

# Illinois Court Unmasks Anonymous Blogger

## Digital Media and Data Privacy Law Blog

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In a decision that goes against the grain of a building legal consensus around the country, an Illinois trial court has ordered the disclosure of the identity of an anonymous blogger who the plaintiff, a local politician, claims defamed her 15-year-old son.

The controversy started this spring, as local elections in Buffalo Grove Village were heating up, when an online debate between the candidate's son and "Hipcheck16" got testy. When challenged to a live debate, Hipcheck16, wrote, according to reports: *"Seems like you're very willing to invite a man you only know from the Internet over to your house -- have you done it before, or do they usually invite you to their house?"*

In response, the candidate, Lisa Stone, filed on behalf of her son a pre-suit subpoena seeking Hipcheck16's identity in preparation for a possible defamation claim.

As we have reported previously, most courts around the country have imposed some procedural barriers to plaintiffs seeking this sort of information. Most importantly, though the particular standard varies from state to state, the majority rule is that the plaintiff must allege enough facts to establish that his or her claim has merit. Some states have even applied a summary judgment standard to a plaintiff's claims before ordering the disclosure of an anonymous blogger's identity.

Though we do not have the text of the judge's actual decision in this case, based solely on the facts alleged in the plaintiff's motion, it is hard to imagine that the plaintiff was required to establish *any* facts or foundation for her possible claim. Rather, she states, without any further explication, that Hipcheck16 said something defamatory (though what he/she said is not in the petition). On this thin reed, the judge ordered Comcast to turn over Hipcheck16's name.

An attorney for Hipcheck16 has indicated that he may appeal the ruling, and, if he does, he will have ample case law from around the country affirming that the First Amendment protects anonymous speech and that plaintiff's must be required to meet some elevated pleading standard -- at the very minimum -- before those rights can be abrogated.

No matter what the actual standard courts eventually apply, a bare pleading that alleges defamation, with nothing more, should not be enough to outweigh a blogger's First Amendment rights.