

a particularly messy divorce controversy was held not to be such a person,<sup>1242</sup> and a person convicted years before of contempt after failing to appear before a grand jury was similarly not a public figure even as to commentary with respect to his conviction.<sup>1243</sup> Also not a public figure for purposes of allegedly defamatory comment about the value of his research was a scientist who sought and received federal grants for research, the results of which were published in scientific journals.<sup>1244</sup> Public figures, the Court reiterated, are those who (1) occupy positions of such persuasive power and influence that they are deemed public figures for all purposes or (2) have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved, and are public figures with respect to comment on those issues.<sup>1245</sup>

Commentary about matters of “public interest” when it defames someone is apparently, after *Firestone*<sup>1246</sup> and *Gertz*, to be protected to the degree that the person defamed is a public official or candidate for public office, public figure, or private figure. That there is a controversy, that there are matters that may be of “public interest,” is insufficient to make a private person a “public figure” for purposes of the standard of protection in defamation actions.

The Court has elaborated on the principles governing defamation actions brought by private figures. First, when a private plaintiff sues a media defendant for publication of information that is a matter of public concern—the *Gertz* situation, in other words—the burden is on the plaintiff to establish the falsity of the information. Thus, the Court held in *Philadelphia Newspapers v. Hepps*,<sup>1247</sup> the common law rule that defamatory statements are presumptively false must give way to the First Amendment interest that true speech on matters of public concern not be inhibited. This means, as the dissenters pointed out, that a *Gertz* plaintiff must establish falsity in addition to establishing some degree of fault (*e.g.*, negligence).<sup>1248</sup> On the other hand, the Court held in *Dun & Bradstreet v. Greenmoss Builders* that the *Gertz* standard limiting award of presumed and punitive damages applies only in cases involving matters of public concern, and that the sale of credit reporting informa-

<sup>1242</sup> *Time, Inc. v. Firestone*, 424 U.S. 448 (1976).

<sup>1243</sup> *Wolston v. Reader's Digest Ass'n*, 443 U.S. 157 (1979).

<sup>1244</sup> *Hutchinson v. Proxmire*, 443 U.S. 111 (1979).

<sup>1245</sup> 443 U.S. at 134 (quoting *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345 (1974)).

<sup>1246</sup> *Time, Inc. v. Firestone*, 424 U.S. 448, 454 (1976). *See also* *Wolston v. Reader's Digest Ass'n*, 443 U.S. 157 (1979).

<sup>1247</sup> 475 U.S. 767 (1986).

<sup>1248</sup> 475 U.S. at 780 (Stevens, J., dissenting).