

## NEWS

### Facebook Accounts May Be Discoverable

Last year we provided a cautionary note on the use of Facebook accounts. We return to that point now with a stronger recommendation that Facebook not be used while your lawsuit is pending. Over the past year many courts from around New York State have determined that a defendant/insurance company may obtain not only the public portion of your Facebook page but private postings as well. Initiating a lawsuit to recover for personal injuries means that the injured party places his or her physical and emotional well being at issue. These courts have determined that the ordinary postings of Facebook users could have a bearing on these issues. Therefore, the trend we see is that the courts are more willing to grant access to the defendant/insurance company. There is very little authority from the appellate courts on this issue, but based on the trend of trial court decisions, we make these recommendations now. The insurance defense industry has enough tools at hand to fight the claims of those legitimately injured. Clients can eliminate this potentially effective tool by simply turning off their Facebook account.

## June 2011 Newsletter

### FEATURED CASE

#### Suit to be Filed in UB Drowning Case

We have notified the State that we intend to file a lawsuit against the State University at New York at Buffalo as a result of the April 2011 drowning of our client's wife. Because the conduct of the State is involved, procedural requirements necessitated the filing of a Notice of Intention to File Suit before a lawsuit can be commenced. We contend that the staff at the University at Buffalo failed to properly supervise patrons in the Alumni Arena pool the evening of the incident. Our client was found unresponsive in the pool during an open swim. She is survived by her husband who is a graduate student at the University.