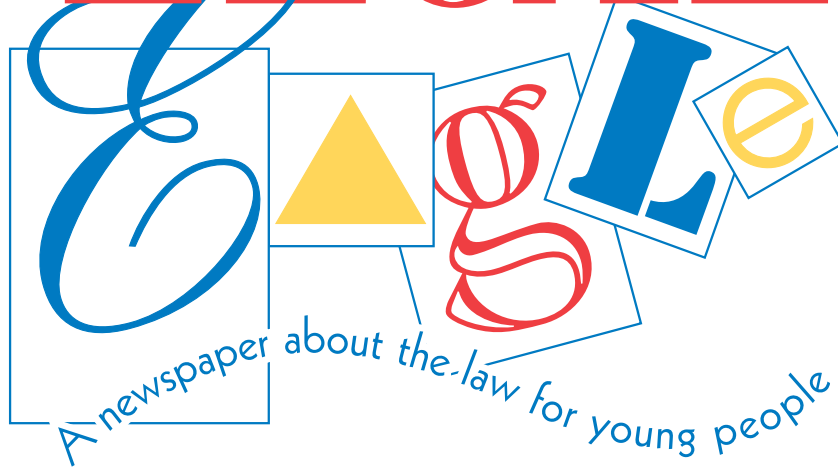


THE LEGAL



SPRING 2010

Libel Tourism: Overseas Plaintiffs Take Aim at Freedom of Speech

by Barbara Sheehan

In America, journalists enjoy generous free speech protections.

Plaintiffs seeking to win **libel** lawsuits must satisfy a number of strict criteria. In other countries like England, however, laws protecting writers from libel are much weaker. As a result,

a number of plaintiffs are turning to overseas courts to pursue their gripes against authors and reporters through a practice known as libel tourism.

One noted U.S. author who fell prey to libel tourism is Rachel Ehrenfeld, whose book, *Funding Evil: How Terrorism is Financed — and How to Stop It*, was published in 2003 in the United States. In the book, Ehrenfeld, who is director of

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Should Law Enforcement Trump Individual Rights?

by Barbara Sheehan

Thanks to the Fourth Amendment to the U.S. Constitution, Americans are protected against unlawful searches of their private property. Unlike some countries, police officers in America cannot simply barge into people's homes and rummage through their things without first

obtaining a **warrant** from a neutral judge to conduct a search or showing **probable cause** to believe a crime has been committed.

Further, if police get a warrant to search a person's private property



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Think Before You Send that Photo — It May Be a Crime

by Cheryl Baisden

Striking dramatic or silly poses for the camera and sharing the photos with friends is something kids have done for generations. Technology, such as cell phones, digital cameras and personal computers, has changed the landscape of

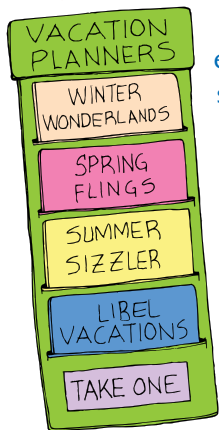


adolescence.

Today, sharing certain types of photos can be considered a criminal activity that can land you in jail.

The act of sexting — which includes sending, receiving or forwarding nude or semi-nude photos using cell phones or email — is getting teenagers across the nation into serious trouble. According to the laws of most states, sharing these photos, even if you took them of yourself, can be considered possessing and distributing child pornography, a crime that can be punishable by imprisonment and inclusion on a public database of sex offenders. The national registry, which is generally accessible on the Internet, requires convicted offenders to register for years, post a photo of themselves and include their address. The online listing alerts people to potential dangers in their neighborhoods and offenders are prohibited from getting anywhere near

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Before You Send that Photo **CONTINUED FROM PAGE 1**

a school and may not be employed in certain jobs.

Severe consequences

Florida resident Phillip Alpert knows what a devastating impact sexting can have on a life. He had just turned 18 when he was arrested for forwarding a naked photo of his 16-year-old girlfriend that she had sent to him. In a fit of anger, Alpert sent the photo to dozens of her friends and family after the couple had an argument.

"It was a stupid thing I did because I was upset and tired, and it was the middle of the night, and I was an immature kid," Alpert told CNN.

Alpert was sentenced to five years probation, was forced to register as a sex offender and kicked out of college because he could not attend school as a sex offender.

