

Monday, January 20, 2014

Facebook Strikes Again: Partial Disclosure Ordered, Preservation of Site Required – Part 6

- [Facebook and My Space Users Beware - Your Personal Profile as Evidence in a Personal Injury lawsuit](#)
- [Facebook Defence Strikes Again – Lawsuit Claims Defeated](#)
- [Facebook Defence Strikes Again in Personal Injury Lawsuits - Part 3](#)
- [Facebook Defence – Give Me Access! - Personal Injury Lawsuits – Part 4](#)
- [Facebook Defence - 1,500 Pages Sought - Personal Injury Lawsuit - Part 5](#)

In this case [Young v. Comay, 2013 ONSC 7552 \(CanLII\)](#) the plaintiff testified at Discovery that she did have an ongoing Facebook account, prior to the accident, and that family photos and possibly other photos were posted therein.

Broad, J. ordered disclosure as follows:

[22] I would therefore order that the plaintiff serve a Supplementary Affidavit of Documents disclosing all photographs of herself, in her possession, power or control which are relevant to any matter in issue, including photographs depicting her engaged in physical, recreational, housekeeping, home maintenance or work-related activities for two years prior to the accident and during any period following the accident in respect of which she is claiming damages on the bases set forth in the Statement of Claim.

[23] With respect to photographs and postings on the plaintiff's Facebook profile, the situation is somewhat different. As indicated above, the plaintiff was asked on discovery about the nature of the photographs which she posted to the site and when they were posted. She testified that they do not depict her involved in any activities but rather they were family pictures depicting her standing with her children, and in any event, they were all posted prior to the accident.

On a practical note, plaintiff solicitors should review the social media issue with all injured plaintiff clients early in the retainer, to anticipate these issues and ensure the disclosure obligations are considered and complied with, as this is now a standard defence line of questioning in Ontario personal injury cases.

For other Facebook blogs, see

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