

Jurors' Use of Technology and Social Media Impacts Outcome of Trials

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Juries play an important role in both criminal and civil trials. The impartiality of jurors is a fundamental element of our justice system. Moreover, courts typically instruct juries not to access information about the subject matter of the trial outside of the court proceedings as this can interfere with the jurors' obligation to deliberate based solely on the evidence presented by the parties. The wide-spread use of technology and social media by Americans, including those called to jury duty, is impacting the outcome of trials and, in some cases, has become the basis for a mistrial.

Several courts have recently dealt with motions filed by parties based on the fact that sitting jurors accessed information about the case from outside sources, in particular Internet sites. For example, in *United States v. Hernandez*, a federal court in Florida granted a motion for mistrial after learning that several members of the jury located and read key information about the case online. In a civil matter, an Arkansas court held that a party's right to a fair trial was impacted by Twitter messages sent by a juror suggesting that he was biased against one of the parties.

By contrast, in *United States v. Siegelman*, the U.S. Eleventh Circuit Court of Appeals recently affirmed a lower court's denial of a request for mistrial where a juror had viewed an unredacted version of the original indictment against the defendant on the court's web site. The appellate court reasoned that the access did not expose the jury to any new or additional facts and, therefore, did not prejudice the defendant.

Real time access and connectivity through the Internet and social media tools are useful and productive in most settings. The use of this technology by jurors who are instructed to focus only on the facts of a trial and maintain their objectivity is troubling, particularly if the fate of your organization rests in their hands.