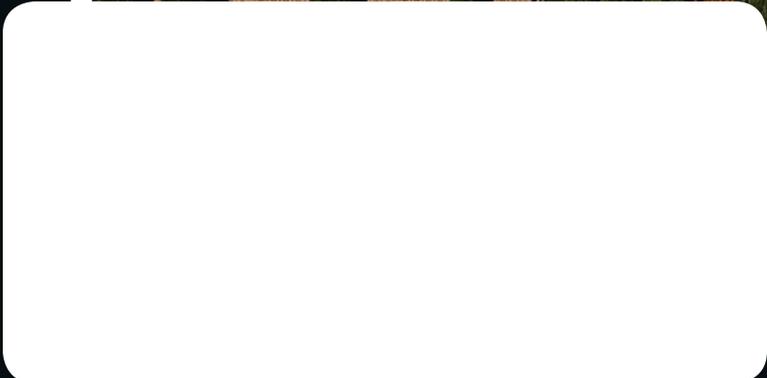
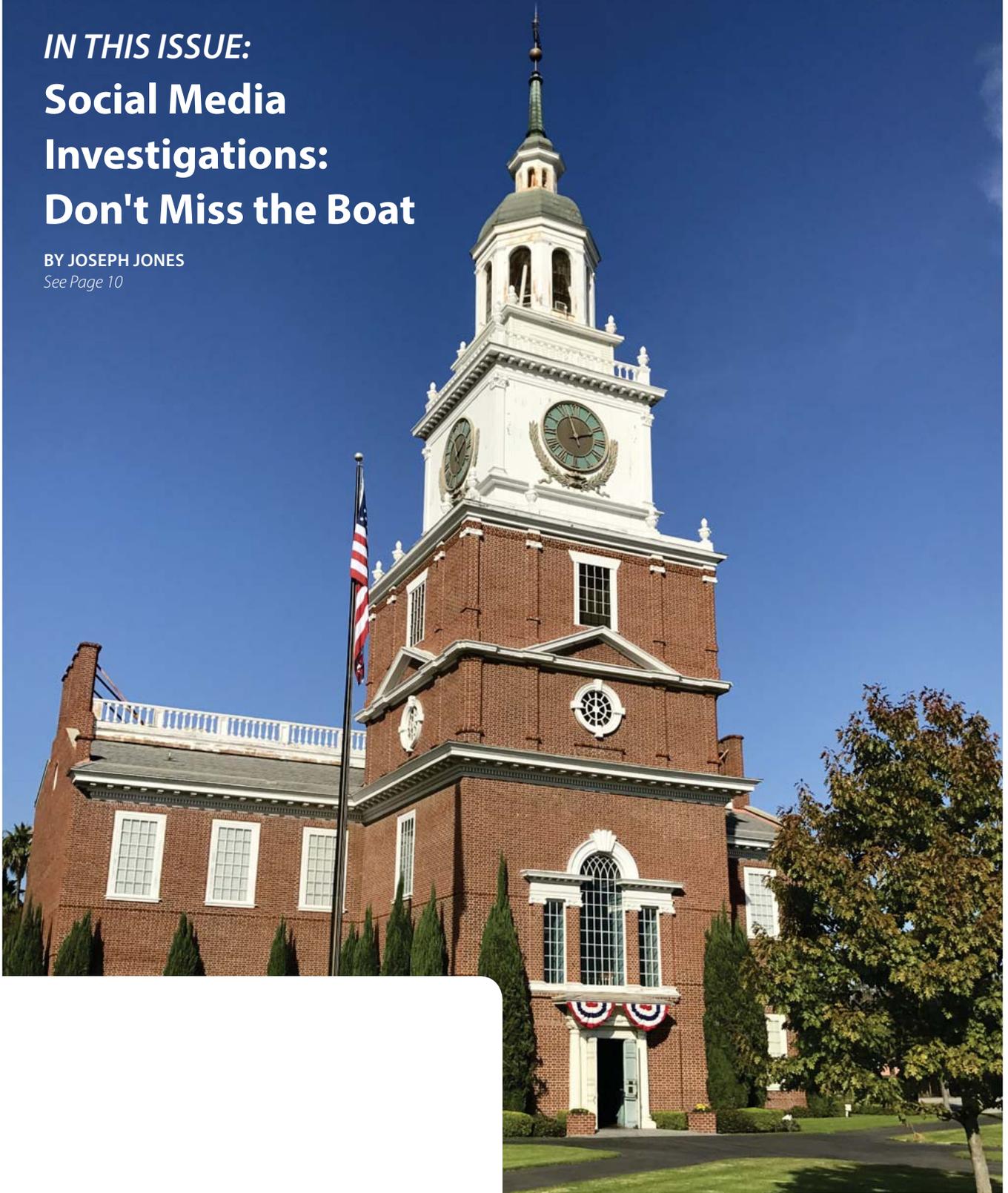


IN THIS ISSUE:
**Social Media
Investigations:
Don't Miss the Boat**

BY JOSEPH JONES
See Page 10





JOSEPH JONES is a licensed Private Investigator and the Vice President of Bosco Legal Services, Inc. Joseph is a Certified Social Media Intelligence Expert, has degrees in Social & Behavior Sciences and Psychology, and holds multiple certifications in Open Source and Cyber Intelligence. He is a court recognized expert and has received specialized training from the military, various law enforcement agencies, and the nation's top private intelligence firms. When he's not tracking down bad guys or helping law firms and insurance companies uncover the truth, he enjoys spending time with his beautiful wife and 4 active children.

