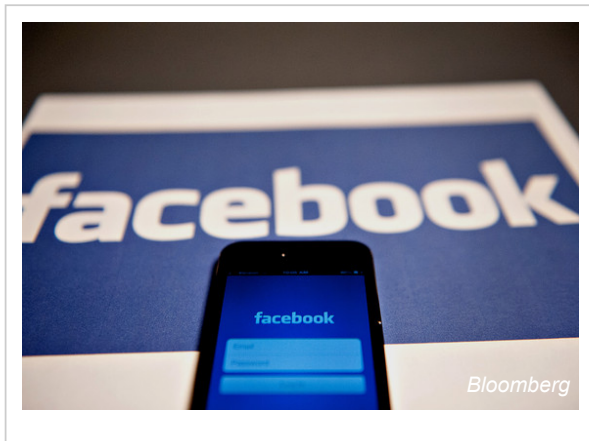




# Courts use Facebook to serve subpoenas and divorce papers

By [Quentin Fottrell](#)

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On Facebook, you have always been able to “unfriend” someone. Now you can use it to divorce them.

Manhattan Supreme Court Justice Matthew Cooper granted permission to Ellanora Baidoo, a Brooklyn, N.Y.-based nurse, to serve her estranged husband Victor Sena Blood-Dzraku with a divorce summons through a private message on Facebook [FB](#), [-0.16%](#). “This transmittal shall be repeated by plaintiff’s attorney to defendant once a week for three consecutive weeks or until acknowledged,” according to the ruling, first reported by the [Daily News](#). “The idea that a defendant must have notice of a proceeding against him or her is fundamental to our notion of due process,” says Atlanta-based attorney Randy Kessler. In

some cases, he adds, Facebook could be more effective than a notice in a newspaper’s classified section.

This is not the first time legal papers have been served over Facebook. Last year, Staten Island Support Magistrate Gregory Gliedman granted Noel Biscocho [permission to use Facebook](#) to send his ex-wife, Anna Maria Antigua, a legal notice telling her that he no longer wished to pay \$440 a month in child support as his son had turned 21. “We’ve seen a trend toward using social media for the serving of documents,” says Omar Ha-Redeye, attorney with Fleet Street Law in Toronto, Canada. “Courts typically use it as an option of last resort. They will allow service of documents on social media where it’s impossible, impractical or not easy to serve them through registered post or in person.”

Old-fashioned phone logs are child’s play compared with tracking someone using social media. “Social media evidence includes, among other things, photographs, status updates, a person’s location at a certain time, and direct communications to or from a defendant’s social media account,” according to a 2013 paper, [“Social Media Evidence in Government Investigations and Criminal Proceedings: A Frontier of New Legal Issues,”](#) (pdf) by Justin P. Murphy and Adrian Fontecilla published in the “Richmond Journal of Law & Technology.” When a social media company like Facebook responds to a government subpoena, it could provide the user’s profile, wall posts, photos shared or tagged, a list of the user’s Facebook friends, login and IP data, the paper found.

[Read: Does Facebook break up marriages?](#)

Post-divorce, social media also provides attorneys with valuable information, says James McLaren, president of the American Academy of Matrimonial Lawyers, and partner at McLaren & Lee, a legal firm in Columbia, S.C. Case in point: Marilyn Chinitz, a matrimonial lawyer at Blank Rome law firm in New York, gleaned useful information in a case when a client’s estranged husband checked into one of the most expensive hotels in Paris on Facebook and shared a photo of his girlfriend’s Hermès bag that cost between \$12,000 and \$15,000. He had previously maintained that he had no money. “With this one thread, we subpoenaed his credit card statements,” she says. “On social media, not every friend is really a

friend.”

Similarly, social media is a rich source of evidence for courts in criminal trials. The New York Police Department has a social media unit that mines sites for evidence of crimes and potential criminal activity, that paper also found. Last week, U.S. District Judge Nicholas Garufis sentenced New York rapper Ronald “Ra Diggs” Herron to 12 terms of life in prison, plus 105 years for drug trafficking, racketeering and gang-related killings. His YouTube videos, in which he rapped about belonging to a street gang, were used as evidence. “We now have what’s known as electronic discovery,” says Seymour Reisman, a partner in the Garden City, N.Y. law firm Reisman, Peirez, Reisman & Capobianco. “It’s a whole new ballgame.”

[Read: Why it's a bad idea to write personal emails on a work serve](#)

The opposite is also true: Social media can be used to fend off problems. Andrew Jarvis rented an apartment in New York City, which is the base for his architecture firm, but did not want to pay additional taxes as he spent most days at his home in Philadelphia, so he set up an Instagram account with the help of his daughter showing himself holding up that day’s paper in front of his house or photos with the date and time clearly visible. “He has to prove to the taxman that he is in Philly at least 183 days out of the year in order to avoid N.Y. taxes,” his daughter Anne wrote on his Instagram page and website [InternalRevenueSelfies.com](#). “The result is a series of self-timer masterpieces.”

Serving papers using social media or citing it as evidence is not without its complications, however. Metadata — the information embedded in photographs — can be manipulated and must be subjected to careful forensic examination, Ha-Redeye says, and it can be difficult to ensure that a social media account is active and/or genuine. In a 2010 case, a federal court found that photos of a defendant from his MySpace page, which showed him holding cash, were relevant in his criminal trial for possession of firearms and drugs, but it withheld ruling on the admissibility of the photos and whether they presented a risk of unfair prejudice, Murphy and Fontecilla’s paper found; that defendant ultimately plead guilty.

A valid subpoena issued in connection with an official criminal investigation is required to compel the disclosure of basic subscriber records, which may include name, credit-card information, email addresses, and a recent Internet Protocol address, according to Facebook’s [“Information for Law Enforcement Authorities.”](#) But federal law does not allow private parties to obtain account contents such as messages, timeline posts or photos, using subpoenas. That said, Murphy and Fontecilla’s paper concluded that courts “seem to be erring on the side of admissibility and leaving any concerns about the evidence itself, such as who authored the evidence or whether it’s legitimate, to jurors to decide.”

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