

Judge says bank can't use Facebook to reach defendant — try local paper instead

In the latest example of courts' unease with social media, a federal judge has refused a request by Chase Bank to serve legal papers on an identity thief via Facebook.

In an order issued Friday in Manhattan, US District Judge John Keenan said "service by Facebook is unorthodox to say the least" and told the bank to instead place ads in local newspapers in and around the town of Hastings, New York.



The case turned on Nicole Fortunato who reportedly used her mother's identify to obtain a credit card from Chase and run up charges of \$1,243. The mother, Lorri, claimed she and her daughter are estranged and filed a lawsuit against Chase after the bank garnished her paychecks to recover the debt.

Now, Chase is trying to sue Nicole but can't find her. The bank hired a detective who found four possible addresses as well as a Facebook profile that lists a Nicole Fortunato in Hastings, New York. After failing to find Nicole at any of the addresses, Chase asked the judge for permission to use alternate methods to serve her (normally, courts allow only a few ways to perform "service" — the process that lets a court know a defendant is aware of a lawsuit).

In rejecting Chase's request to use Facebook, Judge Keenan said "this Court is unaware of any other court that has authorized such service." Facebook service isn't unusual, however, in other places. Courts in Australia and New Zealand all allow service via the social network and, in February, the High Court in England allowed service by Facebook and Twitter in a [highly-publicized ruling](#).

To be fair to Judge Keenan, he also wrote that Chase hadn't proved that the Facebook profile was the right Nicole Fortunato and that "the Court's understanding is that anyone can make a Facebook profile using real, fake or incomplete information." Still, it's interesting that he didn't note whether the public profile picture corresponded to the Nicole in question. Also surprising is his conclusion that "a local newspaper is the most likely means by which to apprise Nicole." While such papers are anchors of local communities, is it likely that a young woman who appears to be troubled and transient is reading those papers?



The Nicole case is just one of a growing number of awkward collisions between social media and courts which, by their nature, are very conservative institutions. Other recent examples include [tweeting jurors](#), improper Facebook [friending](#) between judges and lawyers and [increased use of social media evidence](#) in trials.

Here's a copy of the ruling:

