

Facebook, Twitter, Instagram, Email and Smartphone
Evidence: The Ultimate Guide



Apps & Emerging Technology

You Need to Know



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Christopher Hopkins

McDonald Hopkins LLC – West Palm Beach

Lawyer, mediator, and arbitrator.

Christopher's practice involves a wide range of emerging technologies including cyber security, internet crimes, policy drafting, privacy, and social media discovery.



Wake Up and Find New Social Media Platforms

1. Please identify any internet social media web sites which Plaintiff has used or on which Plaintiff has maintained an account during the one year prior to the incident that is the basis for the subject lawsuit to the present. “Internet social media web sites” includes but is not limited to Facebook, Twitter, LinkedIn, XboxLive, Foursquare, Gowalla, Myspace, and Windows Live Spaces.

Sounded cool... maybe a few years ago

Facebook Has Acquired Gowalla

Jason Kincaid @jasonkincaid / Dec 2, 2011

Comment



Facebook has acquired location-based startup **Gowalla**, according to a report this evening by Laurie Segall on **CNN Money**. The terms of the deal haven't been reported, and Gowalla declined to comment. Facebook says it doesn't comment on rumor and speculation. **Update:** We've heard from an independent

Hip... maybe a few years ago

Windows Live Spaces

From Wikipedia, the free encyclopedia

Windows Live Spaces was Microsoft's [blogging](#) and [social networking](#) platform. The site was originally released in early 2004 as **MSN Spaces** to compete with other [social](#) of a shifting of community services away from the [MSN](#) brand. Windows Live Spaces received an estimated 27 million (27,000,000) unique visitors per month as of August 20 and communication tool, Windows Live Spaces has been criticized as not being as powerful as some of its alternatives.^[2] It was shut down in 2011 due to low viewership.^[3]

I was recently served with this request...

Thanks for the reference but... you're 6 years too late

2. With respect to each internet social; media web site which Plaintiff has used or maintained an account during the one year prior to the incident that is the basis for the subject lawsuit to the present, please provide Plaintiff's users name and password. Alternatively,

Thanks for the reference but... you're 6 years too late

DISCOVERY OF FACEBOOK CONTENT IN FLORIDA CASES

By Christopher B. Hopkins and Tracy T. Segal

The constant expansion of social networking websites means that defense practitioners will increasingly have

“Facebook helps you connect and share with the people in your life,” proclaims the Facebook homepage. As of December 2011, 152.5 million people in the United States were posting monthly on their Facebook accounts.¹ Based

and wearing shorts.⁴ Similarly, a plaintiff who alleged she was in constant physical pain and needed a cane to walk posted photographs that showed her enjoying life with her family and wrote a status update about visiting the gym.⁵ Another plaintiff, who claimed to be largely confined to

Social Media & e-Discovery

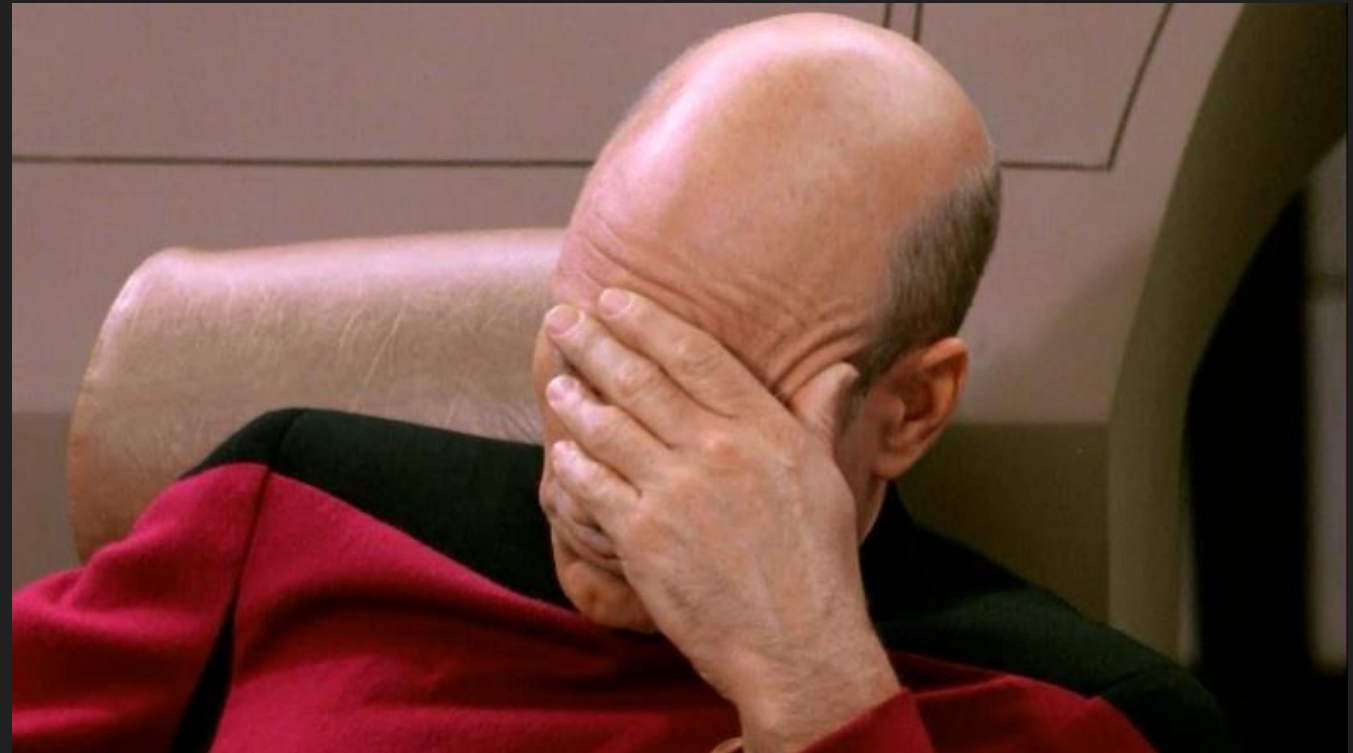


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complex. The authors of this article have successfully used the following interrogatories:⁸

* Please identify any internet social media websites which Plaintiff has used and/or maintained an account in the last five (5) years. "Internet social media websites" includes but is not limited to Facebook, Twitter, LinkedIn, XboxLive, Foursquare, Gowalla, MySpace, and Windows Live Spaces.

* If Plaintiff has Internet social media website account(s), please provide her username and password or, alternatively, under Florida Rules of Civil Procedure Rule 1.340(c), please provide a copy of all non-privileged content/data shared on the account in the last five (5) years.





ESI and Social Media Discovery Are Not Forms Use Can Use Forever



April 2013

Technology Corner



Defendants Want Social Media, Plaintiffs Want E-Discovery

By Christopher B. Hopkins

In the advent of social media and e-discovery, plaintiff and defense lawyers have specific questions to pose to their clients about social media and email. On the plaintiff-side, the lawyer needs to know what the client has put on the internet – with the suggestion that the client reduce his or her Facebook presence

During the early stage of social media discovery, emerging trial orders and appellate decisions seemed to favor the defendants. Even to today, most courts which have considered production of social media content agree that it is neither private nor privileged. Defendants, it appeared, were obtaining orders permitting social media discovery as long as requests were reasonable in scope. More recently, however, a few opinions



(Still) Ten Steps to Obtain Facebook Discovery in Florida... from 2015

TEN STEPS TO OBTAIN FACEBOOK DISCOVERY IN FLORIDA

By Christopher B. Hopkins

The number
of appellate
decisions setting
out standards for
litigants pursuing

In the past year, three Florida appellate courts have articulated standards in civil cases for the discovery of content from a party's Facebook account. Before 2014, Florida's scant precedent for social media discovery was composed of two federal and two state trial court orders. While this budding authority of

"Facebook Discovery" Trial Court Orders 2011–2013

There are four reported Florida trial court orders regarding Facebook discovery, decided by the Broward and Palm Beach County circuit courts and the Middle District of Florida. The two

What about since 2015?

Technology Corner



Social Media Discovery in Florida After *Nucci v. Target*

by *Christopher B. Hopkins*

Despite the widespread use of internet social networking, there has been little recent case law clarifying social media discovery. This article discusses the few current decisions and trends nationwide, focusing on Florida and Facebook, so that practitioners can better frame requests or sharpen objections. [Due to space constraints, materials below are at www.hopkins.law]
Facebook remains ground zero for most social media

burden are historically overruled and should be avoided (see *Nucci and Hogwood*).

