IN THE COURT OF SPECIAL APPEALS
FOR THE STATE OF MARYLAND

2008 TERM, CASE NO. 54

INDEPENDENT NEWSPAPERS, INC., et al.
Appellant

v.

ZEBULON J. BRODIE
Appellee

Brief of *Amici Curiae*
The Reporters Committee for Freedom of the Press,
American Society of Newspaper Editors,
Specialized Information Publishers Association,
and The American Civil Liberties Union of Maryland
in support of Appellant Independent Newspapers, Inc.

On Appeal of the Order Denying Non-Party Independent Newspaper, Inc.'s Motion to Quash Subpoena and for Protective Order

as ordered by Judge Thomas G. Ross
of the Circuit Court for Queen Anne's County

Lucy A. Dalglish
Gregg P. Leslie
Matthew B. Pollack
The Reporters Committee
for Freedom of the Press
1101 Wilson Boulevard, Suite 1100
Arlington, VA 22209
Telephone: (703) 807-2100

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STATEMENT OF INTEREST

The Reporters Committee for Freedom of the Press ("The Reporters Committee") is a voluntary, unincorporated association of reporters and editors that works to defend the First Amendment rights and freedom of information interests of the news media. The Reporters Committee has provided representation, guidance and research in First Amendment and freedom of information litigation in state and federal courts since 1970.

The American Society of Newspaper Editors is a professional organization of approximately 750 persons who hold positions as directing editors of daily newspapers in the United States and Canada. The purposes of the Society include assisting journalists and providing unfettered and effective press in the service of the American people.

The Specialized Information Publishers Association ("SIPA") is a non-profit organization representing the interests of publishers of more than 3,000 newsletters and specialized information services. Collectively, members of SIPA publish news and information on virtually every major industry and subject of public concern. SIPA and its membership are, by virtue of their publishing activities, particularly interested in issues of press and speech freedoms.

The American Civil Liberties Union of Maryland is the state affiliate of the American Civil Liberties Union ("ACLU"), a nationwide, nonprofit, nonpartisan organization with more than 500,000 members dedicated to the principles of liberty and equality embodied in the Constitution and this nation's civil rights laws. Since its founding in 1931, the ACLU of Maryland, which is comprised of approximately 14,000 members throughout the state, has appeared before this Court in numerous free speech

cases, both as direct counsel and as *amicus curiae*. The ACLU, nationally and locally, has focused on both the right to anonymous speech, and the rights of speakers on the internet, including participating in many of the precedents relevant to this case. The First Amendment issues raised on this appeal are therefore a matter of substantial concern to the ACLU and its members in Maryland and elsewhere.

STATEMENT OF FACTS

Appellee Plaintiff Zebulon Brodie seeks the identities of as-yet unidentified individuals who anonymously posted to an online message board owned and operated by non-party Appellant Defendant Independent Newspapers, Inc. *Amici* accept and incorporate the statement of facts as presented by the Appellant.

QUESTION PRESENTED

1. What standard should govern the identification of anonymous online speakers in civil defamation suits?

SUMMARY OF THE ARGUMENT

This Court should not unmask anonymous Internet speakers lightly. As recognized by both Maryland's courts and legislature, the First Amendment provides ample protection for anonymous speakers on the Internet. Given the heady interests in preserving anonymity, this court should enunciate a standard that requires plaintiffs to provide anonymous speakers notice of the attempt to unmask them and requires plaintiffs to establish all possible elements of their underlying claim prior to submitting discovery requests to third parties seeking to unmask online anonymous speakers.

Adopting this proposal will standardize the state's protection of anonymous speakers and bring the state in line with other state and federal courts that have already addressed the issue. Such safeguards will create a judicial standard directly in line with policy interests outlined by the Maryland Legislature and mimic the standard applied in the growing number of state and federal courts providing adequate protection of online

anonymous speakers. A case-by-case, individualized analysis ensures the availability for the injured to ask courts for redress yet guarantees that online speakers will not enjoy broad scale immunity from liability for any harms caused by their misdeeds. By protecting the vital First Amendment interests embodied in anonymous speech, this court will assure that the cloak of anonymity will only be removed when necessary and only after the court considers the interests of the anonymous speaker.

