

**IN THE CIRCUIT COURT, FIRST JUDICIAL CIRCUIT
IN AND FOR OKALOOSA COUNTY, FLORIDA**

TIMOTHY BEAL,

Plaintiff,

v.

Case No. 08-CA-1075

COSMO J. CALOBRISI,

a/k/a kielbasa32542,

Defendant.

ORDER

THIS MATTER CAME ON FOR HEARING before the undersigned Judge of the Circuit Court, First Judicial Circuit, on October 1, 2008, upon the Motion to Quash Subpoena filed by Movant Florida Freedom Newspapers, Inc. d/b/a Northwest Florida Daily News ("Florida Freedom"). The Motion is in the nature of a motion to quash a subpoena issued by Plaintiff to Florida Freedom's "Records Custodian/Webmaster." The Plaintiff was represented at the hearing by Bruce A. Haught, Esq., and the Movant was represented by John A. Bussian, Esq. The Court, having considered the subpoena issued by the Plaintiff, the Motion and Memorandum in Support of Motion to Quash filed by the Movant, and the arguments of counsel, makes the following findings of fact:

1. The Records Custodian/Webmaster was at all material times a professional journalist employed by Florida Freedom, a daily newspaper of general circulation in Okaloosa County that also publishes news on its Internet website. The Records Custodian/Webmaster is regularly engaged in collecting, photographing, recording, writing, editing, reporting, or publishing news, for gain or livelihood, and

obtained the information sought by Plaintiff while working as a salaried employee of, or independent contractor for, the newspaper.

2. The content posted on Florida Freedom's website is information of public concern relating to local, statewide, national, or worldwide issues or events.

3. The subpoena directed the Records Custodian/Webmaster to appear and produce information and records related to an Internet poster to Florida Freedom's website including, but, not limited to, the user's e-mail and IP addresses and other identifying information.

4. Neither the Records Custodian/Webmaster nor Florida Freedom is a party in this defamation action.

The Court's conclusions of law are as follows:

1. The Florida Shield Law applies to the facts recited above. Fla. Stat. § 90.5015. The Records Custodian/Webmaster and Florida Freedom have a qualified privilege against compelled disclosure of the Internet poster's e-mail and IP addresses and other identifying information.

2. Plaintiff failed to meet the burden required to overcome the qualified privilege by demonstrating clearly and specifically that (1) the information is relevant and material to unresolved issues that have been raised in the proceeding, (2) the information cannot be obtained from alternative sources, and (3) a compelling interest exists for requiring disclosure of the information. Fla. Stat. § 90.5015(2)(a)-(c); *McCarty v. Bankers Ins. Co.*, 195 F.R.D. 39, 46-47 (N.D.Fla.1998).

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that Movant's Motion for Order to Quash Subpoena is GRANTED.

This, the 9 day of October, 2008.

G. ROBERT BARRON

The Honorable G. Robert Barron
Circuit Court Judge Presiding

Conformed copies to:

Bruce A. Haught
543 Harbor Blvd., Suite 403
Destin, Florida 32541

HARRY E. BARR
CHESSER & BARR, P.A.
1201 Eglin Parkway
Shalimar, Florida 32579

John A. Bussian III
THE BUSSIAN LAW FIRM, PLLC
Wachovia Capitol Center
150 Fayetteville St.; 16th Floor
Raleigh, N.C. 27601