

## At Long Last, A Small Justice

**When grisly images of their daughter's death went viral on the Web, the Catsouras family fought back. Two years later, a court rules in their favor.**

By **Jessica Bennett** | Newsweek Web Exclusive  
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They say losing a child is the worst thing a parent can endure. But for Christos and Lesli Catsouras, whose 18-year-old daughter, Nikki, **was killed in a devastating car crash in 2006**, there was something much, much worse. Two weeks after their daughter's death, on Halloween day, Christos got a phone call from a friend. "Have you seen the photos?" he asked, hesitantly. Nine color close-ups of Nikki's mangled remains, still strapped into her father's crushed car, had been circulating around town by e-mail. Within days, the images went viral, popping up on hundreds of sites. Now a California court has handed the family an important legal victory.

Nikki's parents found out about the accident, which took place on a toll road near their Orange County, Calif., home, just moments after it happened. But they were forbidden by the coroner from identifying their daughter's body—it was simply too terrible for a parent to see. So you can imagine their horror when, a few days later, Nikki's mother came across the images as she searched for an article about the crash. Soon after, Christos opened an e-mail he thought was from his office that had the images pasted into the body of the text. "Woohoo Daddy!" the message read. "Hey Daddy, I'm still alive." They discovered a fake MySpace page set up in Nikki's name, where commenters proclaimed she "deserved it," and the images posted on sadistic blogs devoted to pornography and death. In the worst of the photos, Nikki's nearly severed head is shown through the shattered window of her father's Porsche.

The Catsouras family hired a lawyer, **Keith Bremer**, and a tech company called **Reputation Defender**, which **works to remove malicious content from the Web**. Together, they determined that the photos had come from two dispatchers with the California Highway Patrol: 19-year-veteran Thomas O'Donnell, who still works at the agency, and Aaron Reich, who quit soon after the incident. The dispatchers had allegedly e-mailed the photos, while off duty, to relatives and friends—in an attempt, their lawyers have said, to warn others of the dangers of the road. "It was a cautionary tale," Jon Schlueter, Reich's attorney, **told NEWSWEEK last year**. Nikki had been driving at close to 100 mph when she clipped another vehicle, tumbled over the median and across three lanes, smashing into a concrete toll booth and landing upside down. The other driver walked away from the accident unharmed.



The Catsouras family, of course, didn't see the aftermath of their daughter's story as a tale of caution—and they sued the CHP for negligence, invasion of privacy, and intentional infliction of emotional harm, among other charges. But in March 2008, their suit was dismissed after a trial judge ruled that the dispatchers' conduct, though "utterly reprehensible," hadn't violated the law. "It's an unfortunate situation, and our heart goes out to the family," R. Rex Parris, the attorney representing O'Donnell, **has told NEWSWEEK**. "But this is America, and there's a freedom of information."

Nearly two years later, a California appeals court has made clear that freedom of information is not the only issue at hand. On Jan. 29, it issued a unanimous opinion reversing the superior court's ruling, paving the way for a jury trial (or perhaps more likely, say legal experts, an out-of-court settlement between the Catsouras family and the CHP). In its **64-page published opinion**, the three-justice court panel chastised the dispatchers' behavior as "morally deficient," stating that they'd violated the family's right to privacy and caused them emotional distress for the mere purpose of "vulgar spectacle." They continued: "It was perfectly foreseeable that the public dissemination, via the Internet, of...the decapitated remains of a teenage girl would cause devastating trauma to the [family.]"

It's a big victory for a family that has waited, for years now, for some semblance of justice. The Catsouras family has had to take out a second mortgage on their home to cover the cost of their legal fees. They've forbidden their daughters from using social-networking sites like MySpace, and took two of Nikki's younger sisters out of school, for fear the adolescent rumor mill would be too much. Their second-oldest daughter, Christiana, is now a junior at the local high school, but memories of her sister pop up when she least expects it: last year, a firefighter came to her class to lecture on driver safety. Not knowing Christiana was in the classroom, he mentioned Nikki, and Christiana fled the room crying, petrified he would show the images, which seem never to go away. Google still delivers 148,000 results for "Catsouras," and there are multiple Web sites devoted solely to the awful photos. "It's the simple things you never expect," says Christos. "We live in fear of the pictures. And our kids will never Google their name without the risk of seeing them."

A spokeswoman for the California Highway Patrol told NEWSWEEK that the agency cannot comment on pending litigation but that "the CHP feel[s] for [the Catsouras family's] tragic loss." She also says the agency has initiated "corrective measures" for the action of the employees, and updated its photo-handling policy. "The CHP is a professional law enforcement agency and demands its employees conduct themselves appropriately at all times," the agency said in a statement. "As it did in this instance, the Department takes allegations of misconduct seriously."

Nevertheless, the challenge remains: what can the Catsouras family do about the remaining photos, ever present on the Web? Many of the bloggers who post such images are anonymous, and it's impossible, on a legal level, to hold every Web host accountable for the speech of each individual user. Moreover, posting damaging pictures may be traumatic, but it's not libelous—which means it's hard to bring legal action. One tactic, says privacy-law expert Daniel Solove, a professor at George Washington University, would be for the family to prove in court that the photos were not obtained via public record and were not of legitimate concern to the public. Another, says Michael Fertik of **Reputation Defender**, would be for the CHP to copyright the images, so that anyone who posts them would be liable for infringement. But perhaps most likely, says the family's lawyer, would be for the CHP to cooperate with the family and give them ownership of the images, which would allow them to go after anybody who was posting them without permission. "It's going to be hard to get them off the net," says Solove, author of *The Future of Reputation: Gossip, Rumor*

*and Privacy on the Internet.* "But it's not impossible."

Bremer, the family's lawyer, says it's likely the CHP will appeal this latest decision with the California Supreme Court—but he's confident that his clients will prevail. And though no legal action will bring their daughter back, Lesli and Christos Catsouras take solace in the fact that the seemingly endless nightmare they've had to endure may finally be over. "In a perfect world, I would push a button and delete every one of the images," says Lesli. "But it feels good knowing that at least now, at least in California, our case will [help] prevent this from happening to anybody else." For the moment, it's the best possible outcome to any parent's worst nightmare.

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