ARGUMENT

I. The Court should enunciate a standard affording appropriate weight to the interests furthered by anonymous speech.

Discovery requests seeking to unmask anonymous speakers on the Internet ultimately demand that a court balance the interests of the speaker against the interest of the requesting party. The demands of the First Amendment play a significant role in determining the outcome of that balancing by placing a heavy thumb on the scale favoring continued protection of the speaker's anonymity. In light of the extensive First Amendment interests in preserving a robust marketplace of ideas on the Internet, the Court should establish a strict standard to protect the anonymity of online speakers that provides notice for anonymous speakers to defend their First Amendment rights and requires plaintiffs to establish all possible elements of their underlying claim before allowing for discovery.

A. The First Amendment demands ample protection for anonymous speakers on the Internet.

The Internet has revolutionized the way that people communicate and interact. It provides previously unrealized opportunities for free expression by providing an inexpensive, readily accessible forum for individuals to express their thoughts to their communities and the rest of the world. *Reno v. ACLU*, 521 U.S. 844, 870 (1997) (noting that the Internet allows "any person with a phone line [to] become a town crier with a voice that resonates farther than it could from any soapbox"). Whereas other media exclude viewpoints based on limited capacity, oppressive financial demands, or both, the Internet stands as the unbridled marketplace of ideas featuring an unlimited capacity for viewpoints at a minimal cost to speakers. It is for these reasons that the Supreme Court unequivocally realized that Internet speech receives full First Amendment protections. *Id*.

Among the First Amendment rights that extend to the online marketplace of ideas is the right to communicate anonymously. *Watchtower Bible & Tract Soc. of New York v. Village of Stratton*, 536 U.S. 150 (2002); *Buckley v. American Constitutional Law Found.*, 525 U.S. 182 (1999); *McIntyre v. Ohio Elections Comm.*, 514 U.S. 334 (1995), *Talley v. California*, 362 U.S. 60 (1960). This line of cases honors the rich history of anonymous speech in the United States, beginning with our nation's founders. Revolutionary writers garnered public support for breaking away from England through newspapers and pamphlets under pseudonyms such as "Common Sense," "Farmer" or "A True Patriot." After the Revolution, the federalists and anti-federalists again fiercely

called on the cloak of anonymity as they debated the adoption of the Constitution, writing under the names "Publius," "An American Citizen," "Marcus," "Americanus," "Cato," and "Brutus." *McIntyre*, 514 U.S. at 358 (Thomas, J., concurring). It is under this context of history that the Supreme Court described anonymous speech as "an honorable tradition of advocacy and of dissent." *Id.*, 514 U.S. at 357.

Exploring why speakers may wish to hide their true identity reveals the depth of protection the right to anonymity provides. Anonymous speakers commonly choose to remain anonymous to dodge a litany of negative consequences that may result from removing their mask. Without the protections afforded by anonymity and the strict enforcement of those rights, it is not difficult to identify situations where an individual would be chilled from offering information for consideration in the marketplace of ideas. Placing some of these potential consequences in the context of the Independent Newspapers' community message board at issue in this case illustrates the role anonymity might play in protecting speakers.

Most notably, speakers may fear retribution from the community for unpopular viewpoints. It is in this sense that the Supreme Court explained that anonymous speech "exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation – and their ideas from suppression – at the hand of an intolerant society." *Id.* Here, the general tenor of the message boards seems to favor historic preservation. A message board user speaking out in favor of demolishing local landmarks to benefit the construction of more contemporary buildings would likely face scorn and ridicule for expressing those views.

Similarly, speakers may turn to anonymity to avoid stereotyping based on race, ethnicity, socioeconomic class, gender or religion, or even to distance their view points from organizations with which they are invariably intertwined, where their personal views might be imputed to the rest of the organization.

