

# Chicago Daily Law Bulletin - Judge nixes bid for Facebook archives

**Editor's note:** *This story has been updated with comments from the lead defense attorney that were received after press time.*

The defendants in a wrongful-death lawsuit cast too wide a net when they asked to see the Facebook archives of an accident victim and her family going back seven years before she died, a federal judge held Monday.

In a written opinion, U.S. Magistrate Judge [Jeffrey T. Gilbert](#) conceded the archives contain information concerning Catherine Cong Ye's relationship with her immediate relatives and the emotional pain her death caused them.

"The court realizes that defendants are seeking content relating to damage issues that are at times hard to ascertain, such as the grief, sorrow and mental suffering of the decedent's next of kin following her death," Gilbert wrote.

But even though the state of mind of Ye's parents and sister "may be relevant" to the claim for damages, he continued, the request to see the family's Facebook archives beginning when the social media site became available in 2006 is too broad.

"Although almost everything that is posted on social media can reflect a person's emotional state of mind, that does not mean that defendants can inquire into every conversation and interaction the decedent and her next of kin ever had with anyone in the world," Gilbert wrote, citing cases that included *Holter v. Wells Fargo and Co.*, 281 F.R.D. 340 (2011).

He wrote that the defendants in the suit — truck driver Kevin Goettl and his employer, Cliff Viessman Inc. — had failed to tailor their request for the Facebook archives "to relevant content only."

Gilbert denied without prejudice the motion to compel production of the archives. That leaves the way open for the defendants to try again with a narrower request.

The lead attorney for the Ye family, [Michael E. Maher](#) of Albert J. Salvi & Associates in Waukegan, could not be reached for comment.

The lead attorney for Goettl and Viessman is [Michael R. LaBarge](#) of LaBarge, Campbell & Lyon LLC.

"We are pleased that Judge Gilbert recognizes Facebook data can be, and is, relevant and discoverable," he said. "We intend to file a revised production request pursuant to the judge's order."

In April 2013, Ye was killed when she was struck by a tractor-trailer truck leased by Viessman and driven by Goettl. She was 24 years old.

Ye's family alleges she was standing on the sidewalk on Randolph Street near Halsted Street in the West Loop when Goettl exited the Kennedy Expressway.

The truck traveled onto the sidewalk as Goettl made a right turn from the exit ramp and struck Ye, the family alleges.

The family maintains Goettl acted negligently by driving too fast and by failing to watch for pedestrians, properly execute the turn, remain in one lane or honk the truck's horn or give some other warning of his approach.

Ye's father, Maochun Ye, sued Goettl and Viessman as special administrator of his daughter's estate.

He filed the suit in Cook County Circuit Court under the Illinois Wrongful Death Act and the Illinois Survival Act. The suit also includes counts seeking funeral and burial costs.

The suit seeks damages for Catherine Ye's father; her mother, Qian Zhang; and her sister, Amy Ye.

Goettl and Viessman deny Goettl was negligent or failed to comply with traffic laws.

They removed the suit to federal court under diversity jurisdiction.

Viessman, which provides freight trucking services in the United States, is based in Gary, S.D. Goettl is a Minnesota resident.

The case is assigned to U.S. District Judge [John Z. Lee](#). He referred discovery matters to Gilbert.

During discovery, Goettl and Viessman asked for a "complete archive" of the Facebook pages of Ye and her family.

Goettl and Viessman filed a motion to compel production of the information after the Ye family balked at providing it.

In his opinion, Gilbert wrote that "repositories of social media content" such as Facebook raise challenges for the courts.

"The amount of information potentially subject to production is huge, data is retained for a long period of time and the number of people with whom the Facebook account holder communicates is potentially limitless," Gilbert wrote.

However, he wrote, a party in a suit may be compelled to produce Facebook information if the party seeking the information "makes a threshold relevance showing."

Goettl and Viessman did not show that all the information they sought in their overly broad request to compel production is relevant, Gilbert held.

The request for Facebook archives is not limited to communications between Ye and her family, he wrote, and it is not limited to communications concerning certain topics.

The request also is not limited to a particular time period, Gilbert wrote.

He wrote it is possible to draft a more narrowly tailored request for production.

“But it is not the court’s role to tailor or rewrite the discovery request for defendants,” he wrote.

The case is *Maochun Ye v. Cliff Viessman Inc., et al.*, No. 14 C 1531.