

# How Social Media Savvy Can Help You Investigate Claims

By Amanda J. Podlucky

*Claims Journal*

*May 29, 2015*

There is no denying that social media is all around us, so deeply integrated into our society that individuals and businesses alike are using these applications to connect. From following celebrities to scoring deals from your favorite stores, the use of social media extends far and wide, all from the touch of your smart phone or click of the mouse. Despite the ever-growing applications for social media, one thing remains constant: people are using various websites and applications to share their lives online. In fact, many people use multiple social media applications simultaneously to share posts and photographs, and the “#” symbol has taken on a whole new meaning with the ability to “hash tag” reference any word or phrase. While the information available through these applications can seem overwhelming, such content can be an extremely important resource when handling and defending against personal injury claims and lawsuits.

The majority of popular social media websites and applications are free to join, and accessible to anyone. They are used by people of all ages, races, ethnicities and socioeconomic backgrounds, making social media content one of the most valuable investigative resources. While baby boomers initially shied away from technology, more individuals over the age of fifty are embracing social media to stay connected with family and friends. The wide usage of social media makes it invaluable in conducting routine investigations, investigating suspicious or fraudulent claims and in making traditional surveillance efforts more efficient.

Utilizing social media content in the context of investigating claims and claimants is entirely dependent on locating and reviewing information that is publicly available. Often, represented parties may be instructed to take down or disable social media sites, or otherwise alter privacy settings to prevent the discovery of posted content. Here are tips for properly locating available social media content that may be relevant when investigating a claim.

1. **Investigate right away.** The chances of discovering valuable information and photographs from a claimant’s social media page are greater the sooner it is done. Upon initially learning of a claim or the potential claim, claims professionals should immediately pull up popular social media websites and applications to explore posts, status updates and photographs. It is important to conduct as many searches as possible before the claimant retains counsel or is instructed to remove or hide content.
2. **Preserve available content.** When social media content is found, it is critical to preserve it right away. Saving or copying the URL link directly from the browser into a word document or directly into claims notes will help locate the claimant’s page in the future. For example, a person can change his or her name on an account or change the characters in their account name so that it will not appear if searched. Using zeros for “O’s” or the “@” symbol for

“A’s” are common ways that claimants will alter their names to hide social media pages and profiles. Regardless of the way a person’s name appears, the direct link to an account page should not change and will continue to be a helpful resource.

Furthermore when content is identified, printing relevant images or using the “print screen” feature to save an image electronically is crucial. Knowing that photographs or posts exist will not help if they are later removed, deleted or hidden from the public view. It is much easier to maintain copies of posts and photographs from a claim’s inception, rather than to search a claimant’s history when they retain counsel or file a lawsuit, which could be months or even years later.

3. **Expand your search beyond the claimant.** Another tip in using social media to investigate a claimant is to search for known friends and family members. These names can be subtly obtained from incident reports, recorded statements, insurance policies and other documents often collected at the outset of a claim. While the claimant may have been instructed to disable or hide social media content, their friends and family will not have been instructed to do the same. Searching for a spouse or child can reveal additional information and photographs over which the claimant has no direct control. Further, children and teenagers are generally willing to share more information online without altering privacy controls, so day-to-day activities and photographs are often more readily available. This could provide access to photographs of family outings and vacations that a claimant may otherwise try to hide. In addition to friends and family, identifying a claimant’s hobbies and interests

through their own page may lead to other possible sources. If a claimant follows public figures, organizations and businesses, these pages are typically public and can lead to the discovery of additional posts by the claimant.

4. **Search publicly available content but do not engage in deceitful tactics to obtain information.** If a lawsuit is filed, social media content obtained pre-suit can significantly aid defense counsel by bolstering evidence and providing topics for cross-examination. The use of social media can also assist with the investigation of potential jurors should the case proceed to a jury trial. Because lawyers and law firms are bound by ethical rules, it is important that claims professionals properly obtain social media content.

For example, lawyers, law firms and investigators may not “friend” or “follow” a represented claimant or plaintiff to obtain otherwise private information. If this is done pre-suit by a claims professional or investigator to obtain information, it could be precluded during litigation if improperly obtained. It is best to refrain from following, liking, or sending requests to “friend” anyone you are searching, including the claimant and his or her friends or family. The wealth of information that is publicly available is often helpful in exposing misrepresentations and lies made by claimants when seeking money for personal injuries. Conducting searches early in the claims process, saving links to claimants’ pages, searching known family and friends, and printing or saving electronic copies of photographs are helpful ways to provide defense counsel with information that will help expose the weaknesses in a plaintiff’s case. These materials can provide grounds for dispositive motions based on fraud, or significantly reduce exposure in cases where liability is otherwise unfavorable. With all of the benefits of social media, there is no reason to cross any

boundaries or raise ethical issues when conducting a search.

Despite the emerging trend of social media and internet research when defending personal injury claims, ethical, procedural and evidentiary rules have not caught up with modern technologies. Lawyers and law firms will continue to apply current rules to the emerging trends in technology and social media in order to be able to search a plaintiff's social media accounts and use social media in the court room. Unfortunately, many grey areas remain with regard to the discoverability and admissibility of social media content, arising from privacy and relevance concerns. Despite these challenges, there is no question that the ability to use photographs, posts and other content to undermine a plaintiff's claims throughout the claims or litigation process remains priceless.

There are two key factors that make social media research a must-do when handling claims. First, increasing numbers of users and social media applications have proven that social media is here to stay. Second, many individuals have a cyber-presence, whether or not they ever intended to. Internet and social media research can be done without leaving your desk and requires no cost; utilizing the tips above will help any claims professional know where to look and how to find the information to help leverage favorable results.



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*Amanda J. Podlucky is an attorney in the Orlando office of Marshall Dennehey Warner Coleman & Goggin, a civil defense litigation law firm. A member of the Casualty Department, she represents clients in the defense of personal injury, negligent security and related general liability claims. Podlucky may be reached at (407) 420-4396 or [ajpodlucky@mdwccg.com](mailto:ajpodlucky@mdwccg.com).*

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