



Facebook No Friend of MVA Plaintiff

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An Ontario Superior Court judge has ordered a plaintiff to re-attend an examination for discovery to answer questions about photographs of himself that he posted on his Facebook or MySpace pages. He also ordered the plaintiff to produce any such photographs to the defendant.

At examination for discovery, the plaintiff deposed that he had both a Facebook and a MySpace account. He was asked if he had posted photographs of himself on his pages. He refused to answer. He took the position that his web pages were private and he refused to answer any questions about them.

The judge held that photographs of the plaintiff, taken before and after the accident, were relevant. Photographs after the accident showed the effect of the injuries and whether and to what extent they affect his enjoyment of life. Photographs taken before the accident were relevant for comparison.

However, the defendant's success was mixed: The defendant also moved for an Order compelling the plaintiff to disclose his status updates and messages posted by others on his wall. In denying this request, the judge held that the defendant had not established the relevance of the plaintiff's status updates or wall posts.

This is yet another example of how social media is changing the landscape of documentary discovery in litigation.

The case is called [Morabito v. DiLorenzo](#).

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