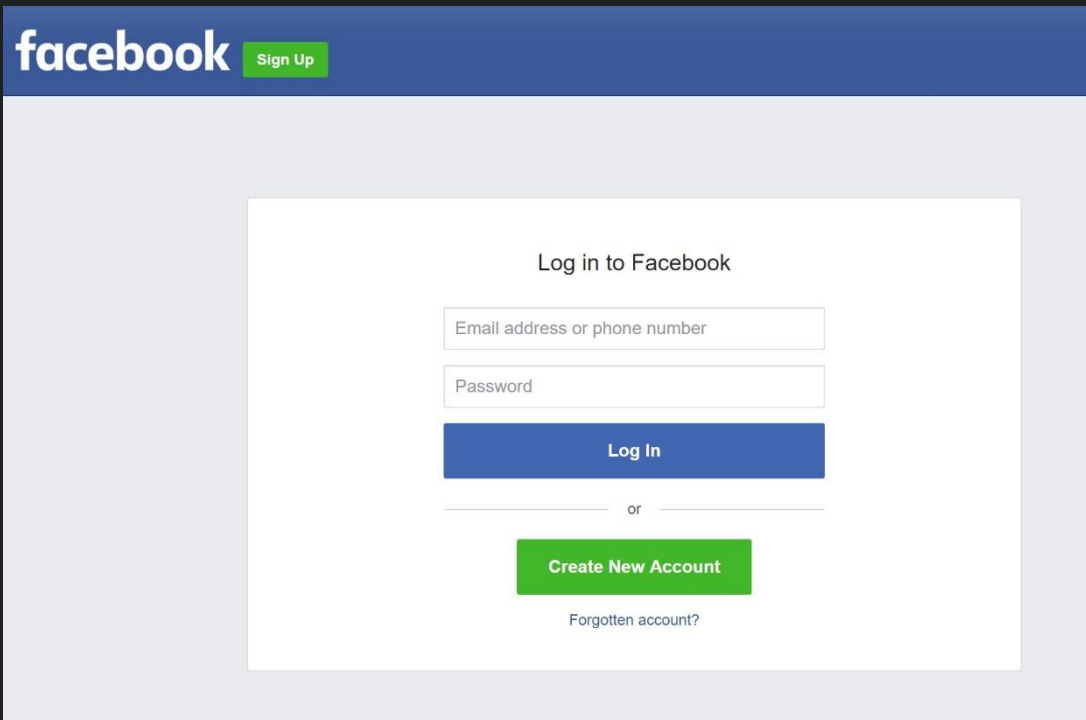
First, as for relevance, it is frequently argued that the defendant failed to establish that the request is reasonably calculated to lead to discovery of admissible evidence (see *Hogwood*, *Root v. Balfour*, and *Smith v. Hillshire*). Plaintiff's counsel should rely on *Nucci* to argue that non-photographic content on Facebook is not relevant absent certain circumstances.

So what are the current discovery requests??



We get to discuss after lunch!





The image shows a screenshot of the Facebook login interface. At the top, the Facebook logo is on the left and a green 'Sign Up' button is on the right. Below this, centered on the page, is a white box with the text 'Log in to Facebook'. Inside this box, there are two input fields: 'Email address or phone number' and 'Password'. Below these fields is a blue 'Log In' button. Underneath the 'Log In' button is a horizontal line with the word 'or' in the center. Below the line is a green 'Create New Account' button. At the bottom of the white box is a link that says 'Forgotten account?'.

Facebook

- Gold mine!
- Likely do not need to go further
- ... but ask about blogs, channels, chat groups, etc



Twitter

- ALSO gold mine!
- ... but look for those “finsta” Twitter accounts (to mix and match phrases)

Social Media & e-Discovery



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The screenshot shows the LinkedIn profile of Christopher Hopkins. The header includes the LinkedIn logo, a search bar, and navigation icons for Home, My Network, Jobs, and Messaging. The profile picture is a circular headshot of a man with a beard. Below the photo, the name 'Christopher Hopkins' is displayed, followed by 'at McDonald Hopkins LLC' and 'West Palm Beach, Florida Area'. There are buttons for 'Add profile section' and 'More...'. To the right of the profile information, there are links to 'McDonald Hopkins LLC', 'Tulane University Law School', 'See contact info', and 'See connections (500+)'. The bio at the bottom states: 'Christopher B. Hopkins is a member of McDonald Hopkins LLC, a business advisory and advocacy law firm. He has more than 20 years of trial and appellate experience representing businesses and families in the areas of commercial, construction, legal/medical malpractice, and probate litigation. In addition...'

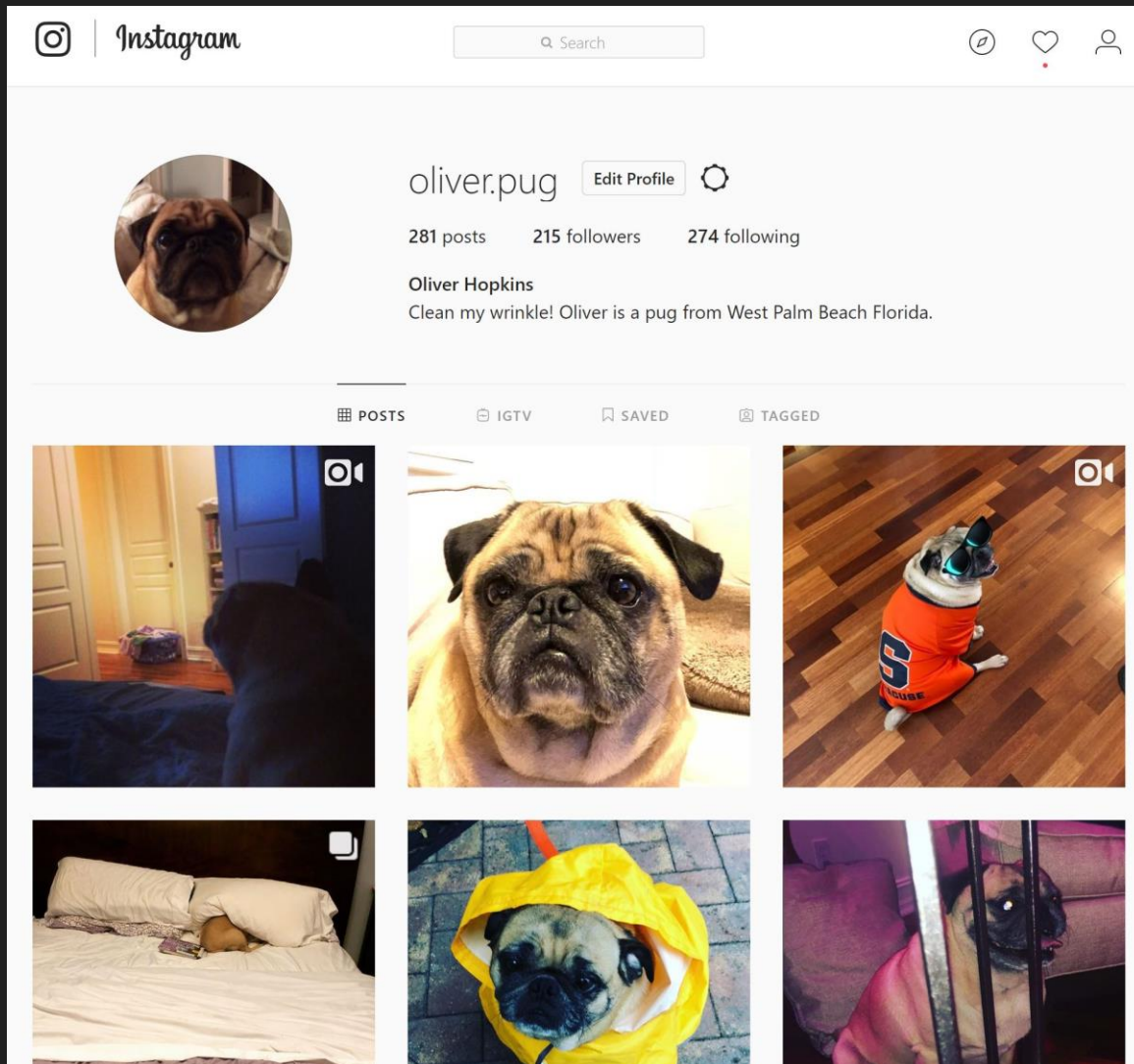
LinkedIn

- Rarely a gold mine!
- Can be boring but who knows
- ... good general background

Social Media & e-Discovery



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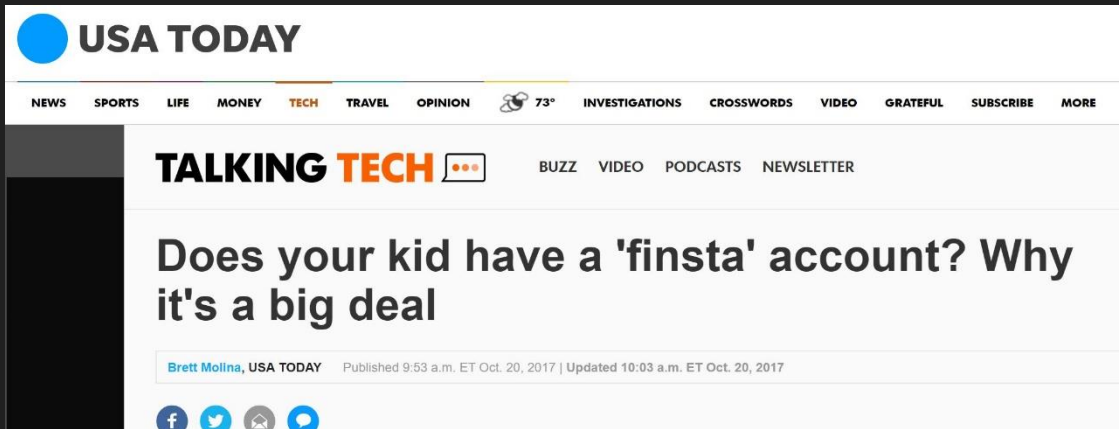
Instagram