"You will find me on the registered sex offender list next to people who have raped children, molested kids, things like that, because I sent child pornography," Alpert noted. "You think child pornography, you think six-year-old, three-year-old little kids who can't think for themselves, who are taken advantage of. That really wasn't the case."

Alpert's attorney, Larry Walters, has mounted a legal battle hoping to get the young man off the list by arguing that he has no other criminal offenses, does not fit the description of a child pornographer, and participated in a practice that is pretty common among teenagers today.

"Sexting is treated as child pornography in almost every state and it catches teens completely off guard....It is surprising to us as parents, but for teens [sexting is] part of the culture," Walters told CNN.

Statistics show that sexting is fairly common among teenagers. A National Campaign to Prevent Teen & Unplanned Pregnancy found that 20 percent of teenagers admitted to posting a naked photo of themselves despite 71 percent of them realizing that sexting can have serious negative consequences since electronically transmitted material may never be erased from every device that receives it.

A whole new world

Today, photo sharing is easy — with the push of a cell phone button or the click of a mouse a photo can be forwarded to anyone, anywhere, in an instant. When criminal codes dealing with child pornography were passed, these capabilities didn't exist, and the idea of sexting was unheard of.

"Technology has moved at the speed of light, outpacing what lawmakers most likely envisioned would occur under our laws," Deborah Jacobs, executive director of the American Civil Liberties Union of New Jersey, and Peter Verniero, a former New Jersey Supreme Court Justice, wrote in an editorial that appeared in *The Star-Ledger*. "We need to reconsider how to approach these issues productively before infringing on the liberties of children and

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Back issues of *The Legal Eagle* since its inception in 1996 may be downloaded from the New Jersey State Bar Foundation's website at www.njsbf.org.

While you're there, check out other law-related education publications for kids, such as *Bill of Rights Bulletin*, *Constitutionally New Jersey*, *What You Need to Know About Plagiarism*, and *Students' Rights Handbook*.



jeopardizing them beyond their own bad judgment.”

According to Jacobs and Verniero, teenagers found guilty of sexting need to be educated on the dangers of their behavior, not imprisoned.

“In New Jersey, as in other states, the statute at the center of debate concerns ‘endangering the welfare of children.’ Broadly construed, it prohibits any sharing of sexual images of children. The law’s purpose—to protect children from exploitation and abuse—is defeated when it is applied to punish teens who post images of themselves,” their editorial stated. “When teenagers post nude or semi-nude photos of themselves they threaten their reputations, employability and personal privacy....[Parents] — not prosecutors, judges or juries — are best able to teach children that sharing nude or semi-nude photos of themselves can have serious, negative consequences that time might not erase.”

Legislating the problem

Colorado, Nebraska, Oregon, Vermont and Utah have passed legislation changing how sexting is categorized. New Jersey and several other states have introduced bills focusing on the issue, but have not approved the measures yet.

“Young people need to understand the ramifications of their actions, but they shouldn’t necessarily be treated as criminals,” Assemblywoman Pamela R. Lampitt, who is sponsoring New Jersey’s three-bill package, said in a press release. “We need to create a path that places education and forgiveness before arrest and prosecution.”

Lapitt’s legislation was prompted by the arrest of a 14-year-old Clifton girl who was charged with possession and distribution of child pornography after posting nearly 30 nude photos of herself on MySpace. She was

ultimately ordered to complete six months of counseling, but could have served up to 17 years in jail if found guilty of the charges. A similar sentence could have befallen a 14-year-old Glen Rock girl who sent nude photos of herself to classmates’ cell phones. In that case students who received the photos were told to delete them and the school district held assemblies to educate high school and middle school students about the dangers of sexting.

If approved, New Jersey’s new laws would focus on education and eliminate criminal charges in sexting incidents by requiring the



culprits to attend an educational program explaining the state and federal consequences of their actions, as well as the personal costs, including sexting’s effect on relationships, school life and job opportunities. Additionally, schools would be required to distribute information about sexting to students and their parents in grades six through 12, and cell phone distributors would have to include similar information whenever a new phone is sold. The three bills are currently in committee review.

“Kids may be kids, but they can be forced to grow up in a hurry when an explicit photograph meant only for one person gets forwarded

and re-forwarded throughout their school,” said Lampitt. “Young people — especially teen girls — need to understand that sending inappropriate pictures is not only potentially illegal, but can leave an indelible mark on them socially and educationally.”

