



At Risk Online: Your Good Name

The Bounty Hunter

By Desirée de Myer, Smart Business
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Here's one cybersleuth who tries to put names behind accusations. Not everyone's happy about it.

John Doe has made a name for Bruce Fischman (pictured). The Miami-based attorney's experience at tracking down pseudonymous Internet posters who blast companies and their executives on message boards has earned him a reputation as one of the nation's top cybersleuths—and a bane for free-speech advocates.

Fischman's firm has handled around 100 so-called cybersmear cases in the last two years and receives about two new ones each week. In October he scored a victory over the American Civil Liberties Union in one of the most closely watched Internet anonymity cases yet. A Florida federal appeals court upheld a state court's decision that ordered America Online and Yahoo to reveal the identities of eight John Does who criticized Fischman's client, a former CEO of Hvide Marine, on financial message boards. The judge in the case did not issue an opinion on the ruling, however, and therefore passed on the opportunity to set a precedent. Nonetheless, Fischman thinks it's good news for corporations. "It's a rubber stamp from an appellate court that says courts are not going to let anonymous posters run hog wild, do what they want, and have no responsibility for their actions," he says.

Free-speech advocacy groups such as Public Citizen, the Electronic Frontier Foundation, and the ACLU are fighting back. In November, a month following the Hvide case, free-speech advocates countered with a victory of their own when a New Jersey Superior Court judge refused to unmask four posters accused of libeling a software company and leaking its secrets.

"The early trend was, you file [to learn the identity of an anonymous poster], you get, and more recently it's been, you file, and you may face opposition," says Paul Levy of Public Citizen.

According to Fischman and other lawyers, national law in this area will have to come through either legislation or a ruling from the Supreme Court. With no apparent urge from Washington to step in, and few cases in federal court, that isn't likely to happen soon.



—Andrew Longstreth