In other situations, anonymity protects speakers from potential workplace retribution. Former employees allege that companies such as Delta Airlines, Google, Wells Fargo and Microsoft all terminated their employment for their online speech after they disclosed information about their workplace. See e.g. Stephanie Armour, "Warning: Your Clever Little Blog Could Get You Fired," USA Today, June15, 2005 at http://www.usatoday.com/money/workplace/2005-06-14-worker-blogs-usat_x.htm (last accessed July 22, 2008); Krysten Crawford, "Have a Blog, Lose Your Job?," CNN / Money, February 15, 2005 at http://money.cnn.com/2005/02/14/news/economy/blogging/ (last accessed July 22, 2008). *See also Swiger v. Allegheny Energy, Inc.*, 2006 WL 1409622 (unreported decision, E.D.Pa., May 19, 2006) (longtime employee of a West Virginia power company was terminated after he was identified through a subpoena to Yahoo as the poster of comments critical of the company's management). Had an employee of Appellee Brodie's Dunkin' Donuts franchise openly explained instances of multiple health code violations at the restaurant, it is reasonable to believe that he too would have been fired.

B. Broad free speech and press rights recognized in other contexts demonstrate the value of protecting anonymous speech.

Notably, Maryland already has a long and proud history at the forefront of protecting anonymous speech. The state legislature passed the nation's first journalist's shield law in 1896, nearly 40 years before a second state followed suit and predating the influx of shield laws passed after the Supreme Court's decision in *Branzburg v. Hayes* by more than 75 years. Md. Cts. & Jud. Proc. Code Ann. § 9-112; See also *State v. Sheridan*, 236 A.2d 18, 19 n.1 (Md. 1967).[1] To this day, the law remains among the most protective in the nation, offering an absolute privilege against the disclosure of information that would reveal anonymous sources of the news media. The law itself proves the legislature's dominant interest in preserving the pipeline of information from individuals with important knowledge about issues of public concern and the public.

The interests protected by the shield law are analogous to the interests involved in protecting the anonymity of Internet speakers. Both seek to protect speakers from retribution. *Lightman v. State*, 294 A.2d 149, 153 (1973). Both place a premium on ensuring that valuable information reaches the marketplace of ideas. *Id*. Likewise, the benefit of each is felt most significantly by the public who profits in receiving the speaker's message. The journalist's privilege only applies if a speaker presents his views through an intermediary, namely a reporter. However, the Internet eliminates the need for individuals to filter their speech through a third party. Failing to extend similar

[1] Today, 36 states and the District of Columbia have shield laws that preserve the relationship between journalists and their confidential sources. Reporter's Privilege Compendium, The Reporters Committee for Freedom of the Press, at http://www.rcfp.org/privilege/.

protections as the journalist's shield to primary speakers would create a perverse system in which an anonymous speaker would be forced to find a qualified third party to relate his message while ensuring the utmost protection for his identity. Instead, this Court should take this opportunity to recognize the significant value presented by anonymous communications.

Maryland's commitment to the defense of free speech has also led it to reject enforcement of a British libel judgment because the holding was "repugnant" to the laws of the state. *Telnikoff v. Matusevitch*, 347 Md. 561, 702 A.2d 230 (1997) ("American and Maryland history reflects a public policy in favor of a much broader and more protective freedom of the press than ever provided for under English law."). The court noted that the British rule of requiring a defendant to prove the truth of a statement, rather than the plaintiff proving the falsity, was inconsistent with Maryland law. *Id*. at 594. This point -- that simple procedural burdens can make the difference between an enforceable judgment and a "repugnant" decision -- is particularly relevant to the present case. Without a firm standard protecting anonymity, the harm to the speaker -- being unmasked -- would occur early in the proceedings, without the plaintiff needing to establish falsity or the defendant being able to rely on the truth of the statements.

