

Ex-lover's suit raises questions about ethics of online diaries The Boston Globe

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WASHINGTON -- When Robert Steinbuch discovered his girlfriend had discussed details about their sex life in her online diary, the Capitol Hill staffer didn't just get mad. He got a lawyer.

Soon, though, the racy tidbits about the sex lives of the two Senate aides faded from the front pages and the gossip pages. Steinbuch accepted a teaching job in Arkansas, leaving Washington and Jessica Cutler's "Washingtonienne" Web log behind.

While sex scandals turn over quickly in this city, lawsuits do not. Steinbuch's case over the embarrassing, sexually charged blog appears headed for an embarrassing, sexually charged trial.

The Washingtonienne case could help establish whether people who keep online diaries are obligated to protect the privacy of the people they interact with offline.

Cutler, a former aide to Senator Mike DeWine, an Ohio Republican, says she created the blog in 2004 to keep a few friends up to date on her social life. Like a digital version of the sex-themed banter from a "Sex and the City" episode, Cutler described the thrill and tribulations of juggling sexual relationships with six men.

One of those men was Steinbuch, a counsel to the Judiciary Committee. Cutler called him the "current favorite" and said he resembled George Clooney .

"He's very upfront about sex," she wrote.

When Ana Marie Cox, then the editor of the popular gossip site [wonkette.com](http://www.wonkette.com), discovered and linked to Cutler's blog, the story spun out of control. Cutler was fired and Steinbuch says he was publicly humiliated .

Steinbuch also recently added Cox as a defendant , though he has not served her with court papers. A trial date has not been set, but Matthew Billips, Cutler's attorney, said there are no settlement talks that might head off a trial.

Neither Steinbuch nor his attorney returned phone calls seeking comment. In court, attorney Jonathan Rosen said Steinbuch wants to restore his good name. Students in his legal ethics class all search the Internet and learn about the blog, Rosen said.

To win, Steinbuch will have to prove that the details of their sexual relationship were private and publishing them was highly offensive.

If the case goes to trial, its outcome will be important both to bloggers and to people who chronicle their lives on social-networking sites such as MySpace and Facebook. Marc Rotenberg, director of the Electronic Privacy Information Center, said he may teach the Washingtonienne case this spring during his class at Georgetown Law School.

"Anybody who wants to reveal their own private life has a right to do that. It's a different question when you reveal someone else's private life," he said, adding that simply calling something a diary doesn't make it one. "It's not sitting in a nice, leather-bound book under a pillow. It's online where a million people can find it."

Rotenberg asked, what if Cutler had secretly videotaped the encounters and sold the videos without Steinbuch's consent? There has to be a line, he said.

Since being fired, Cutler moved back to New York, wrote a novel based on the scandal, and posed nude for Playboy.

She wouldn't discuss the case but said she's amazed .

"The fact that anyone was interested in the first place was a surprise," she said. "The fact that there was a lawsuit in the first place was a surprise. That it's still going on is a surprise." ■