- Could be a gold mine
- No case law
- STOP: follow @oliver.pug

Social Media & e-Discovery



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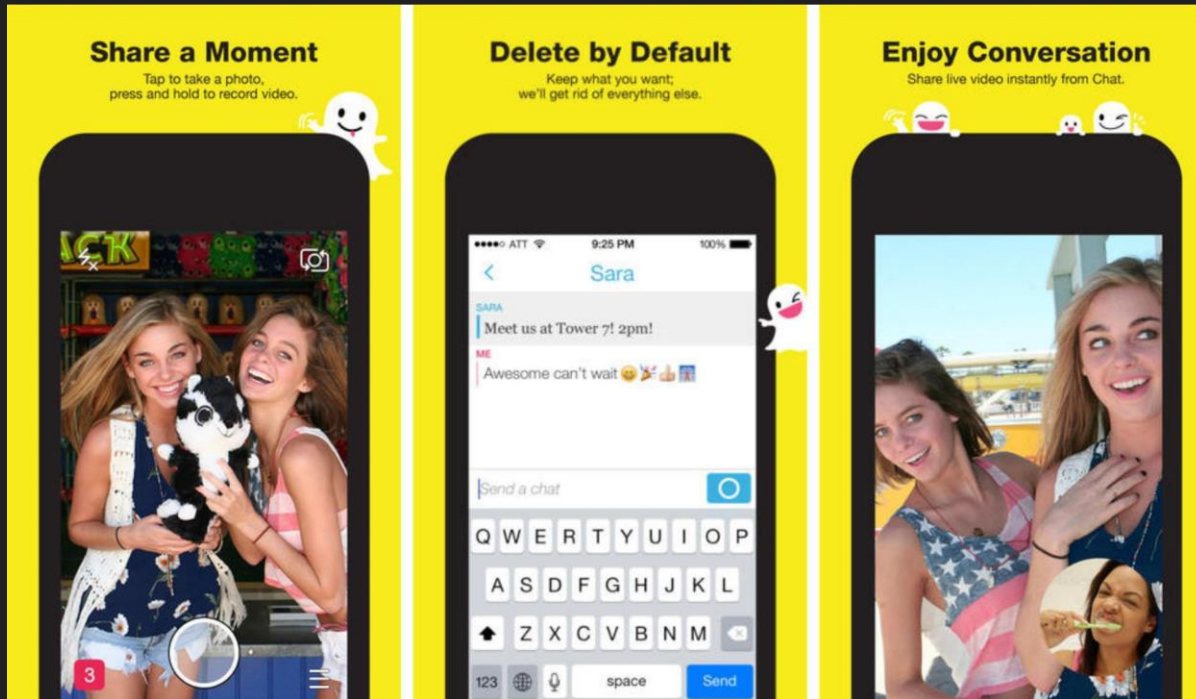
FINstagram

- Not a new concept
- It hit USAToday in 2017

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Snapchat

- Could be a gold mine but hard to preserve
- BTW, if I image your phone, I can see your snaps...



Pinterest

- Not likely a gold mine
- No case law



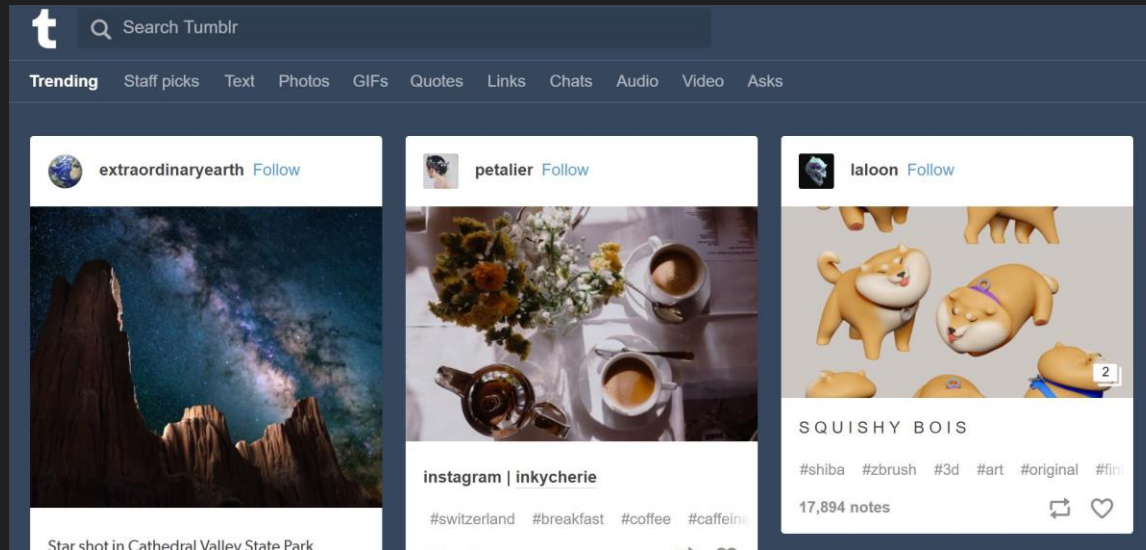
Google Plus

- Outdated?
- Easy to search
- Likely only for nerd-crowd

Social Media & e-Discovery



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Tumblr

- No case law
- Likely only for nerd-crowd

Tumblr

From Wikipedia, the free encyclopedia

Tumblr is a [microblogging](#) and [social networking website](#) founded by [David Karp](#) in 2007, and owned by [Oath Inc.](#)^{[1][4][5][6][7]} The service allows users to post [multimedia](#) and other content to a short-form [blog](#). other users' blogs. Bloggers can also make their blogs private.^{[8][9]} For bloggers many of the website's features are accessed from a "dashboard" interface.

As of June 1, 2018, Tumblr hosts over 417.1 million blogs.^[10] As of January 2016, the website had 555 million monthly visitors.^[3]



Tinder

- Dating website
- Not seen any case revealing this info

Social Media & e-Discovery



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Grindr

- Dating website
- Not seen any case revealing this info



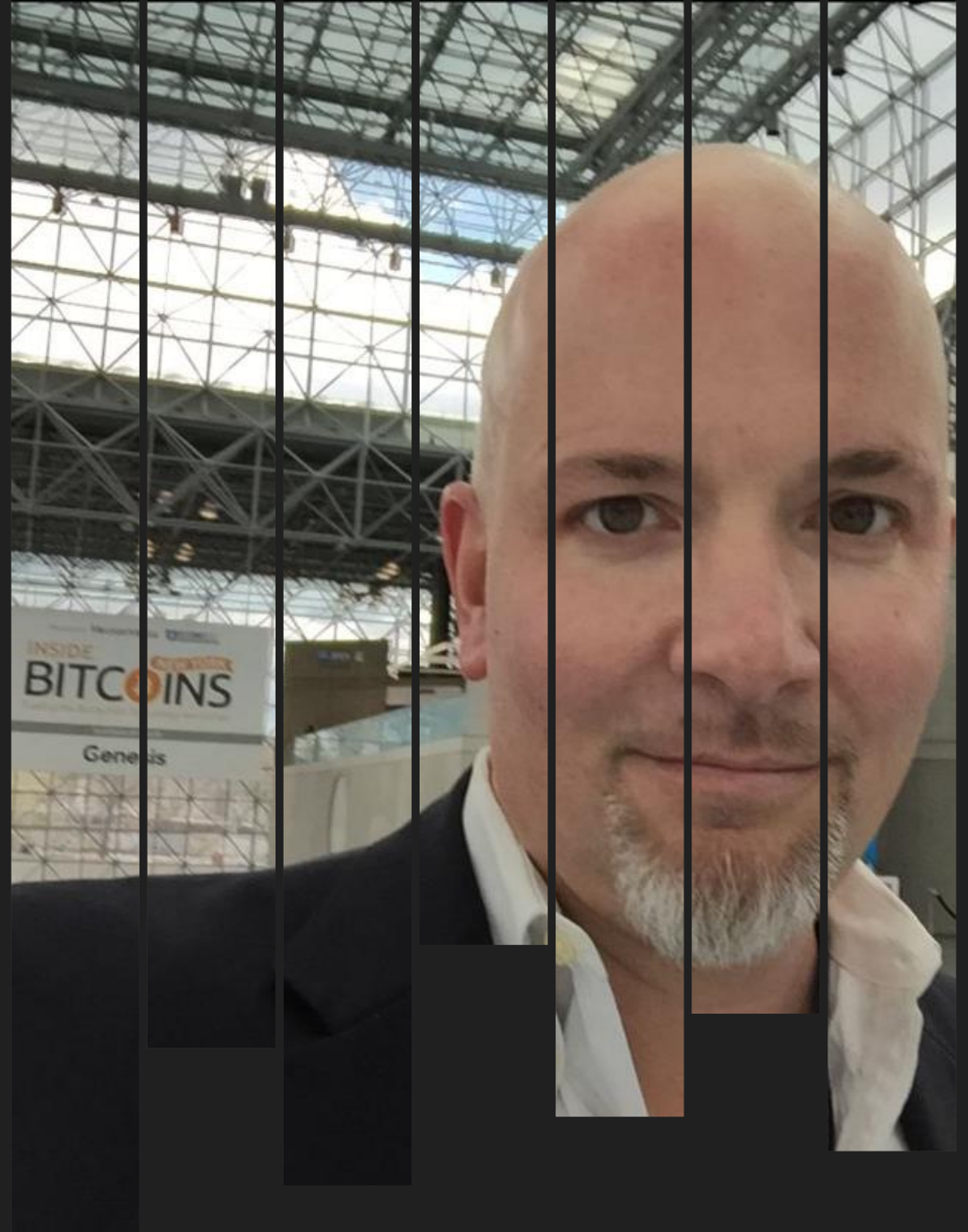
Other Sites

- Flickr
- Reddit
- Whatsapp
- Quora
- MeetUp

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Handouts & this PPT are at
InternetLawCommentary.com

