

## Don't Forget Social Media During Discovery

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Social media continues to be important in litigation, especially in cases where the plaintiff alleges damages for emotional distress or mental injury. Courts are increasingly allowing discovery of the plaintiff's social media accounts, including Facebook, LinkedIn and MySpace.

In *Robinson v Jones Lang LaSalle*, the plaintiff sought damages for employment discrimination, and defendant requested discovery into her electronic communications. The court stated, "I see no principled reason to articulate different standards for the discoverability of communications through email, text message, or social media platforms." The court noted "that social media can provide information inconsistent with a plaintiff's allegation that defendant's conduct caused her emotional distress, whether by revealing alternate sources of that emotional distress or undermining plaintiff's allegations of the severity of that distress." The court ordered plaintiff to produce any "online social media communications by plaintiff, including profiles, postings, messages, status updates, wall comments, causes joined, groups joined, activity streams, applications, blog entries, photographs, or media clips, as well as third-party online social media communications that place plaintiff's own communications in context" which relate to "any significant emotion, feeling, or mental state allegedly caused by defendant's conduct."

At the start of each case, counsel should evaluate the potential relevance of social media accounts. If relevant information might be obtainable from those sources, counsel should craft tailored interrogatories and document requests asking for them. Counsel should also consider referring to social media accounts in any preservation notice sent to the opposing party.

Read the court's opinion [here](#).