

# Judge: Facebook comments did not defame Oceanside grad

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A State Supreme Court justice in [Nassau](#) County has dismissed a \$6-million lawsuit filed by an Oceanside High School graduate against four of her former classmates, alleging defamation by the four teenagers through posted messages on a private Facebook group page.

While the actions of the four defendants were "puerile" and lacking in "taste and propriety," Justice Randy Sue Marber wrote in her decision issued Thursday, the Facebook comments did not defame plaintiff Denise Finkel's character.

"The entire context and tone of the posts constitute evidence of adolescent insecurities and indulgences, and a vulgar attempt at humor. What they do not contain are statements of fact," Marber wrote.

"I was very disappointed with the judge's decision," Finkel, 20, said Friday. "This whole episode was traumatic and continues to be emotionally scarring every day. But in light of the fact that cyberbullying and cases like these are proliferating, and so many people are being hurt, I felt that it was important to speak up and take a stand on behalf of other victims of defamation."

Cyberbullying is not a basis for litigation in New York State, according to Marber.

The suit, filed in 2009, originally included Facebook as a named defendant, but the claim was dismissed because of a federal statute that protects website operators from liability for their users' posted comments.

"We all believed this case was not a \$6-million claim," said lawyer Josh Ketover, who represented defendant Leah Herz of Oceanside. "These were kids on a Facebook site having a private chat - kids being kids."

Defendants, Michael Dauber and Jeff Schwartz of Oceanside, could not be reached for comment. A man who answered the phone at the Oceanside home of defendant Melinda Danowitz declined to comment.

Finkel, who graduated from high school in 2008 and is attending college at an undisclosed school, said she may appeal Marber's decision.

"They never apologized," said Denise's mother, Linda Finkel. "There was no remorse ever from them."

"Everybody who does something like this, they don't stop unless there's some kind of accountability," Linda Finkel said.

Marber also said the young adults' parents - who were named as co-defendants in the suit - bore no liability. Denise Finkel's suit had alleged that the parents were neglectful of teens who had use of a dangerous instrument: their computers.

"To declare a computer a dangerous instrument in the hands of teenagers in an age of ubiquitous computer ownership would create an exception that would engulf the rule against parental liability," Marber wrote.

The attempt to hold parents responsible for their children's online activity is "uncharted territory," said Justin Patchin, associate professor of criminal justice at the [University of Wisconsin](#)-Eau Claire and co-director of the Cyberbullying Research Center.