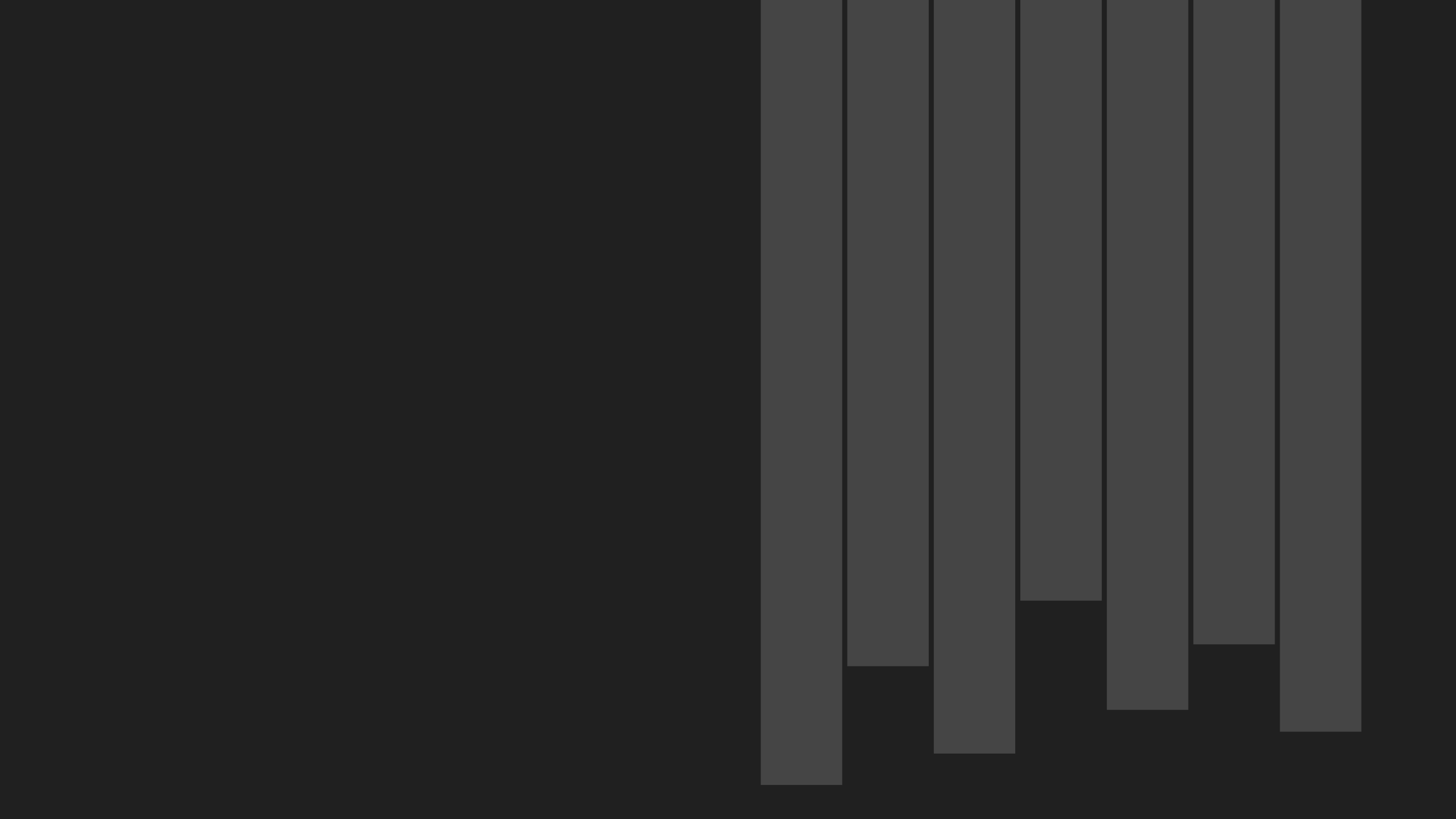


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Linkedin.com/in/cbhopkins



Facebook, Twitter, Instagram, Email and Smartphone
Evidence: The Ultimate Guide



Preserving Electronic Evidence *And Dealing with Spoliation*



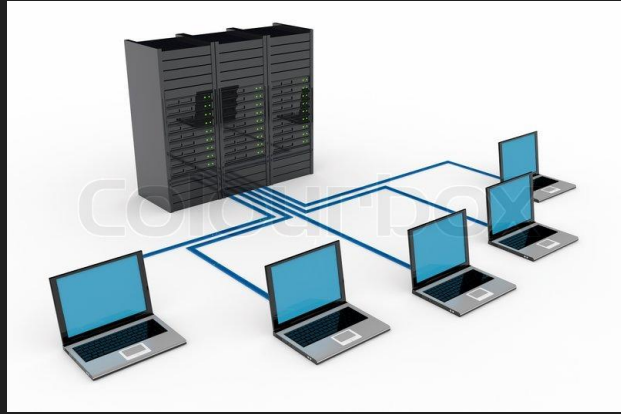
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Preserving Evidence / ESI



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Electronically Stored Information (ESI) [noun]

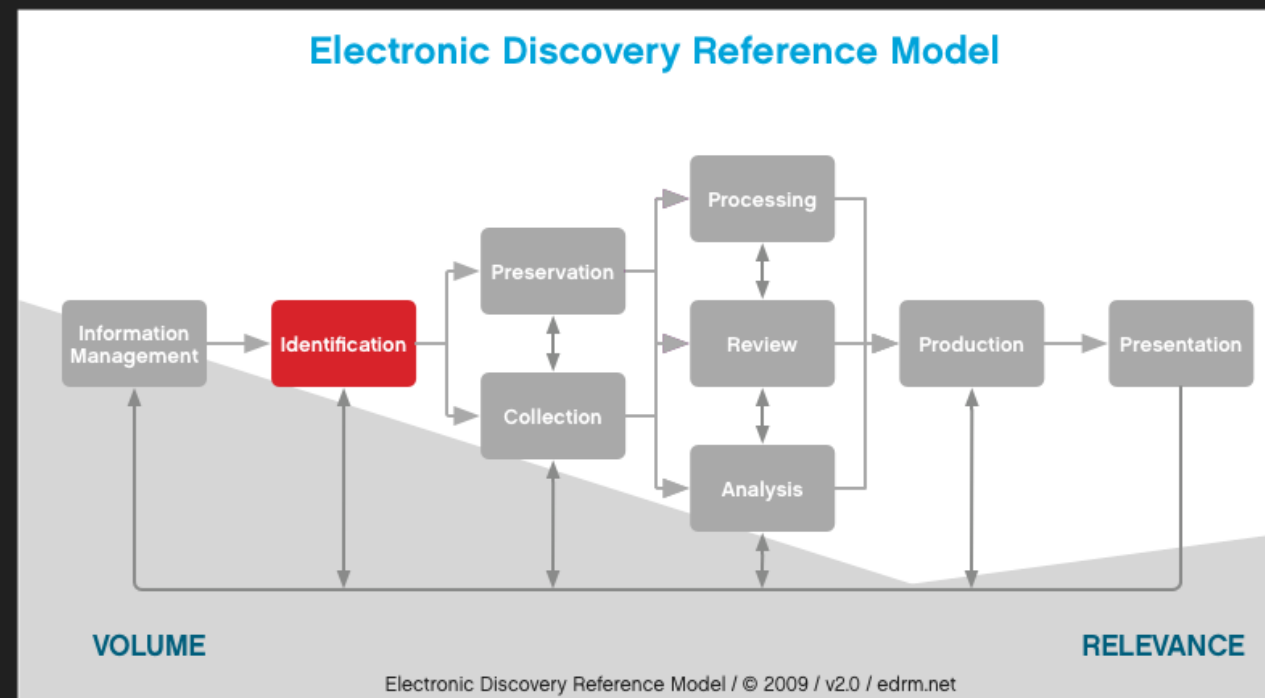


- Information created, modified, transmitted via software and hardware. “Stuff on a computer”
- *Emails, IM/Texts, Word, Photos, Excel, Video...*
- **Hard drive** – little “platter” in your PC or laptop
- **Phone** – solid state drive (SSD)
- **Server** – “serves” the “client” (your device).
- **Cloud** – server based somewhere else (vs local)



E-Discovery [noun]

- Discovery of information in an electronic format (ESI)
- Federal Rules revised in 2006 EDRM
- Identify.
- Preserve.
- Collect.
- Review.
- Produce





Florida E-Discovery Rules

Effective September 1, 2012



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Case Management Rule 1.200

- * Court can make advanced ruling on admissibility; facilitate agreement on scope, form, limits
- * Federal rule requires “meet & confer” FL only requires meeting in complex cases

Scope and Limits Rule 1.280

ESI is discoverable but with limits similar to Fed Rule 26

ESI “not reasonably accessible” is not discoverable absent good cause

Costs can be shifted

Proportionality and Reasonableness factors

Request for Production Rule 1.350

Requesting party can specify file format

Subpoenas Rule 1.410

Respondent may object to form or not reasonably accessible

Can be ordered for good cause

Costs can be shifted

Respondent must produce in ordinary or reasonably usable form

FRCP 45 has sanction for subpoenas which are burdensome

Sanctions Rule 1.380

No sanctions, absent exceptional circumstances, for failing to produce EHI as a result of “routine, good-faith operation of an electronic information system.”

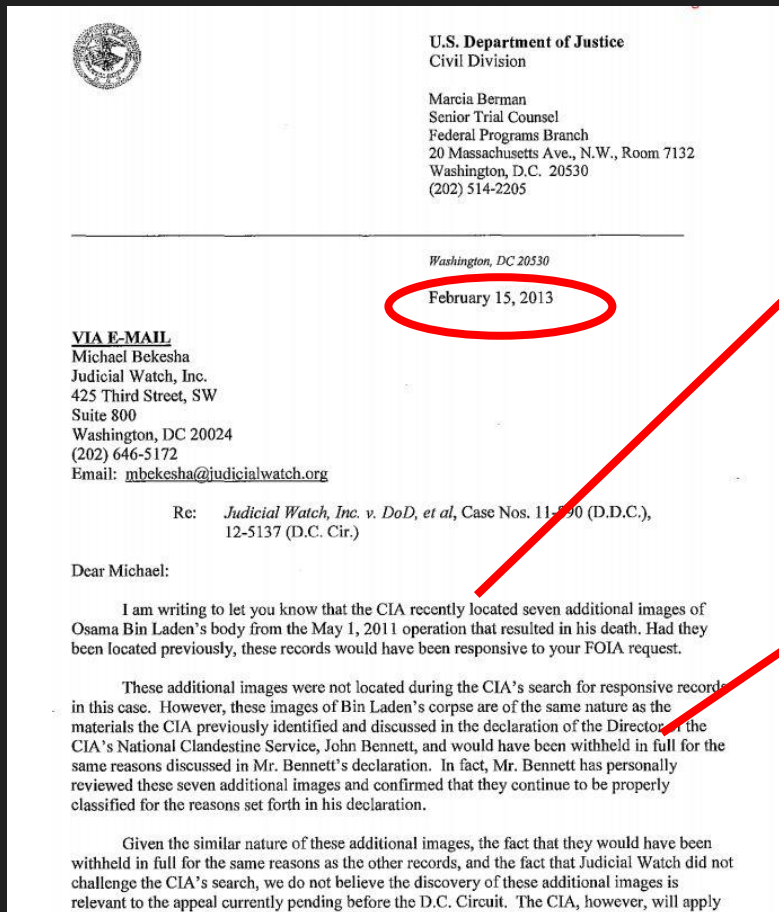
Preserving Evidence / ESI



Even the CIA Makes Mistakes



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...let you know that the CIA recently located 7 additional images of OBL's body... Had they been located previously, these records would have been responsive to your FOIA request...

