

Facebook Can Open You to Lawsuits

Poking someone other than your spouse, on Facebook that is, may be grounds for divorce or worse in the legal system.

That may be a bit of an exaggeration, but more and more evidence from the popular social networking site is being used in court on cases regarding child neglect, custody, abuse, and divorce.

In fact, 1 in 5 divorce cases now cite inappropriate actions on Facebook as grounds for separating, stated Albany-based Tully Rinckey PLLC due to a recent report from Divorce-Online.

“It is amazing how social networking has grown and increased in popularity over the years and is the new singles bar equivalent for relationship issues,” said Barbara King, partner and head of the family and matrimonial practice at the firm. “Instead of Facebook being used to network and reconnect with friends, family, and co-workers, it has become another avenue for extramarital affairs, and because it is not private, has the potential to be used as evidence in the courtroom.”

For those not part of the more than 350 million active Facebook users, the site is comprised of profiles of individuals who then post videos, photos, updates of their lives, and posts on other’s profiles, which are called “wall posts.” Furthermore, the site has groups to join and alerts member to upcoming events. There are a choice of privacy settings, which have been improved in recent months.

Judges in recent years have seen evidence in the form of photos, status updates, and wall posts in a variety of cases. And, with the casual feeling and experience on the site, many forget that much of the information on your profile and what you do on other people’s profiles are completely viewable to the public.

“Talk about a smoking gun — this kind of evidence can be akin to a voice recording and it’s not just limited to divorce. I’ve seen evidence such as pictures of a 2 or 3-year-old undressed on Facebook as grounds for child neglect,” said Richard Hanft, Troy lawyer and former Rensselaer County Family Court judge. “That is just inviting unknown folks to look at your kids.” Technology, in general, has had a huge impact on these cases in court.

“New technology has been a great assistance to the legal community,” Hanft continued. “It is another outlet to obtain probe-able, relevant evidence. The litigants demonstrate their stupidity through their inappropriate use of this technology.”

On the national level, digital evidence has been brought forward in the ongoing Tiger Woods affair scandal, mainly in the form of phone conversations.

Still, internationally, in Dec. 2008, the Supreme Court of the Australian Capital Territory ruled that Facebook is a valid means to serve court notices to defendants, reported the Australian newspaper The Age.

Actions in cyberspace are having a substantially higher bearing on how people perceive others in social settings and in formal situations, like job interviews.

“People do not yet understand how easy it is to access these things online,” said University at Albany Professor of Sociology Richard Lachmann. “College kids think nothing of putting updates on their sites about being drunk all of the time or sleeping with so many people. But then when they enter the ‘real world,’ they wonder why they can’t find a job. These employers can easily go online and find this information.”

Along with Facebook entries, divorce lawyers are using EZPasses and cell phone records in court to show their client’s spouse was traveling to certain places or talking to certain people.

“People’s actions are much easier to trace,” Lachmann said.

A far cry from cheap motels and meeting in secluded parking lots, mischievous significant others are now carrying out affairs nearly completely online for all of the world to see.

“Experts say that many of the people who have affairs want to get caught, so that works out well for them if they use these sites, but for those who really don’t want to get caught they need to learn new techniques to hide things. Whenever there is new technology, people do not think through the implications.”

Emails. Instant Messaging. Blogs. Internet History. Even when these things are deleted, there is usually someone out there smart enough to make them reappear again.

On top of this, there are not a lot of laws regulating internet use and privacy online.

“People should be able to go online and not worry – not just about being caught in affairs – but also with the possibility of identity theft and ending up in a database after making a purchase,” said Lachmann.

A resident of Albany, Lachmann said he uses Facebook, but to a limited extent.

“Now I use it mainly to check up on my kids,” said the father of two. “But, one of them has caught on and she made her wall private.”