Maryland has also chosen to enact greater protections for speech involving public controversies, by allowing for dismissal of suits brought to interfere with an individual's right to speak out on such a controversy. Md. Code, Courts and Judicial Proceedings, § 5-807 (West 2008) ("Strategic lawsuits against public participation"). Such "anti-SLAPP" laws recognize that speech is chilled when wealthy or powerful interests are allowed to

misuse the judicial process by bringing lawsuits with the intent of silencing a critic, either by seeking a gag order or by forcing them to retain counsel and pay fees they cannot afford. The same interests are at stake in ensuring that anonymous Web posters are protected.

C. News-driven Web sites have an interest in protecting such speech independent of the speakers' interests.

In addition, Web sites devoted to reporting news -- which includes all of those run by established newspapers as an adjunct to their traditional print distribution model, but also includes so many more that have flourished under the nearly "free" distribution allowed by the Internet -- have an independent First Amendment interest in protecting the speech of those who contribute information to the site. Newspapers have always sought to do more than just report the news; they have always allowed for outside comment on "op-ed" pages, and more varied reader comments in "letters to the editor" columns. The intent has always been to engage the community in the discussion of public affairs. Limits imposed by the cost of newsprint and the related limitation on editorial space no longer exist on the Web. And if the best remedy for wrong speech is more speech to compete with it in the marketplace of ideas, then news sites have an interest in allowing such speech to be uninhibited and robust.[2] If readers' speech is chilled by the fear of exposure of the speaker's identity, the public value of the site is lessened and the site's

[2] Indeed, the very nature of the Internet is an ideal example of the way in which more speech can remedy wrong speech. The Internet offers a forum where those who may have been wronged by speech can respond immediately to the same audience in the same method as the initial speaker.

contribution to public discourse is negatively affected. Thus, chill of readers' speech is a constraint on the overall reach of the speech of the news site.

II. The Court can appropriately account for the weighty interests in maintaining anonymous speech by imposing basic procedural safeguards when litigants seek to unmask anonymous speakers.

Revealing the identity of anonymous speakers should not be done lightly. This Court can craft a standard that affords appropriate weight to the First Amendment interest in anonymity by requiring plaintiffs to follow basic procedural benchmarks before submitting discovery requests seeking to unmask online anonymous speakers. Once unmasked, the speaker's constitutional interest in remaining anonymous can never be restored. As such, the First Amendment demands certain procedural safeguards that augment the broad evidentiary rules that govern standard civil procedures. *Lubin v. Agora, Inc.*, 882 A.2d 833 (Md. 2005) (holding that a subpoena requesting the production of newsletter subscriber lists encroached First Amendment rights and therefore called for heightened scrutiny), *Doe v. 2theMart.com,* 140 F.Supp2d 1088, 1093 (W.D. Wash. 2001) (concluding that "if Internet users could be stripped of that anonymity by a civil subpoena enforced under the liberal rules of civil discovery, this would have a significant chilling effect on Internet communications and this on basic First Amendment rights"). Specifically, this Court should establish a standard that requires plaintiffs to provide anonymous speakers notice of the attempt to unmask them and requires plaintiffs to establish all possible elements of their underlying claim prior to seeking the identity of the speaker. Doing so strikes a proper balance between the interests of anonymous speakers and the interests of potentially aggrieved parties by "accord[ing] greater weight

to the value of free speech than to the dangers of its misuse," *McIntyre*, 514 U.S. at 357, and will prevent the state from "setting the standard too low [that it] will chill potential posters from exercising their First Amendment right to speak anonymously." *John Doe No. 1 v. Cahill*, 884 A.2d 451, 457 (Del. 2005).

Establishing a strict standard is of the utmost importance so as to prevent plaintiffs from manipulating the judicial system to in an effort to silence critical, but not unconstitutional speech. As the court explained in *Cahill*:

> [T]here is reason to believe that many defamation plaintiffs bring suit merely to unmask the identities of anonymous critics. . . . This "sue first, ask questions later" approach, coupled with a standard only minimally protective of the anonymity of defendants, will discourage debate on important issues of public concern as more and more anonymous posters censor their online statements in response to the likelihood of being unmasked.