...we do not believe the discovery of these additional images is relevant to the appeal pending currently before the D.C. Circuit.

Proportionality

- Rule 1.280 & FRCP 26
- Reasonably accessible?
- Cost shifting
- *A mediator or special master may help focus need & cost issues*



Technology Corner



Will Judge Sasser's Standing ESI Order Apply to Your Case?

by Christopher B. Hopkins

Do you know what a .pst file is? Have you created a client data map? What is the difference between system and substantive metadata? Lawyers can no longer ignore or avoid e-discovery – the preservation and production of electronically stored

information (ESI) – since the practice was embedded in the Florida Rules of Civil Procedure in 2012. Starting July 1, 2016, Judge Meenu Sasser of the Fifteenth Judicial Circuit has issued a Standing Order on Electronically Stored Information Discovery to both coax and compel lawyers into discussing and addressing ESI discovery. This article will re-introduce you to Florida's e-discovery rules, provide an overview of Judge Sasser's Standing Order, and identify resources for handling e-discovery issues in your cases.

In 2012, the Florida Rules of Civil Procedure were amended to include e-discovery. The amendments are similar but less demanding than their federal counterparts; Rule 1.200 states that a case management order “may” require lawyers to “consider” ESI admissibility and “discuss” the “possibility” of ESI agreements. Rule 1.280 more forcefully establishes ESI as a part of discovery and articulates the boundaries of what is “reasonably accessible.” Rule 1.350 explains the form of ESI production and Rule 1.380 defines sanctions for failure to preserve ESI.

the client and obtain ESI info and confer, counsel needs to various ESI issues. It is advisable and a summary of the e-discovery understand the necessary steps practical, counsel should issue with Rule 1.380.

In preparation for the meet and obtain information such as: identify of the client's system and email relevant information or information lead to discovery of admissible nature of ESI policies; and identify Typically, it is not difficult to however it can be surprisingly accurate “data map” of where phones, backups, cloud, IM, most companies use suites like database, time-keeping, and identify for landmarks such as when a major software change or hardware data harder to access. Again, and not production.

The “meet and confer” is since it requires counsel to “

Standing ESI Order

- Some judges are creating standard orders setting out how to handle e-Discovery
- ASK your parties if there is a judge- or jurisdiction-specific ESI order... *just as you would ask if they are set for trial.*
- *Or if you can give them one.*

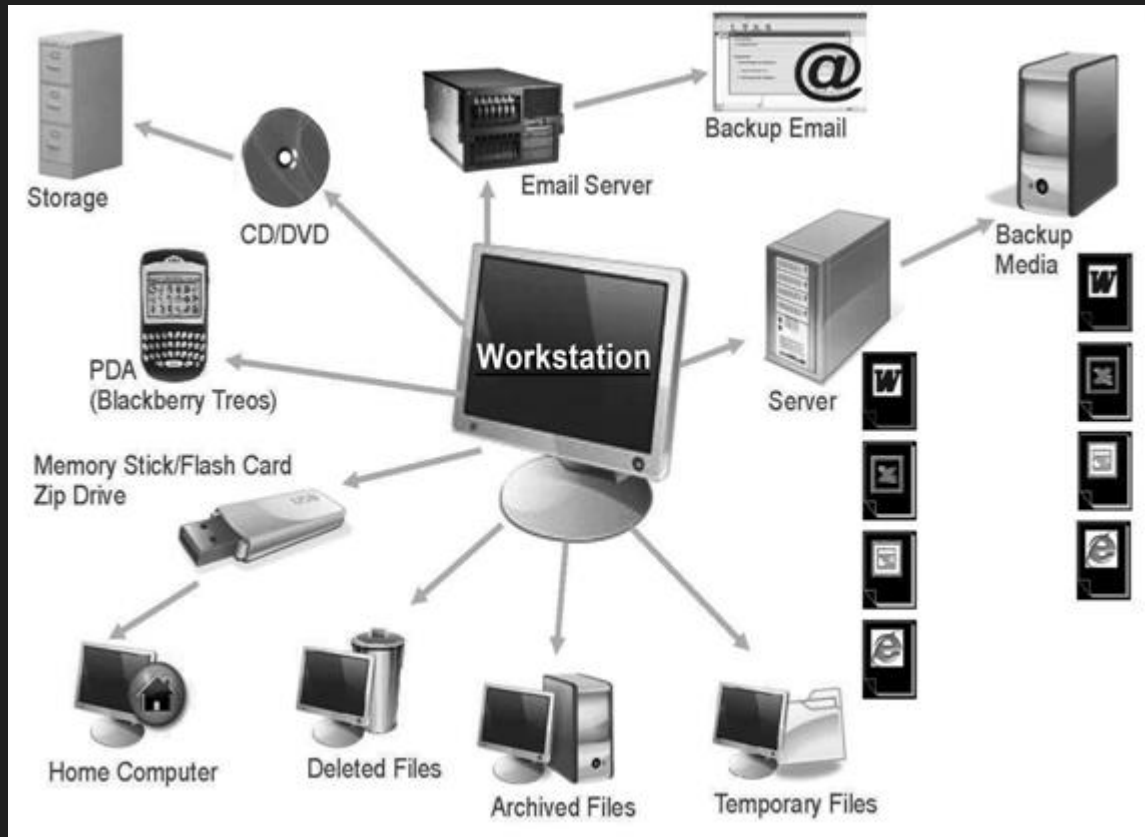
Preserving Evidence / ESI



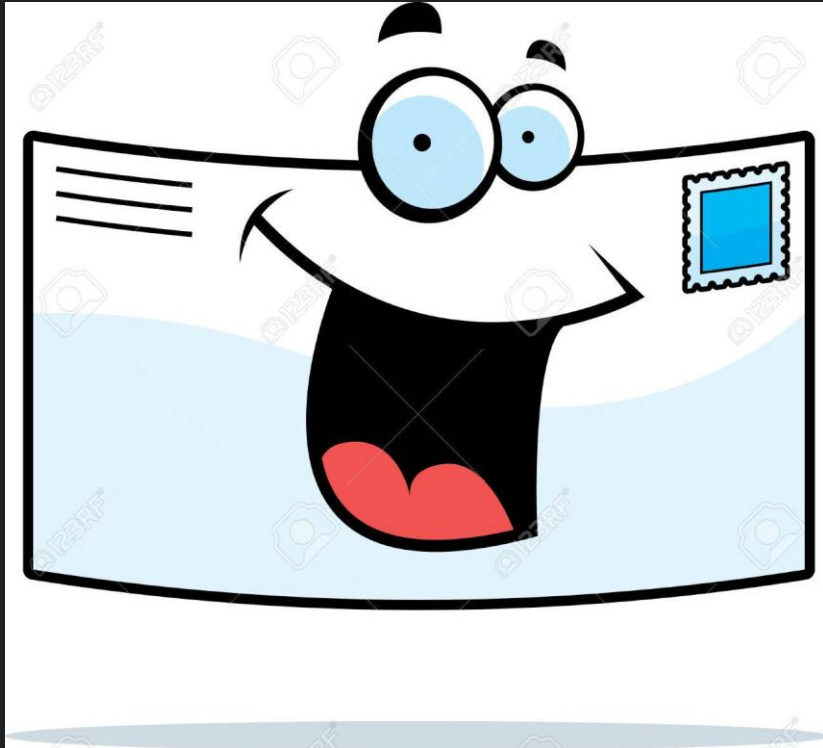
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Data Map

- BEFORE litigation or e-discovery, companies should have a chart where they store data
- This is an IT and LEGAL department issue
- *TIP: ask your litigants if they have a data map.*



Preservation Demand Letter



- Notice to (potential) opposing party to preserve necessary evidence and information.
- Typically tells the other side to stop any sort of auto-delete per the company's deletion policy (e.g., think GDPR compliance).
- Could be a setup for spoliation claim.

Litigation (or Legal) Hold



- Notification sent by a company's legal team (typically) to employees and other departments with instructions not to delete or destroy documents
- BEFORE there is a case
- Can be in response to a Preservation Demand or on its own
- This is an INTERNAL process

Preserving Evidence / ESI



Litigation Hold / Preservation Demand Letters

- Keep these up-to-date
- Compare your form to others when you receive them
- If you are in suit, or anticipate a certain venue, comply with local rules
- Make sure you understand your own form

Download this PPT:

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Preserving Evidence / ESI

August 27, 2018

VIA XXXXXXXXXXXX

Opposing Party

Address

Email

RE: CASE NAME

Mandatory Litigation Hold / Spoliation Letter

Dear **XXXXXX**:

Please allow this Mandatory Litigation Hold / Spoliation Letter to both introduce myself as counsel for **CLIENT** (“Our Client”) and to put **OPPOSING PARTY** (“**XXXXXX**”) on notice to comply with the following litigation hold requests or face claims of spoliation and other sanctions. As explained more fully below, **you must immediately cease and automatic deletion policies and any manual deletion of evidence.**

Preserving Evidence / ESI

This Firm represents Our Client relative to its claims and/or defenses arising from or relating to the following summary of facts (this is not an exclusive list and should be read broadly as there may be facts and circumstances currently unknown to Our Client but known to third parties and/or you): XXXXXXXX (“Matter”).