Social Media Investigations: Don't Miss the Boat

BY JOSEPH JONES - SUBMITTED BY SAN GABRIEL VALLEY LSA



To begin, I will provide you with a few definitions and explanations. We refer to internet/cyber investigations as Social Media Investigations (SMI). In reality, we are talking about using Open Source Intelligence (OSINT), which involves searching on both the surface web and the deep web; in addition to searching all of the well-known Social Media (SM) platforms (Facebook, YouTube, Instagram, etc.) as well as more obscure forms of SM such as blogs, chat forums, etc.

WHY SMI

The internet has become so pervasive in our society that it has changed the way we do almost everything. As of mid-2017, Facebook had approximately 2.1 billion monthly users, Instagram had approximately 800 million monthly users, and Twitter had approximately 330 million monthly users. Those are just 3 of the top SM platforms, and that doesn't take into account LinkedIn, Pinterest, Snapchat, Flickr, YouTube, Reddit, and an endless list of other SM platforms that people are using. With SM usage this great, chances are high that the parties involved in your case are on SM. And even if they aren't on SM, someone close to them most likely is, which means that photos and other information about a subject may still be available online, even if they don't personally have any SM accounts.

This is relevant because often the information legal professionals need to make informed decisions is available on SM. Examples of information commonly posted online includes where people are going, what they are doing, family/romantic relationships, employment information, political views, etc. Whether you're dealing with a business dispute, personal injury, wrongful termination, malpractice, or just about any other type of legal case, it is likely that there is someone putting information on SM that will help you get a better understanding of the facts and circumstances surrounding the case and the players.

LOCATING CONTENT

The problem with a Google search is that Google gives you everything it can regarding your search terms, and will return several hundred thousand (or more) results for most searches. Knowing how to cut through the garbage and find

exactly what you're looking for is an important tool when conducting a SMI. While there are many ways to go about this, an efficient way to narrow your search and pinpoint useful information is to utilize Boolean search logic (similar to what you use when conducting legal research).

Depending on the platform, SM can have a similar problem because people often use aliases when setting up their profiles, so it can be difficult using standard search methods to locate accounts. If you're having a hard time locating your subject's account, try using their nickname, or locating an account for a known friend or relative, and then backtrack your way to their account. If you keep running into roadblocks due to privacy settings on someone's account, keep in mind that they have no control of the privacy settings for content posted on their friend's pages or photos. While the process of finding this type of information is too complicated (and proprietary) to outline here, keep in mind that just because someone sets their SM accounts to private doesn't mean that a significant amount of information about them can't legally be obtained online.

USE AS EVIDENCE

If there's one thing that you should take away from this article, it should be that anything obtained via a SMI is evidence and should be treated as such. Think in terms of establishing foundation, authentication, and chain of custody. To establish foundation, the person collecting the information should be tracking when and how they found the content, and it should be someone who would be able to testify if need be. To authenticate, the content needs to be forensically preserved and the metadata for the content, whether it be a webpage or a SM post, needs to be extracted. Metadata is the HTML code behind the information. While

SOCIAL MEDIA INVESTIGATIONS...

there are a variety of pieces of information that can be extracted, the most important is the MD5 or SHA Hash value, which is essentially a digital fingerprint.

*Please note that a screen print from Facebook should NOT BE ALLOWED AS EVIDENCE. Though some are still getting away with this, screen prints can be picked apart very quickly if challenged.

LEGAL ISSUES

In some respects, the world of SMIs is somewhat like the Wild West, in that there is much yet that hasn't been explored, or maybe it has been explored but is not yet widely known. That being said, there is quite a bit of information that is out there, and we have done a significant amount of research to compile case law and case summaries for cases relevant to SMI.

In addition to the authentication issues outlined already, the courts have almost universally found that anything posted to SM, regardless of the privacy settings, is fair game and that people do not have an expectation of privacy once they put information online. Several bar associations have published opinions that sending a "friend request" to a litigant represented by an attorney constitutes ex-parte communication; however, it is of interest to note that to

date no cases have been found where evidence has been excluded when obtained through such a friend request.

Finally, it is important to understand that all SM platforms and most web services abide by the Stored Communications Act (SCA) which basically limits what they can provide in response to a subpoena. This information is limited to client's name, address, IP address, length of service, and telephone number. Regardless of how hard you try, they won't turn over any photos, posts, or any actual content from the account.

CONCLUSION

SMIs are no longer an up and coming source of information for legal cases; they're here and they're thriving. Some legal publications have gone as far as to say that if you're not doing SMIs on your cases, you could be committing malpractice. And although there could be debate about that statement, there is no question it's a valuable tool for almost any case type.

For more information on this subject you can utilize the following resources:

<https://www.boscolegal.org/social-media-investigations-the-facts/>

<https://www.boscolegal.org>

[case-law-relevant-social-media-investigations/](https://www.boscolegal.org/case-law-relevant-social-media-investigations/)

LS

Make it...
simple, memorable & fun to look at.

ALL OF YOUR DESIGN NEEDS



REDROMAN creative

LORI M^CELROY
Creative Director

