



## Roy Moore Wins Libel Suit Against Political Action Committee

The Senate Majority PAC, a group aligned with the Democratic Party, was found to have libeled Republican U.S. Senate candidate Roy Moore during the 2017 special election for the United States Senate in heavily Republican Alabama. A federal jury awarded Moore, a former state judge in Alabama, \$8.2 million in damages, deciding that the PAC lied and defamed Moore when it aired a television advertisement accusing him of sexual misconduct with underage females.



Former U.S. Senate candidate Roy Moore (AP Images)

The verdict was reached in Anniston, Alabama. In a telephone interview with [Fox News](#), Moore said, “We’re very thankful to God for an opportunity to help restore my reputation which was severely damaged.”

Moore lost the election to Democrat Doug Jones, the first Democrat to win a Senate race in Alabama in more than two decades. Jones won the special election held to replace Senator Jeff Sessions, who had resigned to accept President Donald Trump’s nomination as U.S. attorney general. Jones then lost the seat to the Republicans when Tommy Tuberville, formerly the football coach at Auburn, defeated him in the 2020 election.

The Senate Majority PAC was behind a group calling itself Highway 31, which spent \$4 million to run attack ads on Moore in the time leading up to the election. Moore’s lawsuit was based on a TV commercial that Moore’s lawyers argued falsely stated that Moore solicited sex from young teenagers at a shopping mall, one a 14-year-old girl who was a “Santa’s helper,” resulting in Moore being banned from the mall.

At the time of the alleged incident, Moore was 32 years old.

The advertisement claimed, “What do people who know Roy Moore say?” The ad then asserted that “Moore was actually banned from the Gadsden mall ... for soliciting sex from young girls,” adding, “One he approached was 14 and working as Santa’s helper.”

Wendy Miller, the girl in question, testified that she was 14 when she met Moore. She did say that Moore told her that she was pretty, asked where she went to high school, and offered to buy her a soda. However, he did not ask her out at that time, and he did not ask her for sex. A couple of years later — when she was 16 — he did ask her out, but her mother did not let her go.

One could certainly argue that it is debatable whether a 34-year-old man should be asking out a girl who was only 16 years old, but running a commercial that he asked her for sex is clearly false, cast Moore in a false light, and no doubt cost him the election.



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Moore's lawyer Jeffrey Scott Wittenbrink said, "In their ad they strung quotes together to make a single statement. That's what the jury found offensive. They got up and lied and said they didn't intend that."

Of course, the lawyers for the Senate Majority PAC told the jury that the ad was substantially true and cited supposed reports of Moore's inappropriate behavior at the mall. Ben Stafford, the PAC's lawyer, vowed to appeal.

Defamation is the act of telling falsehoods that put a person in a false light and damage his reputation. If it is spoken, it is known as slander, but if it is written, it is considered libel — which is generally considered more serious, as there is a permanent record. The courts have consistently held that statements made on radio, television, or social media fall under the standard of libel.

In the United States, because of the 1964 Supreme Court decision *New York Times v. Sullivan*, it is very difficult for a "public figure" to win a libel suit. The reasoning is that the First Amendment protects free speech and free press. It is sometimes misunderstood that freedom of the press only refers to business media outlets, but like other rights protected in the Bill of Rights, it is an individual right. An individual can go to a copy shop and print up handbills critical of a public figure, and expect that right to be protected the same as Fox News or *The New York Times*.

But who is a public figure?

Officeholders are public figures, for sure. They should not be shielded from opinions, however derogatory those opinions might be, as long as the statements are clearly just opinion. And candidates for public office should also expect to receive criticism — "politics ain't beanbag" is an old expression. The courts have also viewed celebrities like movie stars and professional musicians as public figures.

To win a libel suit, a public figure must prove not only that someone perpetrated a falsehood, but must also prove that the falsehood was "malicious," meaning that those who disseminated the false statements knew their words were false, and that they intended to damage the person's reputation. Statements that are obviously intended as a "joke" are not considered libel, nor are false statements that actually enhance a person's reputation. For instance, saying someone was Miss America when she was only Miss Texas would not be libelous.

Even proving malice — an intent to harm a person's reputation — might not result in the awarding of substantial damages. For example, several years ago, the Southern Baptist preacher Jerry Falwell sued a pornographic magazine that ran a cartoon portraying Falwell and his mother having sexual relations in an outhouse. While one can make a case for actual malice, it is doubtful any reasonable person would think that actually happened, and therefore a jury awarded Falwell only nominal monetary damages.

It should also be noted that the standard of proof in a defamation case is higher than in most civil lawsuits, in which the plaintiff (the one bringing the suit) only has to prove his or her case by "preponderance of the evidence" — which means he has more evidence supporting his contention than the defendant has. If the evidence is equal, then a jury should find for the defendant.

But in a defamation case, the standard is higher, closer to the standard required in a criminal case known as "beyond reasonable doubt." In a defamation case, the standard is known as "by clear and convincing evidence."

The jury in Alabama heard the facts of the case, then, and determined "by clear and convincing evidence" that the Senate Majority PAC had lied intentionally about Judge Roy Moore. And by awarding him \$8.2 million, the jury concluded that Moore's reputation was severely damaged.



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That damage cost him a seat in the United States Senate.

This should send a powerful message to all Americans that just because accusations are made against public figures, that does not mean that those accusations are true. Many potential libel suits are not even filed, but in this case, Judge Moore persuaded a jury of his peers that the Democratic Party-aligned political action committee lied about him.



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