Federal ruling issued

The 3rd U.S. Circuit Court of Appeals recently considered a sexting case in Wyoming County, Pennsylvania. The case involved a photo of two 12-year-old girls in their underwear that was taken at a slumber party and another photo of a topless 16-year-old taken while she exited a shower. Two years after the photos were taken, they appeared on the cell phones of more than two dozen students. School administrators called the police and District Attorney George Skumanick threatened to charge the students with child pornography if they did not agree to attend a class he had established to “educate youths about the dangers of sexting.” A requirement of the class is to write an essay admitting that what the student had done was wrong.

While most of the students elected to take the class to avoid prosecution, the ACLU of Pennsylvania sued on behalf of three students, claiming the district attorney had infringed on the rights of the students’ parents, violated the students’ First Amendment rights and also that the essay would in fact be a form of **compelled speech**.

In March 2009, a federal judge ruled in favor of the ACLU of Pennsylvania and prevented District Attorney Skumanick from bringing charges against the students. The court declared that the photos did not meet the standards of child pornography under Pennsylvania law and therefore were protected under the First Amendment.

Skumanick appealed the decision and in January

Trump Individual Rights? CONTINUED FROM PAGE 1

for, say, illegal drugs, then they are limited to searching for drugs and drugs alone. That means that if they enter the home and find no drugs but instead uncover an illegal weapon hidden in the back of a closet, that weapon is off limits. The weapon cannot be used as evidence in a prosecution because it was not named in the warrant.

In short, prosecutors are not allowed to use evidence that is obtained illegally or without a warrant when they are presenting a case in a court of law. This is known as the exclusionary rule. One of the biggest criticisms of the exclusionary rule is that it allows some criminals to get away unpunished. While this is unfortunate, the parties that govern our legal system have decided that this is a necessary price to pay to protect the privacy rights of the vast majority of Americans.

Two recent U.S. Supreme Court cases, however, have challenged Fourth Amendment protections and the exclusionary rule. In both cases the Court erred on the side of law enforcement, allowing disputed evidence to be used in court. These decisions have left some wondering whether Fourth Amendment rights and their protections under the exclusionary rule are being weakened.

A look back

To understand the intent of the Fourth Amendment and its role in our justice system, Alain Leibman, a former federal prosecutor, said to consider the days of the Revolutionary War in America. At that time, Leibman explained, the British did not respect the privacy and property rights of the colonists, routinely entering homes in ways that were unwarranted and unwelcome.

"There was a lot of resentment" about these intrusive entries, Leibman noted. When America finally won its independence from the British, it became a priority to establish a law that would guard against unlawful searches and seizures, prompting the birth of the Fourth Amendment, and later the exclusionary rule.

While protections against unlawful searches initially may have applied most commonly in the context of people's homes, today those protections carry over to all kinds of private property, from a person's car or gym bag right down to the pockets of his pants.

It is interesting to note that privacy protections outlined in the New Jersey Constitution are more extensive than those in the U.S. Constitution. For example, New Jersey residents enjoy a reasonable expectation of privacy when it comes to bank records and telephone billing records. Also, while searching someone's garbage is legal at the federal level if the

garbage is located on the curb, searching a New Jersey resident's garbage (even if on the curb) requires a warrant.

Exceptions, exceptions

Whereas the Fourth Amendment is a written law that can be found in the Bill of Rights of the U.S. Constitution, the exclusionary rule is what Leibman describes as a judge-created rule. It was established to provide guidance for police and citizens when dealing with evidence that may be used in a court of law.

The exclusionary rule was originally applied in U.S. federal courts following a landmark 1914 case known as *Weeks v. United States*. In that case the Court unanimously decided that the two warrantless searches of Fremont Weeks' home were a violation of his Fourth Amendment rights. The *Weeks* decision was later extended to include state courts as well in a 1961 U.S. Supreme Court case known as *Mapp v. Ohio*.

Since then, the exclusionary rule has essentially become the law of the land. However, over the course of time, Leibman noted that the rule has come "under stress," as judges have created a number of exceptions.

Some of these exceptions are fairly easy to justify and understand. For example, if a person suspected of arson is about to set a building on fire or if someone is being held hostage and their life is in immediate danger, it most likely would not be necessary for police to obtain a warrant before entering the buildings where those crimes are taking place. In these cases, police could cite an "emergency" exception and proceed without a warrant, Leibman said.

