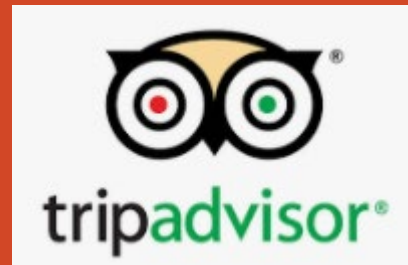
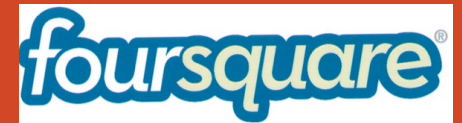
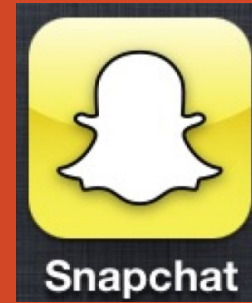


Social Media Management in Litigation

With speakers Nick Casper, Jaime Herren and Adam Carlson

Social Media Platforms



Social Media by Worldwide Popularity

1. Facebook
2. Instagram
3. Tumblr
4. Twitter
5. LinkedIn
6. WhatsApp.
7. Snapchat
8. Pinterest
9. Reddit
10. YouTube
11. Mix
12. Tagged
13. Nextdoor
14. DeviantArt
15. Quora
16. Meetup
17. ReverbNation
18. Flixster
19. Goodreads
20. Twitch
21. CaringBridge
22. Wattpad
23. Viadeo
24. Crunchyroll
25. Skyrock
26. VK
27. MyHeritage
28. LiveJournl
29. Classmates
30. SoundCloud
31. Bubbly
32. Flickr
33. We heart it
34. Inflenster
35. FilmAffinity
36. Open Diary
37. Yelp
38. CollegeHumor
39. Gaia Online
40. MocoSpace
41. CouchSurfing
42. Funny or Die
43. Italki
44. eToro
45. XING
46. MeetMe
47. Ravelry
48. Care2
49. YY
50. Vero
51. Medium
52. GIPHY
53. Tribe
54. Tencent QQ
55. WeChat
56. Qzone
57. TikTok
58. Sina Weibo
59. Kuaishou
60. Skype
61. Viber
62. LINE
63. LINE PLAY
64. The Dots
65. Telegram
66. Foursquare
Swarm
67. Douban
68. Discord
69. Badoo
70. Myspace
71. Mixi
72. Ravelry
73. Cellufun
74. Xanga
75. Imgur

As of Sept. 2020, Data from [influencermarketinghub.com](https://www.influencermarketinghub.com)

Examples of Uses of Social Media in Litigation

Examples of Uses of Social Media in Litigation

Party's conduct

Examples of Uses of Social Media in Litigation

Notice

Examples of Uses of Social Media in Litigation

Party/witness credibility

Examples of Uses of Social Media in Litigation

Be mindful of your client's
social media!

Social Media Discovery

Social Media Discovery

Earlier the better

(before litigation commences)

Social Media Discovery

Propounding discovery versus
subpoena process

Social Media Discovery

Compelling social media service provider via subpoena is typically not successful in civil cases under the Stored Communications Act (18 U.S.C. § 2701, *et seq.*)

Examples of case law on SCA:

- *Facebook, Inc. v. Superior Court* (2018) 4 Cal.5th 1245
- *Juror No. One v. Superior Court* (2012) 206 Cal. App. 4th 854

Social Media Discovery

Social Media of Deceased Persons

- California adopted the Revised Fiduciary Access to Digital Assets Act (RUFADAA), effective as of Jan. 1, 2017 (Prob. Code sections 870-884).
- Working with social media companies to obtain access using third party subpoenas and court orders.
- Distinguish between financial records and communications.

Social Media Discovery

Special interrogatories to
identify accounts

Social Media Discovery

Forensic search

- Archer Hall (archerhall.com)

- Blackstone Discovery (blackstonediscovery.com)

Laying Foundation for Social Media

Laying Foundation for Social Media

Can perform search yourself, but
follow up with investigator

Laying Foundation for Social Media

Request for Admissions

Laying Foundation for Social Media

Deposition testimony

Authentication

- Introduction of sufficient evidence to sustain finding that it is the writing that the proponent of the evidence claims is (Evidence Code § 1400)
- Can be authenticated by anyone who saw the writing made or executed (Evid Code § 1413)
- No limit to means by which a writing can be authenticated (Evid Code § 1410)
- Court's discretion