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Newsroom

Monestier on Facebook's Potential Class-Action Exposure

Professor Tanya Monestier explains why a class action suit against Facebook for violating users' privacy just might work.

The online magazine [GoLocalProv News](#) features a conversation with Professor Tanya Monestier on a feasibility of a class-action lawsuit against Facebook. It's part of a [larger feature package](#) on Facebook's information-sharing practices:

Expert: Facebook Lawsuit Has Better Chance than Others

By Stephen Beale, GoLocalProv News Editor



May 26, 2010: Filing a class action lawsuit on behalf of one hundred million Americans can seem like a daunting task, but it is more feasible than many class lawsuits, one expert tells GoLocalProv.

An East Providence man is taking on Facebook in a class action suit, claiming in a complaint filed in federal court that the world's largest social networking Web site is violating users' privacy by sharing their personal information with third-party Web sites.

But first the plaintiff, Derrick Rose, needs a federal judge to certify that the complaint is actually a class action lawsuit, according to Tanya Monestier, associate professor of law at Roger Williams University.

If that happens, she said Facebook has three options: fight to the end, settle early, or wait-and-see.

In the third option, she said the company could see what evidence Rose and his attorney come up with, before deciding what to do.

The case must meet a number of conditions in order to be certified as a class action. One of the most important ones is the feasibility, or “manageability” of suing on behalf of the more than one hundred million Americans who use Facebook.

That is easier than it might at first seem, Monestier said, when compared to other class action lawsuits. Class actions over tobacco or pharmaceutical products, for example, can be unmanageable because those products do not have the same impact on every person.

Someone who has been smoking since the 1950s before warnings over its health risks were publicized is not in the same boat as a person who started smoking in the 1990s, Monestier said. Likewise, someone who is around second-hand smoke has a different kind of exposure than an actual smoker.

But the lawsuit against Facebook involves privacy rights and claims that all users were equally affected when the company automatically enrolled them in a program that shares their information with other Web sites.

“Even though this is large and sprawling in terms of numbers, this is actually small and more discrete in terms of the legal issues,” Monestier said.

Another big advantage: the suit cites only two causes. One is the privacy issue, which involves a federal statute, the Stored Communications Act. The other is the claim that Facebook broke the “good faith and fair dealing” that is implied in the contracts it has with users.

Normally, Monestier said class action lawsuits will have a dozen or more causes for the action. The fact that this one has only two is a smart move, she said. “What it tells me is that they are being a little strategic to avoid the kinds of problems that plague other kinds of class action lawsuits,” she said.

After reviewing the complaint, Monestier concluded that it had a good chance of getting certified as a class action lawsuit. “This is the type of class action that is most amenable to certification,” she said.