What if, on the other hand, police have a warrant to search a building for drugs but upon entering they find a machine gun, which is illegal, sitting out on the kitchen table?

Leibman said that in that situation, police could likely use the "plain view" exception and present the gun as evidence of a crime, as long as the gun was in plain view and police did not have to search through closets or other private places to see it.

More exceptions

Exceptions become stickier when police make a mistake or misconduct leads to infractions of the exclusionary rule. For example, what if police believe they have a valid warrant to conduct a search and enter a residence, finding a gun and illegal drugs? Later, however, the police realize that their warrant had in fact been recalled and the recall was not recorded. Should the police be allowed to use the



evidence they found even though the warrant that they had was technically invalid?

This was the scenario that the U.S. Supreme Court considered in a recent case known as *Herring v. United States*. In *Herring*, which was decided in January 2009, the Court ultimately concluded in a 5-4 decision that the exclusionary rule did not apply in the case. The Court denied the petitioner's request to withhold the evidence found in the search.

In doing so, the Court cited a "good faith" exception, which was established in a 1984 U.S. Supreme Court case known as *United States v. Leon*. Essentially, that exception holds that evidence gathered illegally may still be permissible in court if police officers had reason to believe they were acting within the law.

Writing the **majority opinion** for the Court, Chief Justice John Roberts stated, "to trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently **culpable** that such deterrence is worth the price paid by the justice system." Chief Justice Roberts went on to write that the price paid, "is, of course, letting guilty and possibly dangerous defendants go free."

In her **dissenting opinion**, Justice Ruth Bader Ginsberg wrote, "It has been asserted that police departments have become sufficiently 'professional' that they do not need external deterrence to avoid Fourth Amendment violations. But professionalism is a sign of the exclusionary rule's **efficacy** — not of its **superfluity**."

Police liability

Only a week after the Court issued its decision in *Herring*, it issued another decision supporting police actions in a contested search. That case, known as *Pearson v. Callahan*, concerned an alleged drug dealer in Utah, who was the focus of a sting operation coordinated by police.

At issue in the case was the fact that police entered the accused dealer's home without a warrant immediately after an undercover informant they were working with purchased drugs from the dealer and tipped them off. Did the officers' warrantless search violate the Fourth Amendment?

In a unanimous decision, the U.S. Supreme Court upheld the actions of the police on the grounds that the law was "not clearly established at the time of their search that their conduct was unconstitutional."

Among the legal principles the Court cited in reaching its decision was the "consent-once-removed doctrine." Essentially, this means that police were acting within the law when they entered the alleged drug dealer's home based on the fact that they were invited by the informant who had earlier been given consent to enter.

Is the Fourth Amendment being weakened?

Since the decisions in the *Herring* and *Callahan* cases, the integrity of Fourth Amendment protections has

come into question. An editorial in *The New York Times* stated, "There is no denying that the exclusionary rule allows a small number of criminals to go free because the police have blundered — which is certainly no minor matter. But the more faithfully the rule is applied, the more likely the police are to collect evidence lawfully." In other words, the police will be more inclined to adhere to Fourth Amendment protections if they know there will be consequences for illegal or negligent behavior.

Jeffrey Fisher, an associate professor at Stanford Law School, told *The ABA Journal* that the U.S. Supreme Court is undermining privacy rights. "They are curbing the exclusionary rule and making it impossible to win civil damages at the same time." Fisher, who represented Bennie Herring, also said, "It worries me that they are openly inviting the lower courts to avoid deciding the Fourth Amendment questions."

How will courts interpret *Herring*?

According to reports, a New Jersey federal judge was one of the first to apply the *Herring* decision in an actual case. The case concerned a Secret Service agent who allegedly provided false information to a judge in the process of obtaining a search warrant that ultimately turned up evidence of child pornography. The judge, citing the *Herring* case, said the exclusionary rule did not apply and in effect overlooked the agent's alleged error.

In his opinion, Judge Stanley R. Chesler wrote, "This conduct, while hardly qualifying as a model of efficient, careful and cooperative law enforcement, does not rise to the level of culpability that the Supreme Court held in *Herring* must be apparent for the exclusionary rule to serve its deterrent purpose and outweigh the cost of suppressing evidence."

What happens now?

Clearly, the concerns raised in the *Herring* and *Callahan* cases show what an important role our courts, especially the U.S. Supreme Court, play in our justice system and our society.

