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Student Sues Over Facebook Photo Use

Teen says she was publicly humiliated when Fayette school official used her picture in a public speech on dangers of social media posts

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When a Fayette County school administrator gave a public seminar on how social media might permanently damage a young person's reputation, he singled out a Facebook photo of a bikini-clad high school senior to make his point.

He may have succeeded too well. The young woman, now 19, feels her reputation was damaged—not by the Facebook post but by how it was used. She has sued the school district and the administrator for \$2 million, claiming libel, slander, invasion of privacy and a host of other wrongs.

The suit, pending in federal court in Newnan, stems from a 2011 community forum presentation by Curtis Cearley, the Fayette school district's director of technology services on the dangers and often permanent nature of Internet postings.

During the slide show, he first displayed a cartoon in which a daughter confronts her mother over the mother's old Facebook page, which lists her hobbies as "bad boys, jello shooters and body art," according to the suit.

He followed it with a photo taken from the Facebook page of Chelsea Chaney, then a 17-year-old senior at Starr's Mill High School. Shown at a family outing at a lake, Chaney was wearing a bikini and standing next to a life-size replica of rapper Snoop Dogg. The rapper was holding a can of Blast—a caffeinated alcoholic beverage he promotes that is often referred to as "alcopop" because of its fruity taste and inherent appeal to underage drinkers.

In his presentation, Cearley identified Chaney by name and added this caption to the photo: "Once it's there, it's there to stay," said Chaney's lawyer, Paul "Pete" Wellborn III. Wellborn said that juxtaposing Chaney's photo with the cartoon implied that Chaney was engaging in equally questionable behavior.

Cearley's point, the lawyer said, "was to show how embarrassed and humiliated you can be if you put something on the Internet." In order to do it, Cearley publicly humiliated the high school senior with a photo in a Facebook album that was available only to Chelsea's Facebook friends and friends of friends, Wellborn explained.

"If I gave a seminar on the harm that results from hitting someone in the face with a baseball bat, if as part of that seminar I walked up to a student and hit him in the face with a baseball bat to illustrate the harm that results, it's absurd for me to say I didn't intend the harm," he said. Chaney, now a student at the University of Georgia, claims that Cearley's presentation violated the school district's social media policies governing the perusal and use of student's Facebook pages and other social media forums. In addition to



Matthew Moffett of Gray, Rust, St. Amand, Moffett & Brieske

the libel, slander and privacy claims, Chaney's lawyer said Cearley's public display of Chaney's Facebook photo violated the teenager's right to be free from unconstitutional searches and seizures by officers of the state.

"This case especially hit home to me because she is only a couple of years older than my daughter," said Wellborn. "All I could think of is how I would feel if someone had done this to my daughter."

Cearley's attorney, Matthew Moffett of Gray, Rust, St. Amand, Moffett & Brieske, said Chaney's case is not credible. "There is something I don't quite understand about this case," he said. "She puts a picture of herself with Snoop Dogg on the Internet, and now she claims she is entitled to millions of dollars because other people have seen the picture. ... I don't find her case to be credible because she is trying to get millions of dollars for her own decision to post a picture of herself on the Internet that she must now regret posting."

"My understanding is that it [the photo] is available for viewing on Facebook," Moffett continued. "When she posted that picture, what did she think? ... If she is contending that the picture casts her in some negative light or fashion, why did she post it? I don't get it."

Moffett also said that Cearley's public slide show did not identify the teenager by name.

Phillip Hartley of Gainesville's Harben, Hartley & Hawkins, who is representing the school district, could not be reached for comment.

After transferring the case from Fayette County Superior Court to federal court, Hartley and his legal team are seeking to have the case dismissed. The dismissal motion argues that Cearley's use of Chaney's photo did not violate her right to privacy because it "does not reveal personal, private or confidential information about her. Moreover, she posted the picture on Facebook for at least some of the public to observe. The picture does not contain private details of her life."

Chaney and Wellborn told the *Daily Report* in an interview Thursday that the reaction to Cearley's publication of Chelsea's photo was immediate and profound.