Please be advised that Our Client hereby notifies you, your attorneys, insurers, affiliates, and persons or entity in privity with you, which includes but is not limited to your officers, directors, employees, agents, subsidiaries, affiliates, vendors, and any third parties (collectively, “You”), **to preserve and retain all evidence arising from or relating to this Matter (as described in detail below).**

Preserving Evidence / ESI

Preservation Requires Immediate Intervention

You must act immediately to preserve potentially relevant ESI including, without limitation, information with the earlier of a Created or Last Modified on or after **January 1, 2015** through the present.

Please note that you have an obligation under Florida Rules of Civil Procedure 1.280, 1.350, and 1.380 and Rule 34 of the Federal Rules of Civil Procedure to preserve any and all evidence that could be relevant to, or reasonably calculated to lead to, the discovery of admissible evidence, including those stored in electronic form. Nothing in this demand for preservation of evidence should be understood to diminish Your obligation(s) to preserve documents, tangible things, and all other potentially relevant evidence **no matter the form or location.**

Preserving Evidence / ESI



Evidence includes any and all relevant, or potentially relevant, Documents, and Electronically Stored Information (“ESI”). The term, Documents, which includes ESI, refers to originals, copies, and drafts of any written, graphic, or otherwise-recorded material. You are required to preserve all relevant paper and electronic documents and data (in their original / native format), including, but not limited to:

Preserving Evidence / ESI

Electronic files. Retain all relevant electronic files, including active files, archived files, deleted data which is currently recoverable and legacy data, including:

- **Digital Communication** (e.g., electronic mail, facsimiles, chats, texts/Instant Messages, .MSG, and .PST files)
- **Word Processing Documents** (e.g., MS Word, .doc, .docx files)
- **Digital Documents** (e.g., Adobe Acrobat PDF files)
- **Still and Moving Image Files** (e.g., .TIF, .JPG, .GIF, .AVI, .MP4, and .MOV files)
- **Models, Diagrams, Presentations** (e.g., PowerPoint, Sway, and Visio)
- **Legacy Data** (e.g., data created on old or obsolete hardware or software)
- **Social Media** (e.g., Facebook, Twitter, Instagram, Pinterest, Snapchat)

Preserving Evidence / ESI

Paper copies of files. Preserve all paper copies of files, presentations, calendars, diaries, notebooks, binders, handwritten notes and other physical paperwork related to this matter, even if duplicate copies may exist in electronic format.

Other materials. Relevant information is not always presented as a document, such as:

- **Other Digital Communications** (e.g., Voicemail)
- **Contact and Relationship Management Data** (e.g., Outlook, LotusNotes)
- **Calendar and Diary Application Data** (e.g. Outlook or Google Calendar)
- **Spreadsheets and Tables** (e.g., MS Excel, .xslm, .csv files)
- **Software Applications and Data** (e.g., QuickBooks and WorkForce)
- **Sound Recordings** (e.g., WAV and .MP3 files)
- **Databases** (e.g., MS Access, Oracle, .ODB, .DCB files)
- **Network Access and Server Activity Logs** (e.g., Windows 7/8/10 and server log files)
- **Internet and/or Web Activity Data** (e.g. temporary Internet files, caches, cookies, and history including but not limited to such content from Explorer, Chrome, and/or Edge)

Preserving Evidence / ESI

Subsequently created documents. Until informed otherwise, your duty to preserve relevant information is ongoing. Be sure to preserve all relevant documents that are composed or received after your receipt of this letter.

Electronic Hardware and Software. Maintain a copy of hardware and software needed to view relevant electronic files, including:

- Encryption and De-Encryption Systems
- Compression and Decompression Software
- Credentials Associated with Relevant User Accounts
- If hardware containing relevant information is replaced or becomes outdated, retain the relevant hardware so that relevant data still may be accessed.

Electronic documents and the storage media on which they reside contain relevant, discoverable information beyond what is visible on a printed document. Therefore, even where a paper copy exists, we will seek all documents in their electronic form along with their associated metadata. We will also seek paper documents that contain unique information that was added after the documents were printed (e.g. handwriting, signatures, marginalia, drawings, annotations, highlighting and redactions).

Please be further advised that the specific data or information identified in the following list must be preserved: **[LIST RELEVANT CATEGORIES OF DOCUMENTS and OTHER RECORDS]**

Preserving Evidence / ESI

Your obligation to preserve and retain all evidence, in any form, extends to the following persons:

All employees who may possess, have access to or control over evidence, including:

- Executives and their Assistants;
- Directors, Officers and Agents
- Employees (Permanent and Temporary) in relevant business units;
- Records Department Personnel;
- IT personnel; and
- Other Employees, vendors, agents, parties in privity, or others who may deal with or handle Your document retention or storage of documents or data (including former employees' files).

All affected third parties who may possess or have access to evidence, including:

- Former Employees;
- All Parent Companies, Affiliates and Subsidiaries
- Consultants and Professionals (e.g., Attorneys, Accountants)
- Collaborative Software Providers (e.g., Box, Slack);
- Storage Providers: Cloud, Offsite, etc. (e.g., Google Drive, DropBox, Iron Mountain)

Preserving Evidence / ESI

Suspension of Routine (and other) Destruction And Your Duty to Guard Against Deletion

You are directed to immediately initiate a litigation hold for potentially relevant evidence (including but not limited to ESI, Documents and tangible things) and to act diligently and in good faith to secure and audit compliance with such litigation hold.

As a result of this obligation to ensure preservation and retention of all evidence by You, a preservation order (or litigation hold) should be issued by You immediately suspending Your document retention policy and halting the destruction of all relevant documents, or documents reasonably calculated to lead to, the discovery of admissible evidence, whether electronic or not.

Preserving Evidence / ESI



Examples of such features and operations include but are not limited to:

- Purging the contents of e-mail repositories by age, capacity or other criteria;
- Using data or media wiping, disposal, erasure or encryption utilities or devices;
- Overwriting, erasing, destroying or discarding back up media;
- Re-assigning, re-imaging or disposing of systems, servers, devices or media;
- Running antivirus or other programs effecting wholesale metadata alteration;
- Releasing or purging online storage repositories;
- Using metadata stripper utilities;
- Encrypting files or drives;
- Rotating or re-using backup tapes or drives;
- Disabling Windows, server, or IM logging; and
- Executing drive or file defragmentation or compression programs

Preserving Evidence / ESI



You should anticipate that Your officers, directors, employees, agents, or others may seek to hide, destroy, or alter evidence (including ESI) and You must act to prevent or guard against such actions. Especially where company machines have been used for Internet access or personal communications, You should anticipate that users may seek to delete or destroy information they regard as personal, confidential or embarrassing and, in so doing, may also delete or destroy potentially relevant evidence (including ESI). This concern is not one unique to You or your employees and officers. It is simply an event that occurs with such regularity in electronic discovery efforts that any custodian of evidence (including ESI) and their counsel are obliged to anticipate and guard against its occurrence.

Preserving Evidence / ESI



Please forward a copy of this letter to all persons and entities with custodial responsibility for the items referenced in this letter.

You should preserve all ESI in its native format (the form in which it is ordinarily accessed and maintained). You should refrain from any actions which makes reasonably accessible ESI less accessible or unavailable.

Preserving Evidence / ESI

Please forward a copy of this letter to all persons and entities with custodial responsibility for the items referenced in this letter.

You should preserve all ESI in its native format (the form in which it is ordinarily accessed and maintained). You should refrain from any actions which makes reasonably accessible ESI less accessible or unavailable.

Preserving Evidence / ESI

In responding to this letter, please retain the following:

Any and all files and records over which you have control that pertain to the subject matter of this Notice in the following locations:

- File Drawers
- Desk and Office Drawers
- Employees' Personal Devices (e.g., Home Computers, Cell Phones, and Tablet Devices)
- Your employees/personnel's Google Drive, Drop Box, or other locations where they have kept and/or used Your data
- Personal Files at Home (Hard Copy and Electronic)
- Office Computers and Laptops
 - Active E-mails
 - E-mails in Folders
 - Attachments to E-mails
 - Documents on Hard Drives
 - Portable Storage Devices (e.g., Thumb Drives, CDs, External Drives)

Preserving Evidence / ESI



- Servers (e.g., Onsite, Remote, and Internet-based)
- Employees' Workstations
- Hard Drives
- Shared Drives
- Proprietary Databases
- Company Intranet
- Social Media Platforms (e.g., Facebook, Twitter, Pinterest, Instagram, Snapchat)
- Digital Workspaces (e.g. Slack)
- Archive Media (e.g., Backup Tapes, Backup Disks)
- In order to show preservation compliance, You must maintain a log, documenting all alterations or deletions made to any electronic data storage device or any electronic data processing system. The log should include changes and deletions made by supervisors, employees, contractors, vendors, or any other third parties. This should include documentation of chain of custody.

Preserving Evidence / ESI

Failure to abide by this request could result in sanctions and/or other extreme penalties against You and could form the basis of a legal claim for spoliation against You.

Compliance with this letter and Your preservation obligations includes forwarding a copy of this letter to all individuals or organizations that are responsible for any of the items referred to in this letter.