Leibman asserted that where Fourth Amendment protections are concerned, our nation has a long history of upholding individual privacy rights regarding searches and seizures. Despite the high Court's recent rulings in *Herring* and *Callahan*, Leibman believes that our Fourth Amendment rights remain essentially intact, and said the Court would be "loathe" to upset the overall stance on Fourth Amendment protections that has prevailed for decades.

Could individual protections under the Fourth Amendment and the exclusionary rule be significantly changed?

"Yes," said Leibman, but he also contended, "I think most observers would say it's highly unlikely."

Libel Tourism CONTINUED FROM PAGE 1

the American Center for Democracy, a non-profit organization dedicated to eliminating terrorism, named a wealthy Saudi businessman, Khalid bin Mahfouz, as a financier of terrorism.

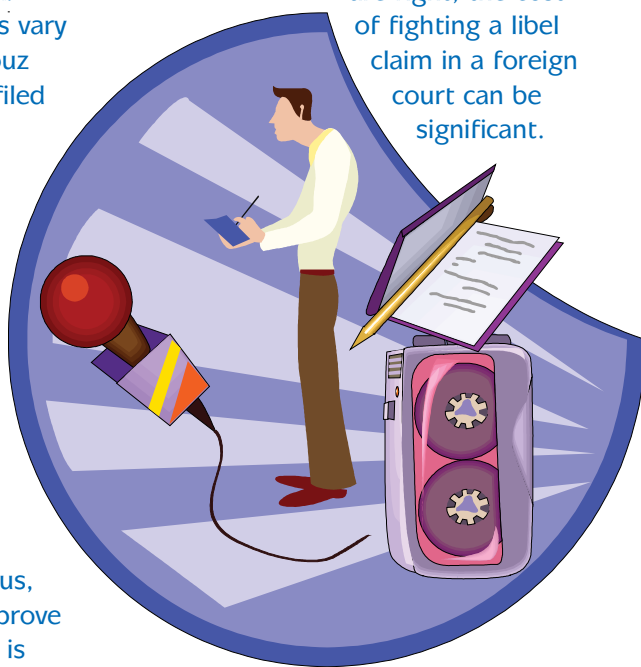
Two years later, Bin Mahfouz sued Ehrenfeld for libel in England, where reportedly 23 copies of her book had been sold on the Internet. Because Ehrenfeld refused to acknowledge the lawsuit, a judgment was rendered in Bin Mahfouz's favor by default. Ehrenfeld was ordered to pay more than \$250,000, the plaintiff's legal fees, and was also ordered to destroy the remaining copies of her book.

While libel or defamation laws vary from state to state, if Bin Mahfouz (who died in August 2009) had filed the lawsuit in the United States against Ehrenfeld, generally he would have had to prove that she knowingly published false information about him that damaged his reputation. Further, he would have had to prove that she did so with **malice**, or with intent to cause him harm.

In England, Bin Mahfouz's task was much easier. According to English libel laws, he did not have to justify his claims. The onus, or burden, was on Ehrenfeld to prove that what she wrote in her book is true. According to reports, Ehrenfeld is one of more than two dozen journalists Bin Mahfouz pursued in libel lawsuits. A reported billionaire, Bin Mahfouz did not seem to need the money from the writers he sued and in Ehrenfeld's case he has not gotten it. Unless Ehrenfeld has assets in England to attach, Bin Mahfouz would need to have his English judgment recognized and entered in a jurisdiction where she does have assets, presumably New York.

chilling effect on journalists' ability to freely report on matters in the public interest, such as terrorism. Some argue that journalists facing the possible threat of libel tourism could be intimidated and might be reluctant to pursue stories about potentially controversial individuals out of fear of being sued. Also, writers may be discouraged from traveling to countries where there are judgments against them. Further, some journalists may worry about the financial implications of being sued abroad. Even if journalists believe they

are right, the cost of fighting a libel claim in a foreign court can be significant.



One writer who chose to challenge his libel charge is Paul Williams, who is being sued for \$2 million over a book he wrote that linked a university in Canada to terrorist threats against the United States. Instead of filing the suit in the United States, where the book was published, Canada's McMaster University filed suit against Williams in Canada, where the laws are more favorable to plaintiffs.

"Paul Williams has lived in Pennsylvania all his life. Yet with pretrial proceedings that begin today, Canadian libel laws now threaten to ruin him financially," Ehrenfeld stated in an October 2009 editorial published in the *New York Daily News*.

While Williams stood up to the allegations against him, many others who are named in foreign libel lawsuits do not. Some authors, like Ehrenfeld, take no action, while others rescind their work to avoid costly legal battles. According to an article on Economist.com, a weekly news and international affairs publication, Rinat Akhmetov, "one of [England's] richest men," sued two Ukrainian-based news organization in London. Akhmetov received an apology from the *Kyiv Post*, and a default judgment of \$75,000 against Obozrevatel, a Ukraine-based Internet news site that has very few readers in England.

Protecting free speech

In America, concerns about this kind of interference with writers' free speech rights have brought the subject of libel tourism to the attention of many U.S. lawmakers, and action is being taken. Since the English judgment was filed against Ehrenfeld, the state of New York has passed a law enabling New York courts to refuse to recognize a foreign judgment unless it satisfies the freedom of speech protections provided by both the United States and New York Constitutions.

In other words, judgments like the one won by Bin Mahfouz in England, a country that is less protective of reporters' free speech rights, may not be recognized in New York. The New York law also expands an individual's ability to have a court declare a foreign libel judgment invalid in New York.

"Without this statute, an author could be forced to live indefinitely under the pall of a libel judgment, deterring publishers from disseminating that author's work," a press release issued by New York Governor David A. Paterson's office stated.

So what about the other 49 states and Washington, D.C.? In addition to New York, libel tourism laws have passed in Illinois, Florida and California. New Jersey is among

Costly challenges

What Bin Mahfouz did win, perhaps more disturbingly, was a symbolic victory, which, some believe, has a

the states that are considering libel tourism legislation. While these laws undoubtedly offer important protections, many claim they are not enough.

Laws like those in New York are a “good start” but “still leave writers with only a patchwork of protection,” a *New York Times* editorial stated. “Congress needs to pass a law that makes clear that no American court will enforce libel judgments from countries that provide less protection for the written word....If authors believe they are too vulnerable, they may be discouraged from taking on difficult and important topics, like terrorism financing, or from writing about wealthy and litigious people. That would not only be bad for writers, it would be bad for everyone.”

The U.S. House of Representatives passed a bill in June 2009 that would prohibit the recognition in the United States of defamation suit judgments in foreign countries. A similar, but much stronger bill, is currently being considered by the U.S. Senate. The Free Speech Protection Act was introduced in February 2009 and goes a step further than the House bill by allowing defendants to counter sue plaintiffs who bring libel suits against them in foreign courts. The Act would also provide in some cases for “treble” damages. This means that plaintiffs (presumably journalists and authors) could counter sue for three times the amount of **compensatory damages**. If passed, the legislation would apply to all 50 states and would function in conjunction with state laws, which may provide additional protections above and beyond what federal law dictates. The U.S. Senate Judiciary Committee held hearings on the Senate bill in February 2010, but has, so far, taken no further action.

Proceeding with caution

With regard to pending libel tourism legislation, Professor Linda J. Silberman, the Martin Lipton Professor of Law at New York

University School of Law, advised caution in a statement to the U.S. Congressional Subcommittee on Commercial and Administrative Law in February 2009.

In her testimony, Professor Silberman strongly pushed for a solution to libel tourism on a national, perhaps even an international level. She advised, however, that legislation should not be so broadly written that it fails to consider the context of individual free speech claims and the competing interests of other countries. For example, “if a U.S. party directly and intentionally publishes and distributes material solely in a foreign country, that country may have the stronger interest in having its own law applied, and the U.S. should, in the interests of **comity**, enforce that judgment,” Professor Silberman stated.

For the U.S. to enforce its own free speech rights blindly without regard to context would be “engaging in the precise behavior of which it has been so critical,” Professor Silberman noted.

Adding to the complexity of the libel tourism challenge is the Internet, and the questions that arise in trying to manage different nations’ interests in the context of an increasingly connected world. For example, if something can be legally sold or publicized in America but is not allowed in another country, who is to stop a person from marketing it on the Internet?

This was a question that arose in a case concerning the sale of Nazi memorabilia over the Internet via Yahoo, a U.S.-based website with an international reach. In that case, two Jewish groups from France demanded that Yahoo remove from their website access to these Nazi items by French citizens. Yahoo complied but filed a suit claiming that this violates Yahoo’s right to free speech. Ultimately, the U.S. Court of Appeals for the Ninth Circuit dismissed the Yahoo case in January 2006 on the grounds that

the district court lacked personal jurisdiction over the defendants and that the case was not “ripe” enough. “Not ripe” means that the parties in the case did not suffer substantial hardship or present the level of factual development needed for the court to consider the case.