884 A.2d at 457. See also Lyrissa Barnet Lidsky, *Silencing John Doe: Defamation & Discourse in Cyberspace*, 49 DUKE L.J. 855 (2000) (identifying a series of lawsuits in which plaintiffs actively abused the subpoena process to unmask the identities of anonymous online speakers solely for the purpose of silencing them).

Establishing the proposed standard would not be a drastic or overreaching step. Rather, adoption of the proposal will standardize the state's protection of anonymous speakers and bring the state in line with other state and federal courts that have already addressed the issue. Indeed, imposing such safeguards will create a judicial standard directly in line with the policy interests outlined by the Maryland Legislature and mimic the standard applied in the growing number of state and federal courts providing adequate protection of online anonymous speakers.

In 2001, a New Jersey court established a five-part standard for cases involving subpoenas seeking to identify anonymous Internet speakers that incorporates many of the safeguards proposed here. *Dendrite v. Doe*, 775 A.2d 756 (N.J. Super. App. Div. 2001).[3] Since then, a multitude of state and federal courts either applied the *Dendrite* standard explicitly or liberally borrowed from it in crafting their own safeguards to protect the anonymity of Internet speakers. See *Cahill*, 884 A.2d 451; *Mobilisa v. Doe*, 170 P.3d 712 (Ariz.App.Div. 1 2007); *Ottinger v. Doe*, No. 08-03892 (N.Y. Sup. Westchester Cy. filed July 8, 2008); *Krinsky v. Doe 6*, 72 Cal.Rptr.3d 231 (Cal.App. 6 Dist. 2008); *Reunion Industries, Inc. v. Doe 1*, 80 Pa.D. & C.4th 449 (Pa.Com.Pl. 2007); *In re Does 1-10*, 242 S.W.3d 805 (Tex.App.Texarkana 2007); *Highfields Capital Mgmt. v. Doe*, 385 F.Supp.2d 969 (N.D. Cal. 2005); *Best Western Intl. v. Doe*, 2006 WL 2091695 (D.Ariz.); *Doe I v. Individuals*, -- F.Supp.2d --, 2008 WL 2428206 (D. Conn. June 13, 2008).

The strength of such safeguards resides in their flexibility. The benchmarks allow the Court to properly balance the relative interests of the plaintiff who claims that he has redress under the laws of Maryland against the interest in anonymity of the speaker. Its case-by-case, individualized analysis ensures the availability for the injured to ask courts

[3] The standard enunciated in *Dendrite* demands that (1) "the plaintiff undertake efforts to notify the anonymous posters that they are the subject of a subpoena;" (2) "the plaintiff [] identify and set forth the exact statements purportedly made by each anonymous poster that the plaintiff alleges constitutes actionable speech;" (3) the plaintiff establish "that its cause of action can withstand a motion to dismiss for failure to state a claim upon which relief can be granted;" (4) the plaintiff "produce sufficient evidence supporting each element of its cause of action on a prima facie basis;" and (5) the court to "balance the defendant's First Amendment right of anonymous speech against the strength of the prima facie case presented and the necessity for the disclosure of the anonymous defendant's identity to allow the plaintiff to properly proceed." 775 A.2d at 760-61.

for redress and guarantees that online speakers will not enjoy broad scale immunity from liability for any harms caused by their misdeeds. However, it does so while protecting the vital First Amendment interests embodied in anonymous speech, assuring that the cloak of anonymity will only be removed when necessary.

