



Published on *New Hampshire Public Radio* (<http://nhpr.org>)

Fight Over Blog Comments Hits High Court

By *Josh Rogers*

Created 11/05/2009 - 11:19

Teaser:

Case could decide if bloggers have the same first amendment rights as traditional journalists and determine if media websites can protect the identities of those who post comments anonymously.

Synopsis:

Case could decide if bloggers have the same first amendment rights as traditional journalists and determine if media websites can protect the identities of those who post comments anonymously.

Transcript:

At issue are postings on the website called Mortgage lender Implode-O-meter. That's a Las Vegas blog that tracks the mortgage lending industry. Last year, the blog reported the Plaistow-based Mortgage Specialists had been sanctioned by the state banking department, and posted a confidential document the company had sent to regulators. In response to that posting, someone calling themselves brianbattersby then posted that Mortgage Specialists President Mike Gill was under a tax lien, and had bought his way out of a fraud committed in 2002. The lawyer for Mortgage Specialists says neither claim is true. Mortgage Specialists asked the blog's editor to remove the confidential document, which he did, and asked for him to identify brianbattersby, which he didn't. A Superior Court Judge ordered the website to permanently remove the posts and reveal brianbattersby's identity -- a ruling the website's attorney, Jeremy Eggleton, told the justices was wrong-headed, in the extreme.

"The trial courts order violates basic principles the 1st amendment, of the US constitution and essentially tramples on the rights both of implode explode both to speak, and to publish and to speak, as well as on the rights of the public to receive information and speak anonymously."

The attorney for the Mortgage company, Alex Walker, argued that his client deserves the right to identify brianbattersby, that the implode/explode website is in no way journalism, and doesn't deserve the protections afforded the press by court precedent.

"All of the information they get is received by them, they don't go out and gather news. The mission on their website is indicates that they are all about transparency education and accountability -- that they add a little bit of editorial work to keep the site coherent. But they are not a news gathering outfit."

But several of the justices seemed leery of drawing such a bright line. Here's Justice Gary Hicks:

"But the information is newsworthy; people want to know about trends in the mortgage industry, and secondary markets, credit-default swaps."

And here's Justice James Duggan:

"So they print rumors, right? So does the national enquirer, and that's a newspaper."

"It's a newspaper."

"Not that I read it (laughs)."

Laughter aside, the court's decision in this case is a serious one – at least according to first amendment groups. Public citizen and the Reporters committee for the freedom of the press both say if the lower court ruling stands, it would make it too easy to squelch anonymous speech though lawsuits.

Audio file:

nht110509jr1.wav

[NHPR News](#) [Business](#) [Law](#) [1st amendment](#) [Blogs](#) [State Supreme Court](#)

NEW HAMPSHIRE PUBLIC RADIO

2 Pillsbury Street, 6th Floor, Concord NH 03301 T: 603-228-8910 or 800.639.4131 F: 603.224.6052 [E-mail us](#)
[news](#)

[New Hampshire
Arts and Culture](#)

[Business
Environment](#)

[Health
Politics](#)

[shows](#)

[The Exchange
Word of Mouth
Morning Edition
All Things Considered](#)

[Folk Show
Something Wild
Giving Matters
Programs A to Z](#)

[listen](#)

[Radio
Live Stream
Podcasts
iPhone](#)

[support](#)

[Pledge Now
Membership
Business Support
Leadership Circle
Donate Your Car](#)

[connect](#)



[on Twitter](#)



[on Facebook](#)



[on Flickr](#)

[more](#)

[About NHPR](#)

[NHPR People](#)



AMERICAN
PUBLIC MEDIA®

| [Site Map](#) | [Privacy Policy](#) | © 2009 New Hampshire Public Radio

Source URL: <http://nhpr.org/node/27722>