Chaney did not attend the school district's Internet seminar, but she said that friends who went immediately contacted her to tell her the district had made her look like "an alcoholic slut" and that they were "using" her "as a subject for what you don't do on the Internet."

"I didn't want to go to school," she said. "It was tough. You always have girls who will talk about you, say bad things about you. But when an adult says bad things about you when it isn't true ... I got really upset. I just remember crying down the hallway."

Chaney's problems didn't end with the seminar. Wellborn said that teachers began using Chaney's photo as a subject for classroom discussion, devoting entire class periods to it. Chaney was told that while her own teachers

were supportive—one sat down and cried with her—other teachers suggested that Chaney "had gotten what was coming to her" because she had posted the photo online.

Chaney said she felt as if she was being cyber-bullied by the school administration, even though the school district has a zero tolerance policy when it comes to students bullying other students. "It was honestly devastating," she said. "A lot of adults were at the seminar. ... There were a lot of people there who would probably believe another adult's word before they believe my word on my character."

Chaney said the incident colored her entire senior year. "It made everything more stressful. It was just my most awful experience ever, and it felt like people continued to talk about it."

Cearley eventually wrote Chaney and her parents an apology in a letter left with high school officials. Chaney said she was called to the office to pick it up. "It was just kind of like he didn't care at all," she said.

In his note, Cearley wrote: "In order to stress the very public and permanent nature of the media, and in an attempt to make the presentation as relevant as possible, it included a photo of a Fayette County student, your daughter. Upon reflection, inclusion of the photo at the Community Awareness seminar may have made a point, [but] it also embarrassed your family and for that I offer my humble apology. The intent was to educate, not to hurt, harm or embarrass. The consequences for your family clearly overwhelmed the objective intended for those present and, for that, I offer my apology."

"Ms. Chaney," the letter continued, "from the students I found with open profiles, I simply selected a photo at random. The embarrassment I may have caused you at school is an unintended consequence of my hasty actions. For that I offer my apology directly to you." Cearley also said he removed her photo from his presentation the morning after the event "as it was no longer viewable in the public domain."

Wellborn said that when a friend of Chaney's mother complained about Cearley, a deputy school superintendent defended him, saying, "You should have seen the ones that Cearley collected but didn't use" and described Chaney's photo as "the tamest of the bunch." Other photos Cearley had acquired included photos of students smoking, drinking alcohol or in various stages of undress, Wellborn said the friend was told.

Wellborn said that when Cearley began searching the Internet for compromising stu-

dent photos, he violated multiple school district policies governing Internet use by staff. Those policies forbid the unauthorized disclosure, use or dissemination of a student's identifying information, prohibits the access or download of any content or material from the Internet unless the downloading staff member complies with all copyright laws, and bars staff from using any electronic communication in a way that could cause offense to others, harass or otherwise harm them. The policies also require staff to notify a student's parents before making use of or otherwise interacting with a student's social media page.

But when a student, who was one of Chaney's friends, asked during the seminar whether the district had permission to use Chaney's photo, he was told, "We don't need permission," said Chaney's mother, Darlene. When he asked whether showing Chaney's photo was legal, school administrators "didn't have an answer," she said.

Darlene Chaney said that the thought of a middle-aged school administrator trolling through students' social media sites for incriminating photos was "kind of creepy."

"As a mother, it struck me at heart and core," she said.

Said Wellborn: "Simply because Chelsea put a bikini picture of herself on a semi-private portion of her social media page, it does not give the world at large the right to steal that picture and then publish it out of context ... and that is exactly what they did,"

"As important and as ground-breaking as some Internet issues are now," he continued, "the reason this case is important is because it involves a wrong done to a young person and a wrong done to a young person by school administrators to whom her care is entrusted. That's what makes my blood boil ... because of the effect it had on Chelsea and because it is so wrong."

The case is *Chaney v. Fayette County School District and Curtis Cearley*, No. 3:13-cv-00089 (N.D. Ga.).