As a preliminary matter, it is important that the court apply the proposed standard to each anonymous speaker in question individually. This essential step ensures that there is a valid reason to pierce each speaker's shield and that the court only unmask potentially culpable anonymous speakers. Without it, there lies a risk that the court will overstep its bounds by identifying sources that may have little to do with the plaintiff's underlying claim. The facts of the case before the Court illustrate the exact harm this may cause. For example, the subpoena served on Independent Newspapers seeks the identity of message board users "RockyRaccoonMD" and "Suze." Since the Appellee has never even alleged that those two individuals have caused him harm, it would be repugnant to the First Amendment to force Independent Newspapers to provide information that would unmask the true identity of those users. Similarly, the trial court ruled that statements from anonymous message board users "Born & Raised Here," "SecretAgentMan," and "Chatdusoleil" did not amount to actionable defamation because their statements were either "not of and concerning" the Appellee or were merely expressions of "opinion and hyperbole." *Brodie v. Independent Newspapers, Inc.*, 17-C-06-11665 (March 12, 2007) (order granting in part and denying in part protective order). Nevertheless, despite finding that the Appellee did not set forth a claim on which relief could be granted with regard to those users, the same court later denied Independent

Newspaper's motion to quash the subpoena duces tecum seeking all documents identifying those users. *Brodie v. Independent Newspapers, Inc.*, 17-C-06-11665 (February 19, 2008). Unmasking these defendants, as the lower court has ordered Appellant to do, would unnecessarily pierce the shield of anonymity erected by these users.

A. Requiring notice to the defendant ensures a meaningful representation of the defendant's interest in remaining anonymous while preserving a robust Internet marketplace of ideas.

The Court should enunciate a standard demanding that a plaintiff provide notice to anonymous defendants that he seeks to discover their true identity. Doing so is the only way to properly allocate the burden of defending against such attempts. Without notice to the anonymous defendants, the burden to defend their anonymity falls upon the Web sites that opened their forums to the speakers. Any system that allocates this burden to the Web sites risks disinterested defense of the constitutional right to anonymity and imposes costly burdens that could restrict the free discourse provided by the Internet. Imposing the burden to defend efforts to unmask anonymous speakers on Web sites goes directly against the interests Congress enunciated in enacting the Communications Decency Act of 1996 (the "Act"). This federal statute provides immunity for the owners and operators of Internet-based forums with respect to the publication of messages published by third parties. 47 U.S.C. §230. Recognizing that the "Internet and other interactive computer services offer a forum for true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity," Congress passed the Act to foster the development of free speech on the

Internet, unfettered by regulation and potentially costly lawsuits. *Batzel v. Smith*, 333 F.3d 1018, 1027 (9th Cir. 2003). Requiring those same sites to incur the time and costs necessary in protecting the anonymity rights of its users stands the Act on its head and frustrates its general purpose. As subpoenas seeking the identity of anonymous Internet speakers increase in frequency, those sites may simply decide to shut down their online forums, significantly limiting the benefits the Internet offers. These monetary concerns may be especially persuasive to print media organizations like the Appellee in this case who continue to struggle against dipping profits and tighter budgets. Richard Perez-Pena, "An Industry Imperiled by Falling Profits and Shrinking Ads," N.Y. TIMES, Feb. 7, 2008, at http://www.nytimes.com/2008/02/07/business/media/07paper.html (last accessed July 22, 2008).

While, as discussed *supra*, Web news sites have an interest in allowing lively exchanges on their sites, the anonymous speakers themselves have a much more direct interest in defending their First Amendment right to anonymity. The only way to ensure that the Constitutional rights of the anonymous speakers are represented with the appropriate force and vigor is to allow the speakers themselves to represent those interests. Failure to require pre-identification notice leaves the anonymous speaker impotent to defending his interests until after he has already been identified by the plaintiff. This effectively deprives the speaker of the opportunity to mount an effective defense of his rights. Providing pre-identification notice to the anonymous speaker similarly benefits the plaintiff as doing so may discourage the speaker from making similar statements in the future.

B. Demanding that the plaintiff establish all possible elements of any claim that implicates the First Amendment rights of anonymous speakers strikes the appropriate balance between the speaker's interest in remaining anonymous and the plaintiff's interest in seeking redress for articulable harm.

