FROM HIDDEN TO HANDLED

Discovery Tactics for Pseudonymous Platforms

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We live in the golden age of oversharing. If something dramatic, unfortunate, or mildly inconvenient happens, chances are that someone has already posted about it on TikTok, Reddit, X, Threads, or some combination of the above. Whether it's a hospital visit, a workplace blow-up, or a personal injury that was definitely not their fault, the story is out there – probably told in a multi-part video series. Possibly with dramatic music.

They're not using their real names, of course. They're ranting, storytelling, and tearfully narrating their side of the events under usernames like "@SadGirlJustice" or "u/NotMyFault_1999," confident that their anonymity keeps them safe and perhaps thinking that no one in the legal system is paying attention.

For litigators, this is both a gift and a trap. The internet is full of statements that

can clarify timelines, contradict claims, or tank credibility. However, much of it lives behind pseudonyms and platforms built on the illusion of privacy. If your discovery strategy isn't built to uncover this kind of content specifically, you're not just missing helpful background; you may be missing the type of evidence that turns a case.

THE RISE OF ANONYMOUS EXPRESSION

TikTok and Reddit are illustrative of the challenge. On TikTok, users create and share short videos under handles that often differ from their legal names. A user going by "@TruckerDad" could just as easily be a plaintiff in a trucking negligence suit. Similarly, Reddit thrives on pseudonyms like "u/NotGuilty456" or "u/ProbablyPlaintiff," with threads that span personal confessions, legal advice-seeking, and venting about workplace incidents.

This anonymity is what draws many users to these platforms. But it also makes them inherently difficult to investigate. You may know your opposing party uses Reddit or TikTok, you may even suspect which handle is theirs, but confirming authorship without discovery is risky. You can't cross-examine "u/SnarkyWitness17" if you can't prove they're your plaintiff. And while tools exist to scrape public posts or analyze metadata, they fall short in confirming identity, especially in cases where the alias doesn't overtly tie back to the litigant.

And if reading all of this makes you feel like you're learning a foreign language — Discord? Reddit? Finsta? — Ask your Gen Z associates for help. They grew up on these platforms. They know how they work, how people use them to overshare behind a veil of anonymity, and how often those overshares include statements that are wildly relevant (or damaging) to litigation. In this context, your associates aren't just helpful, they're walking, talking field guides to the internet's hidden corners. Listen to them. You might learn something, and your case might depend on it.

STOP USING VAGUE DISCOVERY REQUESTS

A routine discovery request, such as "Produce all social media communications," is insufficient in today's digital environment. It is too vague to compel production from pseudonymous platforms and too narrow to capture the dynamic, multimedia content on modern apps. TikTok videos, for example, are not "messages," and Reddit posts may not fit within the traditional understanding of a "profile." Moreover, these boilerplate requests often

go unchallenged, resulting in waived opportunities. Suppose a party fails to request production of relevant TikTok or Reddit content explicitly. In that case, courts are less likely to entertain motions to compel later, especially when the producing party claims ignorance of the request's scope. Specificity is no longer just preferable; it's required.

MAKING THE CASE: LEGAL SUPPORT FOR TARGETED SOCIAL MEDIA DISCOVERY

Courts across jurisdictions have recognized the discoverability of social media content—regardless of the platform or privacy settings—provided it is relevant to the claims or defenses in the case. However, when it comes to alias-based platforms, courts expect a higher degree of precision and justification from the requesting party. In Forman v. Henkin, 93 N.E.3d 656 (N.Y. Ct. App. 2018), the court allowed discovery of private Facebook content because the plaintiff had put her physical and mental health at issue in a personal injury suit. The takeaway is that courts balance the privacy rights of users against the relevance and necessity of the data sought.

WHAT COUNTS AS A FACTUAL PREDICATE WHEN YOU DON'T KNOW THE HANDLE?

You can't walk into court with "a feeling" that someone's ranting about your case on Reddit. However, you can layer circumstantial facts into a credible and reasonable foundation for discovery. Here's how:

Confirm Platform Use in Interrogatories or Depositions

Before requesting content, ask if the plaintiff has used TikTok, Reddit, Discord, or similar platforms since the events at issue. If they say yes, even if they don't recall what they posted, that's a critical opening. Also, ask if they've posted about the incident, their injury, or their emotional state. If they admit it, you're in. If they deny it and you later find they did, that creates an authentication and credibility issue for later.

Use the Plaintiff's Own Social Media Pattern

If they've posted on Facebook, Instagram, or elsewhere about the case (or even just about their emotional or physical condition), argue that it's reasonable to believe that the same pattern of expression exists on pseudonymous platforms where users tend to be more candid. This becomes your factual predicate: "Plaintiff has posted publicly about [X]; it is reasonable and relevant to investigate

whether they posted anonymously as well."

Tie the Discovery to Specific Allegations

Use the complaint as your roadmap. If the plaintiff alleges social withdrawal, depression, or reputational harm, you're entitled to ask how they've described those experiences online. You're not just curious, you're testing the claims they put at issue.

DON'T BE CREEPY: ETHICS STILL MATTER

Attorneys should exercise caution when investigating or interacting with opposing parties' social media. "Friending" an opposing party to access restricted content, or impersonating a third party to gain access, may violate ethics rules, including ABA Model Rules 4.2 and 8.4(c). Passive review of public content is generally permissible; however, any review beyond that should be routed through formal discovery channels.

CONCLUSION: FROM HIDDEN TO HANDLED

Alias-based social media platforms are no longer fringe. They're central arenas for the expression of thought, opinion, and fact. For litigators, they represent a rich but elusive source of discoverable evidence. The key to unlocking that evidence lies in precision: defining platforms, identifying handles, targeting requests, and authenticating results.

Gone are the days when a blanket "produce your Facebook" request was enough. As our clients' digital lives grow more complex and fragmented, our discovery strategies must evolve. By embracing platform-specific tactics and anticipating resistance, attorneys can transform anonymous posts from hidden hazards into handled evidence and use them to shape the narrative of the case.

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