Please confirm that You are in receipt of this letter, that You have taken steps to preserve all relevant evidence, including the specific items identified above, and that any document destruction is suspended. If any portion of this letter or any term used in it is unclear, please let me know.

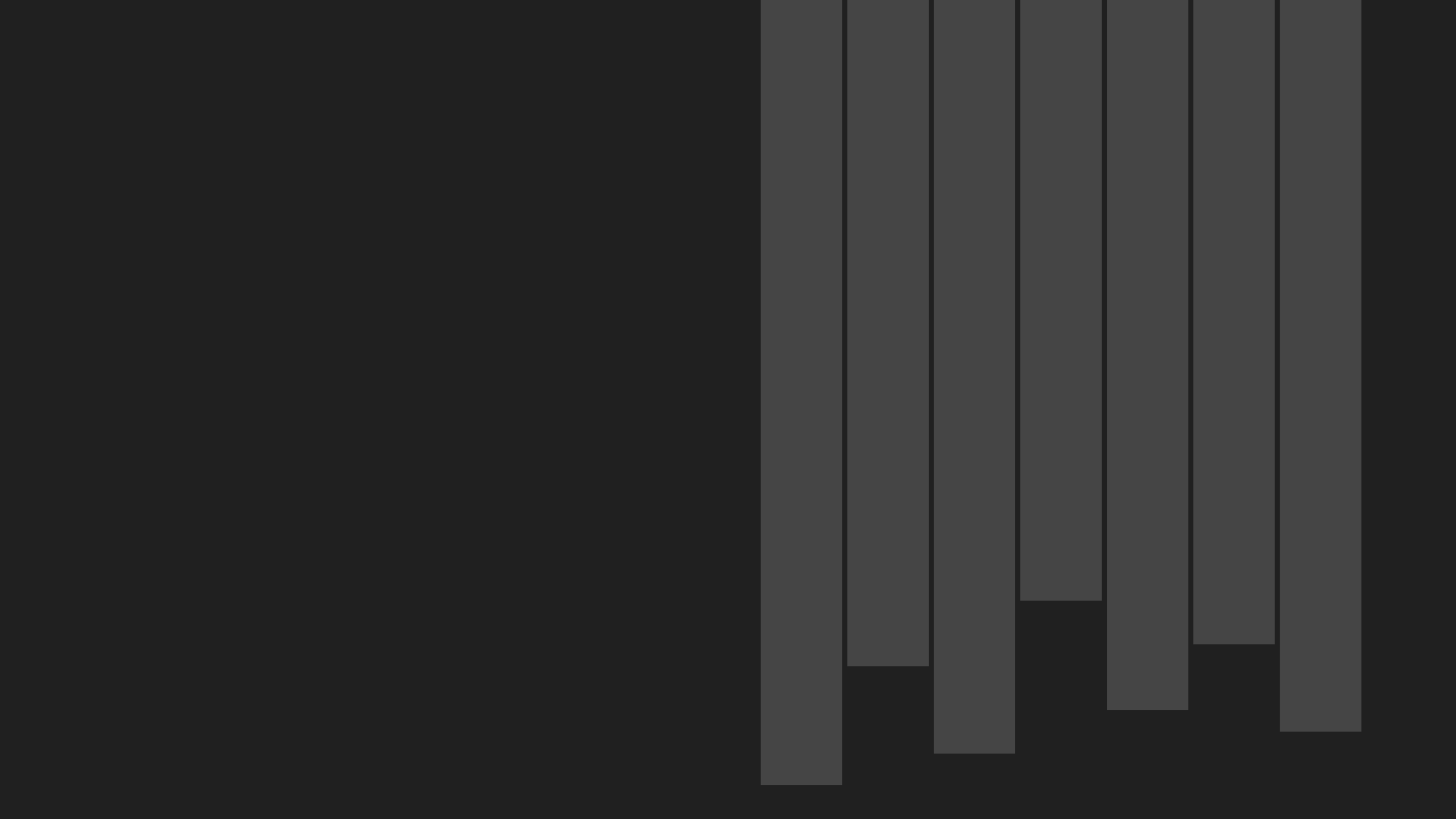
Sincerely,



McDonald Hopkins

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Facebook, Twitter, Instagram, Email and Smartphone
Evidence: The Ultimate Guide



Social Media:

Real Life Examples



chopkins@mcdonaldhopkins.com

DISCOVERY OF FACEBOOK CONTENT IN FLORIDA CASES

By Christopher B. Hopkins and Tracy T. Segal

The constant expansion of social networking websites means that defense practitioners will increasingly have to confront issues of how and when

"Facebook helps you connect and share with the people in your life," proclaims the Facebook homepage. As of December 2011, 152.5 million people in the United States were posting monthly on their Facebook accounts.¹ Based on these figures, it is likely that persons injury plaintiffs may have an

and wearing shorts.⁴ Similarly, a plaintiff who alleged she was in constant physical pain and needed a cane to walk posted photographs that showed her enjoying life with her family and wrote a status update about visiting the gym.⁵ Another plaintiff, who claimed to be largely confined to her home and bed, posted pictures on Facebook and MySpace which revealed

DO NOT USE
- OUTDATED

The number of appellate decisions setting out standards for litigants pursuing discovery of information posted on social media websites is small, but growing. In this article Christopher Hopkins identifies trends in the decisional law and suggests ten steps that will improve the chances of obtaining social media discovery. The article focuses on Facebook, but the principles described here can be applied to other social and professional networking sites.

TEN STEPS TO OBTAIN FACEBOOK DISCOVERY IN FLORIDA

By Christopher B. Hopkins

In the past year, three Florida appellate courts have articulated standards in civil cases for the discovery of content from a party's Facebook account. Before 2014, Florida's scant precedent for social media discovery was composed of two federal and two state trial court orders. While this budding authority of three opinions and four orders is not fully harmonized, defense practitioners will detect trends and strategies for obtaining Facebook content (e.g., posts, comments, still images, video, or other information) and, potentially, full access to a plaintiff's Facebook account.

Rather than serving a standard set of "social media discovery" requests, the lesson from these Florida cases is that defense counsel should take discrete steps — early in the case, followed by narrow social media discovery in stages — to maximize production of the plaintiff's Facebook content. This article provides an overview of the recent social media discovery rulings in Florida; explains the grounds to overcome frequent plaintiff objections; and describes ten steps to obtain court-approved access to the plaintiff's Facebook content.

A primer on Facebook and other forms of social media is likely not necessary for most Florida lawyers.¹ This article will focus exclusively on Facebook because of that site's popularity, but the principles and steps articulated here likely will apply to other social media. We begin with a chronological discussion of the four trial court orders from 2011 through 2013 and the more recent 2014 through 2015 appellate opinions.

"Facebook Discovery" Trial Court Orders 2011–2013

There are four reported Florida trial court orders regarding Facebook discovery, decided by the Broward and Palm Beach County circuit courts and the Middle District of Florida. The two South Florida trial court orders — *Beswick v. Northwest Medical Center, Inc.* and *Levine v. Culligan* — are the most significant.

*Beswick v. Northwest Medical Center, Inc.*²

The earliest reported authority in Florida articulating standards for the discovery of a plaintiff's Facebook account is the November 2011 Broward County circuit court order in *Beswick v. Northwest Medical Center, Inc.* *Beswick* is also noteworthy because it was relied upon by two of the six subsequent Florida cases.³

The *Beswick* defendant sent discovery requests asking one of the plaintiffs to identify her social media accounts and to divulge a copy of all shared content for the preceding five years.⁴ The *Beswick* plaintiff objected on the grounds that these requests were overbroad, burdensome, not reasonably related to the discovery of admissible evidence, and violative of privacy rights.⁵ This mantra of objections, as illustrated below, appears to be the prevailing grounds that plaintiffs use to avoid production of Facebook content.

ABOUT THE AUTHOR...



CHRISTOPHER B. HOPKINS is a member of McDonald Hopkins LLC (West Palm Beach). He received the *Trial Advocate Quarterly* Award in 2012 and has been on the TAQ editorial board since 2004. His litigation and appellate practice frequently focuses on emerging technologies. His email is chopkins@mcdonaldhopkins.com.

Technology Corner



Social Media Discovery in Florida After *Nucci v. Target*

by Christopher B. Hopkins

Despite the widespread use of internet social networking, there has been little recent case law clarifying social media discovery. This article discusses the few current decisions and trends nationwide, focusing on Florida and Facebook, so that practitioners can better frame requests or sharpen objections. [Due to space constraints, materials below are at www.hopkins.law]

Facebook remains ground zero for most social media discovery battles. In 2015, I wrote *Ten Steps to Obtain Facebook Discovery in Florida* which discussed the development of Florida's social media discovery precedent between 2011-2015. As discussed in that article, the 2015 case of *Nucci v. Target Corp.* was the most recent Florida appellate decision on social media discovery. Therein, the defendant selectively propounded a request for photographs which the plaintiff posted to Facebook. The *Nucci* court approved that limited request, agreeing that "there is no better portrayal of what an individual's life was

burden are historically overruled and should be avoided (see *Nucci and Hogwood*).

First, as for relevance, it is frequently argued that the defendant failed to establish that the request is reasonably calculated to lead to discovery of admissible evidence (see *Hogwood, Root v. Balfour*, and *Smith v. Hillshire*). Plaintiff's counsel should rely on *Nucci* to argue that non-photographic content on Facebook is not relevant absent certain circumstances.

Second, in the May 2017 case of *Gordon v. TGR Logistics*, a Wyoming court applied "proportionality" to a broad request for complete access to the plaintiff's two Facebook accounts. Following Federal Rule 26(b)(1), the *Gordon* court considered the amount in controversy, resources, and importance to the case. Similarly, following Rule 26(c)(1), the court stated "discovery can be burdensome even if it is inexpensive" due to annoyance, embarrassment, or oppression. Plaintiff lawyers should be mindful that *Nucci* held that blanket objections along

InternetLawCommentary.com

Essential Cases



Westlaw.

