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Why you should never post your vacation pics on Facebook

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The Internet does a whole bunch of things. One thing it doesn't do is forget.

Increasingly, that hard lesson is being taught to Canadians by insurers and employers.

In the latest instance, a Quebec woman has lost her disability benefits after her insurer, Manulife, discovered photos on her Facebook profile of her vacationing. Nathalie Blanchard, 29, had been off work for more than a year. When her monthly benefits stopped, she phoned her insurer for an explanation.

She was told that Manulife had discovered a series of pictures of her on vacation and no longer believed she was disabled. Blanchard countered that the short trips were suggested by her doctor as curatives. The case is headed to court Dec. 8.



One of the vacation photos that Nathalie Blanchard posted on her Facebook page that led to her losing her medical payments for depression.

Blanchard's dilemma is one of a growing number of conflicts revolving around the intersection of social networking and the legal system.

"(Searching social networking sites) is fairly common now," says Joe Martins, co-owner of Toronto's Infinity Investigation, a private detective agency.

He described finding pictures of the targets of his investigations on vacation and out at night in bars and clubs.

"Often, they're in the picture doing some sort of physical activity. Then they turn around and say they can't perform it," Martins says.

Is he surprised by what people post publicly online?

"Absolutely," says Martins. "It's like you're putting it into a modern-day encyclopedia."

Blanchard's lawyer, Thomas Lavin, has moral, rather than legal qualms, with the burgeoning investigative tool.

"It's on the same level as insurance companies that hire private detectives to hide behind people's hedges to photograph them mowing their lawn when they're supposed to have a back injury," Lavin says. "It's an invasion of privacy, but it's not illegal."

Blanchard's position is increasingly common.

In September, the Insurance Corporation of British Columbia took Mirae Mayenburg to court over Facebook photos that showed her hiking and cycling.

Mayenburg contended that a car accident left her incapable of working certain jobs and made it painful to participate in some of her favourite hobbies. The judge allowed the ICBC to present 69 photos that it argued proved otherwise. (Though the photos were considered, the judge ruled they did not undercut Mayenburg's case.)

"(The Internet) is a commonly used investigative tool for us," says ICBC spokesperson Mark Jan Vrem.

Investigators are keen to point out that they don't use workarounds – posing as long-lost friends to get behind people's Facebook firewalls, for instance. All of the info they've accessed is publicly available, perhaps, as Vrem suggests, because users don't properly understand how

to configure Facebook's privacy settings.

Says Vrem: "Some people are not as circumspect as they perhaps should be."

In other cases, a British worker was fired for complaining about being "bored" at work. A Swiss insurance worker (oh, the irony) was let go for Facebooking while at home sick.

"This is not unusual," says Peter Biro, a partner at Toronto's WeirFoulds LLP. "You're going to see kajillions of cases like this out there."

"If the people who are using social networks are at all vulnerable in any areas of their life, they should be very careful about what they post," says defence attorney Lavin, "because whatever they post is part of the public domain."

In the end, even the pros know that when the *kids* get cautious, it's time to be wary.

"I take my cues from my son," says the ICBC's Vrem. "He told me, 'Dad, don't use Facebook. It'll come back to bite you.'"