The Yahoo case and the practice of libel tourism raise questions of how to handle the varying laws of different countries when dealing with an international playing field.

“Where the interests of the foreign country are minimal, we have seen foreign courts abstain and/or refuse jurisdiction to hear a libel case against a U.S.-based publisher,” Professor Silberman indicated in her testimony before the Congressional Subcommittee. “Also, recent developments in Europe, such as the European Convention on Human Rights and the International Covenant of Civil and Political Rights, are having an impact on the libel laws of many countries, including England, and may result in greater sensitivity to principles akin to the First Amendment.”

For now, Steven M. Richman, an international law attorney, says that people need to be aware that just because they have certain First Amendment rights here in America, this doesn’t mean other countries recognize those rights, and vice versa.

Fundamentally, in America, people’s property cannot be taken without **due process** of law. So, just because a person receives a judgment in another country, like England, to pay damages in a legal case, that doesn’t mean that judgment will be recognized or enforced here, if the court in the United States finds that there has been an absence of due process established here for plaintiffs to collect, or that foreign judgment is contrary to public policy — such as American free speech considerations, Richman noted.

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Before You Send that Photo CONTINUED FROM PAGE 3

2010, the 3rd U.S. Circuit Court of Appeals heard oral arguments in the case. Arguing on Skumanick's behalf, attorney Michael Donohue stated, "Children are immature, children are vulnerable. The entire basis of the juvenile code is to protect children from themselves."

Arguing on behalf of the students, Witold Walczak, director of the ACLU of Pennsylvania, stated, "Turning them into sex offenders is an odd way to protect kids." Walczak went on to say, "It [sexting] should not be addressed by the criminal justice system. Child porn laws are designed to protect the minors shown in the images because they're the victims. So, why would we prosecute these kids?"

On March 16, 2010, the appeals court unanimously upheld the decision of the federal court, ruling that there was no probable cause in the case and the prosecution of the teenage girls would be a violation of their First Amendment rights. In addition, the three-judge panel ruled that the district attorney violated the rights of the girls' parents as well.

"An individual district attorney may not coerce parents into permitting him to impose on their children his ideas of morality and gender roles," the 3rd Circuit's opinion stated.

The federal appeals court decision will affect New Jersey, Pennsylvania, Delaware and the Virgin Islands. 🔪

Libel Tourism CONTINUED FROM PAGE 7

Law is largely "territorial," Richman said, meaning that as we travel to distant places—whether by airplane, by boat, or on occasion, by touching our computer keypads—we are often subject to the laws of that place in which we find ourselves. Without a particular law that addresses libel issues, foreign libel judgments have been evaluated as to whether they offend public policy.

Therefore, "the particular statutory or case law applicable for enforcement of foreign judgments in a particular state must be considered," Richman said. "The libel tourism issue has been dealt with in certain state statutes as a

discretionary factor against recognition. Even without that particular item, the statutes presently on the books in most states generally allow a court to refuse recognition and enforcement of a foreign judgment if the judgment offends the public policy of the state, and certain courts have relied on that to refuse a defamation judgment contrary to American First Amendment standards. 🔪



comity — honoring and following a court decision from another jurisdiction (in this case another nation).

compelled speech — speech that a government entity forces someone to say, whether orally or in writing, that the person would normally reject or find offensive.

compensatory damages — damages awarded to someone as compensation for a harm done.

culpable — deserving of blame.

dissenting opinion — a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues.

due process — legal safeguards that a citizen may claim if a state or court makes a decision that could affect any right of that citizen.

efficacy — the power to produce a wanted result.

libel — something that is published (that is untrue) which damages a person's reputation.

majority opinion — a statement written by a judge or justice that reflects the opinion reached by the majority of his or her colleagues.

malice — a deliberate wrongful act with the intention of causing an injury.

plaintiff — person or persons bringing a civil lawsuit against another person or entity.

probable cause — a law enforcement official has good reason to believe that evidence of a crime will be found or a person should be arrested or searched.

superfluity — excess or overabundance.

warrant — a written document from a judge authorizing anything from a search to an arrest to the obligation to pay a fine.