

James D. Weaver v. Clear Channel Communications, Inc., et al., Idaho Federal District Court case tried in August of 2003 resulting in hung jury to defendant's advantage.

The plaintiff was a public official, a county sheriff in the state of Idaho, who brought a defamation claim against a radio station which broadcasts and web site had stated the following:

LEAD: SOURCES IN JEROME COUNTY ARE SAYING JEROME COUNTY SHERIFF JIM WEAVER WAS INVOLVED IN A TRAFFIC ACCIDENT RECENTLY...HERE'S AM IDAHO'S SUZANNE JUSST... (SUZANNE1)

RELIABLE SOURCES SAY SHERIFF WEAVER WAS IN A COUNTY CAR WHEN HE WAS INVOLVED IN THE ALLEGED ACCIDENT—AND ALCOHOL—AND AT LEAST ONE OTHER VEHICLE MAY HAVE BEEN INVOLVED. REPEATED PHONE CALLS TO THE JEROME COUNTY SHERIFF'S DEPARTMENT YESTERDAY—RESULTED IN BUSY SIGNALS—AND ONE CALL WAS DISCONNECTED. CAPTAIN DAVE NEIL WITH IDAHO STATE POLICE SAYS ISP IS LOOKING INTO THE MATTER. ACCORDING TO LAW ENFORCEMENT OFFICERS IT IS CUSTOMARY FOR ACCIDENTS INVOLVING LAW ENFORCEMENT AGENCIES TO BE INVESTIGATED BY ANOTHER AGENCY. SOURCES SAY THIS ACCIDENT WAS INVESTEGATED (SIC.) THROUGH THE JEROME COUNTY SHERIFF'S DEPARTMENT. THE EXACT LOCATION OF THE ACCIDENT HAS NOT BEEN CONFIRMED HOWEVER—SOURCES SAY IT MAY HAVE HAPPENED ON INTERSTATE 84.

The plaintiff in the case, Sheriff Weaver, claimed that the broadcasts were an absolute falsehood and fabrication. A separate broadcast, two days later, essentially retracted the above broadcasts.

The reporter relied upon confidential sources. In pretrial motions, the plaintiffs argued that they had established the requisite foundation, despite the Reporter's Privilege in the state of Idaho, to know the identity of the reporter's sources. The judge agreed. The reporter still refused, and, thus, the judge entered an order followed by jury instructions which directed the jury to assume that the reporter did not, in fact, have confidential sources available to her prior to making the broadcasts.

There were two other nonconfidential sources who testified that they, too, had heard similar information concerning the surrounding events regarding the plaintiff which were consistent with what was set forth in the above broadcasts.

Verdict: It was a hung jury. There were eight jurors who could not get past the question of liability and even began to address the issue of damages. At 10:00 p.m. on the first day of deliberations, the judge ordered the jury back for further deliberations the following morning. Due to the fact that both counsel could tell by the jurors' questions during the evening that they were still struggling with liability issues and not damage issues and the real possibility for a hung jury, the plaintiff sought out and accepted the pretrial offer which had been made in the matter.