

9th Circuit Confirms *The Hurt Locker* Is Fully Protected By The First Amendment

Army Sergeant's Right of Publicity Claim Was Properly Dismissed
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This article analyzes the Ninth Circuit Court of Appeals decision process and ultimate ruling in *The Hurt Locker* case. In *Sarver v. Chartier et al.*, Iraq war veteran and explosive ordnance disposal technician, Sergeant Jeffrey Sarver, filed suit arguing *The Hurt Locker's* filmmakers and distributors had misappropriated his life experiences and likeness, defamed him, and invaded his privacy.

The case was transferred from New Jersey to the US District Court for the Central District of California, where the court sided with the defendants' "anti-SLAPP" motion, ruling "even if the Will James character was based on Plaintiff, no reasonable trier of fact could find that the [film] was not transformative." The Ninth Circuit Court found that the filmmakers satisfied the "first prong" of the anti-SLAPP test, that the film spoke "directly to issues of a public nature." In the "second prong," the court found that Sarver's claims against the defendants infringed upon their First Amendment rights. The court wrote, "*The Hurt Locker* is speech that is fully protected by the First Amendment, which safeguards the storytellers and artists who take the raw materials of life—including the stories of real individuals, ordinary or extraordinary—and transform them into art, be it articles, books, movies, or plays."

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