

# Kansas case shows need for shield law

## Reporter fined \$1,000 per day

It's been more than two years since the Missouri Press Association sought to get a shield law bill through the Missouri legislature. That year, as the year before it, the bill never made it to the floor of either body for a vote.

Meanwhile, Kansas this year is taking steps to move into the fold of states that have shield laws, due to the courageous actions of a young woman named Claire O'Brien and her attorney, Kansas City lawyer Mark Johnson.

In October, O'Brien interviewed a suspect in jail who was awaiting trial on charges he shot two men, wounding one and killing the other. O'Brien's story in the Dodge City *Daily Globe* included information from an unnamed source that the suspect may have acted in self-defense, that one victim had a stash of semi-automatic weapons and the suspect's life may have been in danger.

Ford County Prosecuting Attorney Terry Malone was very interested in this suggestion and sent O'Brien a subpoena to testify regarding the information and requesting she bring to the deposition her reporter notes and the name of her source.

The newspaper and its corporate owner, Gatehouse Media Kansas Holdings, hired a lawyer to fight the subpoena, but eventually the Kansas Supreme Court, after it initially issued a temporary stay, declined to stop the subpoena.

A few days later the scheduled deposition was held, but to the newspaper's surprise, O'Brien did not show up. Needless to say, Prosecuting Attorney Malone was livid, and he turned to the court to issue

sanctions for O'Brien's steadfast refusal to obey the court's order.

The judge, too, was unhappy with O'Brien for disobeying an order of the court and fined her, personally, \$1,000 a day.



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A second deposition was scheduled for Feb. 12, with O'Brien ordered to attend. If O'Brien failed to show, she faced time in the Ford County Detention Center.

Fortunately for her, the story's source chose to contact the county attorney independent of O'Brien, providing the information sought directly to that attorney. The source also allegedly told the prosecutor he never gave reporter O'Brien his real name, and he also released O'Brien from her promise of confidentiality.

At a subsequent court hearing, at which O'Brien was represented by attorney Johnson, she apologized to the judge for her failure to appear earlier, saying she needed separate legal advice, and the judge dismissed the fine imposed against her.

Doug Anstaett, executive director of the Kansas Press Association, said

## Communicators will meet March 13

The annual spring conference of Missouri Professional Communicators-National Federation of Press Women will be 8:15 a.m.-3:30 p.m. Saturday, March 13, at Ces and Judy's, Le Chateau Village, Frontenac. This year's conference theme is "Success in a World of Transition."

The program includes continental breakfast, awards luncheon, attendance

as a result of this situation he has been approached by legislators who want to work on Kansas' shield bill to achieve passage.

"This episode has awakened members of the Kansas legislature to the sad fact that reporters have no protection under state law," Anstaett told *Editor and Publisher* magazine. That article also noted that Anstaett believes that if reporters don't have the ability to talk to people anonymously, valuable investigative reporting will go away.

I know many of MPA's members do not regularly use anonymous sources. But there are times that they are important in the reporting of a story, and they can be especially important in cases where government whistleblowers – folks on the inside – feel a need to get information out about something that they believe is illegal that is going on within a government agency. They can be the initial source for investigative stories.

There has been discussion in the Missouri legislature this session about changes that need to be made to Ethics Commission laws in the state. At the moment, committees in both the House and the Senate are considering what changes they believe should be made.

It is unclear what will be generated from these discussions, but it is possible that some language regarding "whistle-blowing" might be a product of those committees. It would seem highly unlikely at this point, however, that such language would reach to the extent of opening the door for a shield law bill in Missouri.

But the day will come when it is an important issue in this state. I just hope it doesn't take a reporter being fined or going to jail to bring that day to us!

prizes and more.

Cost is \$45 for MPC-NFPW members, \$55 non-members.

To reserve a spot at the conference, contact Suzanne Corbett, [corbettsuzanne@aol.com](mailto:corbettsuzanne@aol.com), cell (314) 749-9596, or Linda Briggs-Harty, [stellarsupport@att.net](mailto:stellarsupport@att.net), cell (314) 610-2362, by March 4.

Check out [mpc-nfpw.org](http://mpc-nfpw.org) for more information.