

BuzzFeed Needn't Disclose Trump Dossier Source: Judge

By Carolina Bolado

Law360, Miami (December 21, 2017, 5:41 PM EST) -- A Florida federal judge denied a bid Thursday to force BuzzFeed News to disclose its source for a dossier claiming the Russian government has compromising information on President Donald Trump and that a Russian tech executive's companies helped target Democratic leaders' computers.

U.S. Magistrate Judge John J. O'Sullivan ruled that plaintiff Aleksey Gubarev, the CEO of internet hosting and web development company XBT Holding SA, has failed to meet his burden to compel disclosure of the reporter's source for the dossier under the Florida Shield Law.

Gubarev, who is named in the 35-page dossier, filed a defamation suit against BuzzFeed in February, shortly after publication of the document, which includes allegations of ties between the president and Russia, and of computer hacking of the Democratic Party by organizations and individuals with ties to Russia, its government and its Federal Security Service, or FSB.

He demanded that BuzzFeed reveal how it got a copy of the dossier, but Judge O'Sullivan said in order to overcome the protections in the Florida Shield Law, Gubarev needs to show that he cannot get that information in another way, and he hasn't yet done that.

The judge said Gubarev has not yet deposed the author of the dossier, former British intelligence officer Christopher Steele, who is fighting the deposition in the U.K. in a related pending matter.

“Based on the record in the instant case, the plaintiffs have not made a clear and specific showing that the identity of the source cannot be obtained through alternative sources,” Judge O'Sullivan said.

Val Gurvits of Boston Law Group PC, who is representing Gubarev, told Law360 that his team has already found out BuzzFeed's source through other means and were in the process of withdrawing their motion when the decision came out on Thursday.

He added that he cannot yet reveal BuzzFeed's source, but chided BuzzFeed's “poor and unprofessional journalistic practices.”

In addition to the claims about Trump, the dossier also says that Gubarev, through XBT and Florida-based subsidiary Webzilla Inc., had been targeting computers belonging to the Democratic Party's leadership by transmitting viruses, planting bugs and stealing data, among

other things. The dossier called out Gubarev and his companies for having been recruited by the FSB and being “significant players” in a hacking operation targeting Democratic Party leadership during the past U.S. presidential election.

Gubarev sued BuzzFeed and its editor-in-chief, Ben Smith, claiming that the news website defamed him and his companies by publishing the unverified dossier without meaningful redactions.

Gubarev says none of the allegations are true and that the publication of the dossier has tarnished his and his companies' reputations and caused them to incur tens of millions of dollars in damages.

A BuzzFeed spokesperson said the company was pleased the judge “reaffirmed the right of news organizations to safeguard the identities of sources.”

“And we continue to stand by our decision to publish the dossier, which was being circulated at the highest levels of government and is the subject of multiple federal investigations,” the spokesperson said.

The plaintiffs are represented in the U.S. by Evan Fray-Witzer of Ciampa Fray-Witzer LLP, Brady J. Cobb of Cobb Eddy PLLC, and Valentin D. Gurvits and Matthew Shayefar of Boston Law Group PC, and in the U.K. by Steven Loble of W Legal Ltd.

BuzzFeed is represented by Katherine M. Bolger, Adam Lazier and Nathan Siegel of Davis Wright Tremaine LLP and Roy Black and Jared Lopez of Black Srebnick Kornspan & Stumpf PA.

The case is Gubarev et al. v. BuzzFeed Inc. et al., case number 0:17-cv-60426, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Nathan Hale. Editing by Alanna Weissman.