



## "Private" Information on Social Networking Websites Deemed Discoverable

Joshua K. Richardson

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### **PRACTICE AREAS**

Technology Law

In what has become an increasing trend, a plaintiff in a personal injury suit has been ordered to produce otherwise "private" postings on her Facebook and MySpace social networking profiles. In *Romano v. Steelcase, Inc.*, a New York Supreme Court case, the plaintiff alleged that she suffered serious and permanent injuries after falling off a defective desk chair manufactured by Steelcase. The plaintiff further claimed that, as a result of these injuries, she was almost entirely bed-ridden.

Steelcase sought the "private" information after discovering public portions of the plaintiff's Facebook and MySpace profiles that revealed the plaintiff had "an active lifestyle" contrary to her claims. Agreeing with Steelcase, the court held that it was reasonable to infer from the limited information on the plaintiff's public profile pages that "her private pages may contain materials and information that are relevant to her claims or that may lead to the disclosure of admissible evidence." The court added that, "[p]laintiffs who place their physical condition in controversy, may not shield from disclosure material which is necessary to the defense of the action."

The court further held that the plaintiff's Fourth Amendment privacy right arguments were misguided because both Facebook and MySpace caution users that any personal information disclosed on the respective social networking websites may become public. The plaintiff, therefore, "consented to the fact that her personal information would be shared with others, notwithstanding her privacy settings."

As evidenced by this holding, personal information on social networking websites will not be deemed "private" for purposes of discovery simply because its owner shields the information from the general public by using self-imposed privacy settings. This information, like most other information, may be subject to disclosure in litigation to the extent it is relevant or is reasonably calculated to lead to the discovery of admissible evidence.

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