

Canada: New Law Protects Internet Privacy Rights

Warman vs Fourniers and John Does

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On April 8, 2010, a precedent-setting case regarding internet law was heard in the Ontario Divisional Court.

The case was an Appeal of a lower court motion decision in the case of Warman vs Fourniers and John Does. The ruling being appealed stated that the defendants were to turn over personal information such as IP addresses and email addresses for anonymous posters who were alleged to have defamed the plaintiff. The defendants' position was that online anonymity should be protected until it is clear that there is a strong case that a "John Doe" has broken the law.

The Divisional Court decision that was released this afternoon changed the rules of disclosure in civil litigation so that plaintiffs must now prove a prima facie case against John Does before site administrators are required to turn over personal information about them. The ruling states, in part:

In addition, because this proceeding engages a freedom of expression interest, as well as a privacy interest, a more robust standard is required to address the chilling effect on freedom of expression that will result from disclosure....

...In the circumstances of a website promoting political discussion, the possibility of a defence of fair comment reinforces the need to establish the elements of defamation on a prima facie basis in order to have due consideration to the interest in freedom of expression.

The text of the decision can be read here: http://www.freedominon.com.pa/images/appeal_ruling.pdf

This case is a huge step forward toward changing the law to accommodate new technology.

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