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Gruesome death photos are at the forefront of an Internet privacy battle

A car crash victim's father is suing the CHP over the wide dissemination of pictures of his daughter's body.

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Three weeks after his 18-year-old daughter sped away in his Porsche and swerved to her death in Lake Forest, Christos Catsouras understood why he had not been allowed to see her body.

Photographs of the Halloween 2006 crash, taken and leaked by the California Highway Patrol, were proliferating on the Internet. The crash had left his daughter unrecognizable.

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Catsouras said he found 35 websites — and soon hundreds more — that showcased the macabre photographs, some with headlines that mocked his daughter. When he took them to the attention of CHP officials and pleaded for help, he said, they told him there was nothing they could do. "They said if we wanted to file a complaint, we could file a complaint."

The result: a lawsuit that, even though it has yet to go to trial, has reshaped the boundaries of privacy law in the Internet age.

In 2008, an Orange County Superior Court judge threw out the lawsuit against the CHP and two civilian dispatchers accused of disseminating the photos, on the grounds that the agency had not breached any legal duty to the family. The law, at the time, did not recognize the right of family members to sue for invasion of privacy involving photos of the dead.

That changed in January, when the state's 4th District Court of Appeal in Santa Ana reversed the decision. For the first time in California, the court established that surviving family members have a right to sue for invasion of privacy in such cases.

"We rely upon the CHP to protect and serve the public," the court said. "It is antithetical to that expectation for the CHP to inflict harm upon us by making the ravaged remains of our loved ones the subjects of Internet sensationalism."

The Catsourases, of Ladera Ranch, won another legal victory last month, when the state Supreme Court refused to review the case and sent it back to the Superior Court, paving the way for a trial. "For 31 1/2 years, I've had so many questions," Catsouras said. "Why did they do it?"

The questions of how the photos were spread and how many people were involved are expected to be answered as the discovery process gets underway. The Catsouras family's lawyers described the CHP dispatchers' behavior as "a ghoulish prank" and said they have asked the agency to give the family ownership of the crash photographs, which would empower them to demand that websites take them down.

"You don't want your children to relive this for the rest of their lives," said Keith Bremer, one of the family's attorneys.

Bremer said that the Catsouras case is already being cited as precedent in other privacy cases across

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the country and that he expects other states to enact law in keeping with the California Court of Appeal ruling.

Jaime Coffee, a highway patrol spokesperson, said the CHP has adopted a "modified policy in regard to handling photographs" and had sent out cease-and-desist notices in an effort to remove the Catsouras photos from the Internet. Coffee declined to be more specific or to say what websites notices were sent to.

Nikki Catsouras' family described her as a shy, free-spirited photography student at Saddleback College who loved to work with special education children. She had surgery to remove a brain tumor when she was 8, the family said, and in mid-2006, she was confined to a psychiatric ward for three days after using cocaine, which she claimed a boyfriend had given her.

Two months later, on Oct. 30, her father said, he confiscated her car keys after she confessed to having used the drug again. Without permission, she took her father's Porsche, a car she'd never driven before, the next day. Her family suspected it might have been an attempt to avoid a doctor's appointment and another potential hospitalization.

Accelerating to more than 100 mph along the 241 toll road, she clipped another car near Alton Parkway and veered into an unmanned toll booth. She was decapitated and pinned in the wreckage. Her father, who had placed a 911 call after she sped away, was prevented from seeing the crash site.

Within days the Internet was swarming with grisly photos, some of them describing her as "Porsche girl" and portraying her as a spoiled Orange County girl who got what she deserved. Her father received taunting, anonymous e-mails with the photos.

The Catsourases have three other daughters, now aged 11, 17 and 19, who are encouraged not to use the Internet for fear they might stumble across the photographs.

When the youngest girl was given a school assignment to do an Internet search of her name, she was taken out of class as a precaution. A seemingly innocuous Web search can conjure the photos, the family said.

"I'm determined to get them off the Internet, although I've been told by every single person who's an Internet expert that we will never get them removed," said Christos Catsouras, a 46-year-old Realtor.

Catsouras said he thinks that if the CHP had agreed to aggressively help when he first approached the agency, the spread of the photos might have been curtailed.

In its financial claim against the CHP, a precursor to the suit, the Catsouras family asked for \$20 million for emotional distress and punitive damages.

"We feel for the tragic loss of their daughter," said Coffee, the CHP spokesperson. She said the CHP investigated and took "corrective measures" for the dispatchers' actions. She did not offer specifics.

Alexander Wheeler, a lawyer for Thomas O'Donnell, one of the dispatchers accused of disseminating the photographs, said his client was a 20-year veteran of the agency and the son of a 37-year veteran CHP officer. Wheeler said his client e-mailed the crash photographs from his work computer to his home computer.

"What I understand is, these [photographs] were going around the department," Wheeler said. "If liability is who e-mailed them out, there might be hundreds of defendants in this case."

Wheeler said O'Donnell remains a dispatcher for the CHP. He said that when his client was growing up, his father subscribed to a CHP magazine which regularly featured gruesome photographs intended to demonstrate the dangers of unsafe driving. "It's steeped in CHP tradition to get these photographs out there," Wheeler said.

The lawyer for the other dispatcher, Aaron Reich, did not return calls seeking comment. Reich left the department in 2007. The attorney general's office, which is representing the CHP, declined to comment.

Soon after the photos hit the Internet, the Catsouras family contacted Michael Fertik, who had just founded ReputationDefender, a Redwood City-based company that seeks to protect customers' online reputations.

Since late 2006, Fertik said, his company has persuaded websites to remove 2,500 of the crash photos, but they continue to spread rapidly and exponentially, beyond his ability to remove them.

Fertik said the case illustrates that in the age of the Internet, "whether you opt in or not, you're opted in."

"Right now, the law protects copyright more than it does privacy," Fertik said. "The laws that were passed in this field, in the mid- to late 1990s, made sense at the time. That was the Jurassic era of the Internet."

christopher.goffard@latimes.com

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JimmyJam at 8:48 PM May 14, 2010

The pictures could have all been avoided if the girl didn't take daddy's Porche, speed like an idiot, crash into an innocent motorist and almost kill that motorist, then crash into an object on the side of the freeway. Daddy needed to control his daughter or put her on some good meds. Also, place the keys to the Porche away from your kids. Lets keep spreading those pics to the jury and more and more people. Nice work dad.

ANDRGNY at 8:34 PM May 14, 2010

To Syscom: "I've seen the pics. No big deal"???? I've seen them, too. They are GODAWFUL; never saw anything so horrifying in my life! If you think they are "no big deal", you are one insensitive, uncompassionate, sadistic individual.

smaier69 at 7:40 PM May 14, 2010

my opinion is, the the pictures were taken in a public place, the "invasion of privacy" argument is moot. if the girl in question had let's say... committed suicide in a gruesome way inside the family home, I would probably agree with their complaint.

Yes, leaking the pictures and people subsequently posting them on the internet is in very bad taste, but such is life in our modern society, where making a dollar carries more weight than any form of civility (not that I agree with that idea, mind you).

Discussion FAQ



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