

# Woman Can Go Ahead With Lawsuit Alleging Facebook Defamation

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A teacher who said her ex-boyfriend broke into her Facebook account and sent malicious sexual statements can proceed with her lawsuit, a court decided Tuesday as it further defined how long someone can wait to bring computer-related claims.

The 2nd U.S. Circuit Court of Appeals in Manhattan restored the \$350,000 lawsuit Chantay Sewell brought against Phil Bernardin, who worked with her at a middle school.

A lower-court judge in Central Islip, on Long Island, had said the statute of limitations had expired on Sewell's claims that Bernardin broke into AOL and Facebook accounts. The appeals court agreed it's too late to bring AOL Inc. claims but said claims regarding Menlo Park, California-based Facebook are timely.

In a ruling written by Circuit Judge Robert Sack, a three-judge appeals panel said it was considering the statutes of limitations under the civil enforcement provisions of the Computer Fraud and Abuse Act and the Stored Communications Act for the first time.

It concluded that Sewell's Facebook claim survived because the statute of limitations did not start until she discovered in February 2012 that she could no longer access her account. It said it did not matter that she was denied access to her AOL account before then because it is common now that people have multiple Internet accounts with different usernames and passwords and the corruption of one does not necessarily mean the corruption of the others.

Sewell said in court documents she began dating Bernardin, a public school administrator, when they worked at a Queens middle school in 2002. She said she ended the relationship nine years later.

She said Bernardin had access to her house and personal computers.

"I am aware that he is techno-savvy and is fully capable of hacking into my computer," she said.

She said she paid an attorney \$9,000 over six months to investigate how she was denied access to her Facebook account and email. She said the probe revealed how defamatory emails were sent to her friends and relatives and how postings were made on her Facebook page with disgusting assertions about her.

She said she initially sued Bernardin's wife but settled that action after learning he had made the illicit postings. She said he confessed to her in December 2013 that he had made the postings.

Bernardin has fought the lawsuit on procedural grounds. His lawyers haven't commented.

Harvey S. **Mars**, a lawyer for Sewell, said he and his client were ecstatic with the appeals ruling after the court took a "sensible and flexible approach" to the law.

"He's a good-looking guy, and he bamboozled her," Mars said of Bernardin.