

To what lengths should you go to get a story?

You are a correspondent for a major television network. Your producers have done a great deal of research about a national grocery chain; they allege that some of its grocery stores are asking employees to participate in unsanitary food-handling practices.

This is an important story. Consumers may get sick if they eat tainted food, you argue, and they have a right to know that a food store is not handling its food in a safe manner. You want to make sure this story airs on national television. You believe that to get good footage you have to go into the store with cameras and film the store's workers actually engaging in unsafe practices. You need proof.

As the television correspondent, how will you get your story?

- A. Call the store manager and request an on-site interview, with cameras. Explain that you have some information that consumers will want to know about and give the store a chance to show its side of the story.
- B. Just appear at the store one day, without advance notice to the manager. That way you won't tip off the staff that you're onto a story.
- C. Pretend to be looking for a job in the store; complete an employment application and actually get hired. Then, while you're at work, use hidden cameras to document the unsafe practices you see.

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The real story

It's 1992. ABC News uses "undercover" workers to expose unsafe food-handling practices by the Food Lion supermarket chain. The story attracts national attention when it airs on "PrimeTime Live," a televised news-magazine show.

The supermarket chain sues ABC News, but not for libel. (To sue for libel, Food Lion would have to claim that the story is false and that ABC News acted with "actual malice" in deliberately reporting it.) Instead, Food Lion accuses ABC News of civil fraud, trespass and breach of loyalty.

Though the video captures unsanitary food-handling practices and the accusations against the supermarket appear to be true, a jury finds ABC News guilty as charged and awards more than \$5.5 million in punitive damages to the supermarket company. The jurors find that ABC's employees have committed fraud because they lied on their employment applications to Food Lion; jurors also find that ABC News employees are guilty of trespassing on Food Lion's property and of other deceptive practices. They add \$1,402 in compensatory damages to Food Lion, to cover the wages the supermarket chain paid to the two ABC employees it hired.

But the case does not end there. ABC News asks the court to reduce the punitive damages, and the U.S. District Court judge agrees; he cuts the award dramatically — to \$315,000. In October 1997, Food Lion accepts the reduced award, but ABC News continues to press for dropping it entirely.

Then, in October 1999, a federal appeals court throws out all but \$2 of the damage award the jury had ordered ABC News to pay. In a 2-1 ruling, the court upholds a conviction for trespassing and breach of loyalty against the two who lied on their employment applications (failing to disclose they were actually employees of ABC News). In expressing its opinion, the court writes that Food Lion's arguments against the news organization were attempts at "an end-run" around the First Amendment. While acknowledging that ABC News used deceptive tactics, the judge notes that ABC's aim was to help, not to harm, the public.

For discussion:

Should reporters ever use hidden cameras in order to get a story? When might such journalistic practices be justified and when not?

What do you make of the following opinion, expressed by a respected journalism educator:

"The main problem with undercover investigations is not the invasion of privacy or faking credentials. The real problem is that undercover observers find it very difficult, if not impossible, to go to work with open minds ... Such a strong bias could find incriminating evidence anywhere ..."

—Philip Meyer, "Food Lion case shows that cameras, indeed, can lie"

USA TODAY, Feb. 17, 1999, p. 15A.

Should reporters ever deliberately fail to identify themselves as reporters in order to get a story?

Should news organizations worry about Food Lion's tactics — suing not because the story was false but because of things the reporters did to get the story?