

## NJ court: No shield law for message board posters (Update)

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(AP) -- People who post to online message boards don't have the same protections as mainstream journalists when it comes to keeping their sources secret, the New Jersey Supreme Court ruled Tuesday.

The court said in a unanimous ruling against a Washington state woman that New Jersey's shield law provides broad protection to the news media and is not limited to traditional news outlets like newspapers and magazines, but does not apply to message board posters.

"To ensure that the privilege does not apply to every self-appointed newsperson, the Legislature requires that other means of disseminating news be `similar' to traditional news sources to qualify for the law's coverage," Chief Justice Stuart Rabner wrote for the court in its 5-0 ruling.

The case involved a New Jersey software company named Too Much Media, which sued the woman for defamation and wanted her to reveal sources she had cited in message board posts. The company makes software used by many online porn sites to track traffic from other sites to determine how much those sites should be paid in commissions.

Three years ago, the woman, Shellee Hale, posted comments on an online bulletin board that accused the Freehold-based company of engaging in fraudulent practices and of threatening the life of someone who divulged details about it, according to a court filing.

Hale, of Bellevue, Wash., claimed she was gathering information for an investigation of organized crime infiltration of the online porn industry and planned to publish her findings on a website and possibly in a book. She invoked the shield law to avoid identifying the person who was threatened and another source who first told her of the threats.

"I'm not traditional. I'm a citizen journalist," Hale told The Associated Press previously. "As citizens we are told, 'If you see something, say something,' and I have a duty to report. I think what I do is really important."

New Jersey's law is one of the broadest in the country in its protection of journalists' sources. But it dates to 1977 - long before the Internet brought a sea change to news distribution.

The law protects anyone "engaged on, engaged in, connected with, or employed by news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public, newspapers, magazines, press associations, news agencies, wire services, radio, television or other similar printed, photographic, mechanical or electronic means of disseminating news to the general public."

In Tuesday's ruling, however, the court concluded the material at the heart of the case was posted to online message boards, which the justices said are simply forums for discussion and don't fit the definition of news media as described by the law.

"We never believed any court would find that Ms. Hale was a journalist," said Joel N. Kreizman, an attorney for Too Much Media. "What the court found was that these message boards are online conversations and are no more journalistic than any other conversations."

He added: "If the court were to have considered her a member of the media, anyone could say they are a member of the media to protect their sources."

Hale contended that her comments were "small brief parts" of articles she intended to, but never did, publish. Her attorney, Jeffrey M. Pollock, said the ruling was a "significant change for a state that prided itself on having broadest shield law in country."

Kelly McBride, a senior faculty member on journalism ethics at the Poynter Institute, said the ruling narrowly dealt with online message boards.

Likewise, Susan Keith, an assistant professor of journalism at Rutgers University, said the ruling was specifically constructed.

"This appears to me to be a pretty narrow ruling about posters to online message boards not being able to claim reporter's privilege under the provisions of the New Jersey shield law," Keith said. "We might want to watch for a blogger to cite that if he or she wanted to claim coverage under the shield law in a future case."

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