

Bloggers May Be Entitled to Shield Law Coverage

by Joel N. Kreizman on July 6, 2012

In *Too Much Media v. Hale*, the New Jersey Supreme Court held that the Defendant, Shellee Hale was not entitled to the benefit of the Shield Law. She had no basis, therefore, to refuse to reveal the sources for her Internet posts which the plaintiffs contend are defamatory.

Unfortunately, many in the media, in reporting about the Too Much Media case, referred to Ms. Hale as a “blogger”. That reference led to the misconception that the Court held that bloggers are not to be considered reporters and are not accorded the privileges available to participants in more traditional media.

The Supreme Court, in ruling against Ms. Hale, focused on the media used for Ms. Hale’s statements. They were in Internet message boards. The Court found that such message boards did not fit the requirements under New Jersey Shield Law Statute for inclusion within its coverage.

The New Jersey Statute provides a privilege to members of the “news media”. “News media” is defined as “newspapers, magazines, press associations, news agencies, wire services, radio, [and] television” or “other similar... means of disseminating news to the general public” – – whether “printed, photographic, mechanical or electronic”.

The Statute, thus, recognizes that electronic communication may constitute news media, but, the Court held, posting on message boards is not “similar” to other methods of disseminating news. Rather, “message boards are little more than forums for conversation,” more similar to letters to the editor than an originator of news.

The Court went on to point out blog sites that meet the similarity test required by the Statute – ones that directly report or comment on news. The Court, in fact, specifically held that “a single blogger might qualify for coverage under the Shield Law provided she met the Statute’s criteria.”

Ms. Hale did not meet the Statute’s criteria, but a blogger who reports or comments on news on his or her own site and not in a forum on a message board, may do so. Therefore, it is imperative to consult with an experienced New Jersey business attorney.