so on the page.

Should I show family the manuscript before publication?

It's a judgment call with a legal dimension worth knowing. Sending a chapter to one relative generally won't satisfy the publicity element of a private-facts claim, which asks for communication to the public or to so many people that the matter is substantially certain to become public knowledge. *Bierman*, 826 N.W.2d 436 (Iowa 2013).

Defamation works differently. The common formulation treats publication as communication to one person other than the subject, so a circulated draft can supply that element. *Wallulis v. Dymowski*, 918 P.2d 755 (Or. 1996) (citing Restatement (Second) of Torts § 577(1)). Talk to a lawyer before you send it, and never send it to the person you're worried about without one.

Does a family member's death change what I can write?

It changes some of it. In most states, defamation claims belong to the living and don't survive the subject's death. Living relatives may still have claims where a passage defames them by implication, and publicity rights can outlive the person by decades under state statutes. The rest is in Can a dead person be defamed?

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Related guides

PART 2

Does changing the name actually protect you?

Changing a name removes the label and leaves the person. Identifiability is the legal test, and this is what real de-identification takes.

This guide is legal information, not legal advice, and reading it does not create an attorney-client relationship. Defamation, privacy, and publicity law vary by state; nothing here is advice about any specific manuscript. Muller Media Law is a DBA of Guy Muller Law Firm, PLLC. Not certified by the Texas Board of Legal Specialization. Attorney advertising.