The Court should require that a plaintiff seeking to identify anonymous Internet speakers establish all possible elements of any claim prior to unmasking an anonymous defendant. Such a safeguard adds little burden to the plaintiff but ensures that the courts do not unnecessarily unmask anonymous speakers in lawsuits where the plaintiff maintains no realistic chance of success on the merits. Given the additional Constitutional weight afforded to the defendant's interest in anonymity, courts should reconcile the competing interest of the plaintiff in redress for harm by forcing the plaintiff to show all the required elements necessary to achieve that redress. If there is no articulable legal harm, trampling the First Amendment rights of the defendant is an inexcusable exercise of judicial power.

It is not unreasonable for a plaintiff to establish all currently provable elements of a claim prior to unmasking an anonymous defendant. Such a requirement does not add additional burdens to a plaintiff's claim, but rather only shifts the timeline in which he must establish the elements of his case. If a plaintiff seeks redress for the wrongs perpetrated against him, he must establish the elements of his claim at trial. Moving that timeline up does not unfairly prejudice a plaintiff, though it does ensure that anonymity is pierced only when necessary.

Granted, a public figure plaintiff would have difficulty establishing elements of a libel claim because he would need to establish whether the defendant knew of the falsity

or recklessly regarded the truth of the statements as required by *New York Times* Co. *v. Sullivan*, 376 U.S. 254 (1964). Yet, a plaintiff could nevertheless produce evidence establishing the remaining elements of a defamation claim in the state of Maryland; namely, that the cloaked defendant communicated a false statement of and concerning the plaintiff that exposed the plaintiff to public scorn, hatred, contempt, or ridicule resulting in harm.

Again, the current facts before the Court serve as a case study in exploring just why such a procedure should be the vanguard of any standard protecting the anonymity rights of Internet speakers. As mentioned previously, before upholding the subpoena demanding any documentation identifying users "Born & Raised Here," "SecretAgentMan," and "Chatdusoleil," the trial court held that those users' statements could not be considered actionable defamation as they were either not "of and concerning" the Plaintiff or amounted to protected opinion or hyperbole. The court explicitly held that the Plaintiff could not have succeeded in his claim, and therefore the anonymous speakers should never be unmasked. Likewise, Plaintiff should be forced to establish the same elements for the claim that he was defamed by the statements of user "CorsicaRiver" who republished statements observing the Plaintiff's restaurant as "the most dirty and unsanitary-looking food-service places" he had ever seen.

CONCLUSION

For the reasons stated above, *amici* curiae respectfully request that the Court establish a strict standard to govern the identification of anonymous online speakers in defamation suits.

RESPECTFULLY SUBMITTED this 28th day of July, 2008.

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Lucy A. Dalglish
Gregg P. Leslie
Matthew B. Pollack
The Reporters Committee
for Freedom of the Press
1101 Wilson Boulevard, Suite 1100
Arlington, VA 22209
Telephone: (703) 807-2100

STATEMENT ON PROPORTIONALLY SPACED TYPE

In compliance with Rules 8-504 and 8-112, this brief was written in double-spaced Times New Roman font, type size 13.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of July, 2008 have served a copy of this Brief of *Amici Curiae* The Reporters Committee for Freedom of the Press, American Society of Newspaper Editors, Specialized Information Publishers Association, and The American Civil Liberties Union of Maryland in support of Appellant Independent Newspapers, Inc. on the following parties by way of e-mail and overnight courier:

J. Donald Braden
E. Sean Poltrack
Foster Braden & Thompson, LLP
102 E. Main Street
Suite 203
Stevensville, MD 21666
Attorneys for Appellee

Bruce W. Sanford
Mark I. Bailen
Baker& Hostetler, LLP
1050 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036
Attorneys for Appellant

_____

Lucy A. Dalglish
The Reporters Committee
for Freedom of the Press
1101 Wilson Boulevard, Suite 1100
Arlington, VA 22209
Telephone: (703) 807-2100