75 So.3d 789, 36 Fla. L. Weekly D2610
(Cite as: 75 So.3d 789)

H

District Court of Appeal of Florida,
Fourth District.

Mario A. ALVAREZ, Appellant,

v.

COOPER TIRE & RUBBER COMPANY,
Appellee.

No. 4D08-3498.
Nov. 30, 2011.

Background: Estate of pick-up truck passenger, who was killed in accident that allegedly resulted from separation of tire tread on truck's rear wheel, filed suit against tire manufacturer, alleging claims for strict liability and negligence. The Circuit Court, Fifteenth Judicial Circuit, Palm Beach County, [Edward H. Fine](#) and [Catherine Brunson, JJ.](#), issued order restricting estate's discovery, and following a jury trial, rendered judgment in favor of manufacturer. Estate appealed.

Holding: On rehearing en banc, the District Court of Appeal, [Warner, J.](#), held that trial court acted within its discretion in limiting discovery from manufacturer to subject tire and those tires with the same or similar specifications.

Mario Alvarez v. Cooper Tire & Rubber Co. 75 So.3d 789 (Fla 4th DCA 2011)

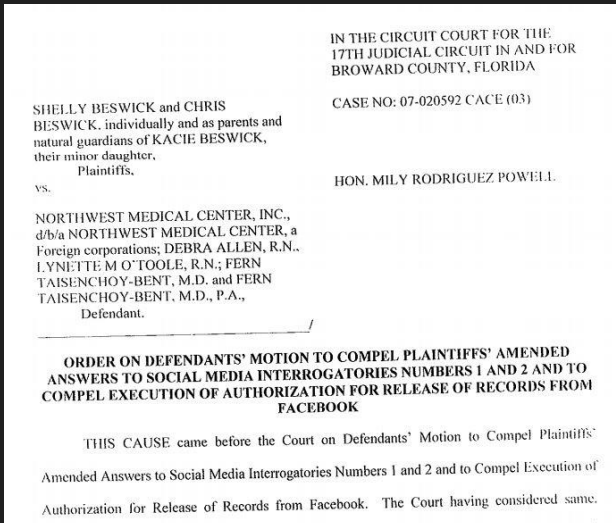
Dec 2010 opinion vs. Nov 2011 opinion:

- 2010: Florida has “a strong policy to allow parties to do some fishing to learn what possible trial evidence may actually be out there.”
- 2011: [no reference to “fishing”] “...the cost and burden of civil litigation will imperil its very existence.”

Social Media Discovery



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Beswick v. Northwest Medical Center, Inc.
2011 WL 70005038 (Fla. 17th Cir. Ct. Nov. 3, 2011)

- All FB content: “clearly relevant” and “narrow in scope as they include a time limitation of five years.”
- Note – issued three weeks before *Alvarez*

Davenport v. State Farm Mutual
2012 WL 555759 (M.D. Fla. Feb 21, 2012)

Request for Production

All photographs posted, uploaded, or otherwise added to any social networking sites or blogs, including but not limited to Facebook.com, Myspace.com, Twitter.com, or any similar websites posted since the date of the accident alleged in the Complaint. This includes photographs posted by others in which Chelsea Davenport has been tagged or otherwise identified therein.

Davenport v. State Farm Mutual
2012 WL 555759 (M.D. Fla. Feb 21, 2012)

Ordered to Produce:

“produce any photographs depicting [plaintiff], taken since the date of the subject accident, and posted to [social media], regardless of who posted them.”

Levine v Culligan of Florida, Inc. 2013 WL 1100404 (Fla. 15th Cir. Ct. Jan. 29, 2013)

- D sought full access since evidence “may” exist on her social media accounts.
- D had not come forward with evidence to show “some reason to believe that the private portion of a profile contains information relevant to the case.”

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION “A1”
CASE No. 50-2011-CA-010339-XXXXMB

ERICA LEVINE

Plaintiff,

vs.

CULLIGAN OF FLORIDA, INC.,
a Florida corporation,

Defendant/Third Party Plaintiff,

vs.

THE LAW OFFICES OF CHAD R. LAING,
P.A. d/b/a LAING LAW GROUP, a Florida
corporation,

Third Party Defendant.

2013 WL 2712206

Only the Westlaw citation is currently available.
United States District Court,
M.D. Florida.

Vincent SALVATO, as Personal Representative
of the Estate of Joshua Salvato, for the
benefit of Vincent Salvato, surviving parent
Ana Rodriquez, surviving parent, Plaintiff,
v.

Lauren MILEY, Norman Brown
and Chris Blair, Defendants.

No. 5:12-CV-635-Oc-10PRL. | June 11, 2013.

Attorneys and Law Firms

Adam John Langino, Diana L. Martin, Leslie M. Kroeger,
Theodore J. Leopold, Leopold Law, PA, Palm Beach
Gardens, FL, Antonio M. Romanucci, Romanucci & Blandin,
LLC, Chicago, IL, Brian W. Warwick, Janet R. Varnell,
Steven Thomas Simmons, Jr., Varnell & Warwick, PA, The
Villages, FL, for Plaintiff.

Jeanelle G. Bronson, Walter A. Ketcham, Jr., Philip J.
Wallace, Grower, Ketcham, Rutherford, Bronson, Eide &
Telan, PA, Bruce R. Bogan, Melissa Jean Sydow, Hilyard,
Bogan & Palmer, PA, Orlando, FL, for Defendants.

Est of Salvato v. Miley 2013 WL 2712206 (M.D. Fla. June 11, 2013)

- Requests outside the scope of discovery absent a “threshold showing that the information is reasonably calculated to lead to the discovery of admissible evidence.”
- Order lists a number of the discovery requests; alone, some version of these requests might be OK.

2013 WL 2712206

Only the Westlaw citation is currently available.
United States District Court,
M.D. Florida.

Vincent SALVATO, as Personal Representative
of the Estate of Joshua Salvato, for the
benefit of Vincent Salvato, surviving parent
Ana Rodriquez, surviving parent, Plaintiff,

v.

Lauren MILEY, Norman Brown
and Chris Blair, Defendants.

No. 5:12-CV-635-Oc-10PRL. | June 11, 2013.

Attorneys and Law Firms

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LLC, Chicago, IL, Brian W. Warwick, Janet R. Varnell,
Steven Thomas Simmons, Jr., Varnell & Warwick, PA, The
Villages, FL, for Plaintiff.

Jeanelle G. Bronson, Walter A. Ketcham, Jr., Philip J.
Wallace, Grower, Ketcham, Rutherford, Bronson, Eide &
Telan, PA, Bruce R. Bogan, Melissa Jean Sydow, Hilyard,
Bogan & Palmer, PA, Orlando, FL, for Defendants.

Est of Salvato v. Miley

2013 WL 2712206 (M.D. Fla. June 11, 2013)

Interrogatory 12

Please identify whether you had any social media accounts and/or profiles including, but not limited to, Facebook, Twitter, MySpace, you have had at any time from July 5, 2012–February 1, 2013.

For each account, please provide the name and/or username associated with the profile and/or social media account, the type of social media account (e.g.—Facebook, Twitter, etc.), the email address associated with the social media account, the dates you've maintained the account, and/or whether the account is still active.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

TONIA ROOT, individually and on behalf
of GAGE ROOT, a minor,

Petitioner,

v.

Case No. 2D13-3205

BALFOUR BEATTY CONSTRUCTION LLC,
a Delaware limited liability corporation; ZEP
CONSTRUCTION, INC.; C.W. ROBERTS
CONTRACTING, INC. f/k/a COUGAR
CONTRACTING SPECIALITIES, INC., a
wholly owned subsidiary of
CONSTRUCTION PARTNER INC.; DRMP,
INC.; ROADS SAFE TRAFFIC SYSTEMS,
INC. f/k/a NES TRAFFIC SAFETY/
ROADSAFE TRAFFIC, L.P. f/k/a NES
TRAFFIC SAFETY, L.P.; ALLIED
ENGINEERING AND TESTING, INC.; and
CITY OF CAPE CORAL,

Respondents.

Opinion filed February 5, 2014.

Root v. Balfour Beatty Const. LLC 132 So.2d 867 (Fla. 2d DCA 2014)

- Sought full access to Facebook account
- Distinguishable:
 - “mother/next friend” was not a witness
 - scope of requests did not relate to counts / defenses.
- Plaintiffs will cite language; Defendants emphasize outlying nature of facts

148 So.3d 163

District Court of Appeal of Florida,
First District.

Tammy Lee ANTICO, Personal

Representative of the Estate of Tabitha
Frances Guyton **Antico**, Deceased, Petitioner,
v.

SINDT TRUCKING, INC., and

James Paul Williams, Respondents.

No. 1D14-277. | Oct. 13, 2014.

Synopsis

Background: Estate of driver, who was killed in vehicular collision with **truck**, brought wrongful death action against **trucking** company, which operated **truck**. Company moved for an order from the trial court permitting an expert to inspect data from driver's cellphone on day of the accident. The trial court granted motion. Driver's estate filed petition for writ of certiorari.

[Holding:] The District Court of Appeal, **Osterhaus**, J., held that trial court did not err by allowing company's expert to retrieve data from driver's cellphone under limited and controlled conditions.

Est of Antico v. Sindt Trucking, Inc. 148 So.3d 163 (Fla. 1st DCA 2014)

- Defendant sought phone and FB content
- NOT IN OPINION = FB implicated because relatives later posted, “don’t text and drive.”
- Arguably not a “social media” case but same analysis. See also *Restrepo v. Carrera*, 3d DCA (April 13, 2016).

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

MARIA F. LEON NUCCI and **HENRY LEON**, her husband,
Petitioners,

v.

**TARGET CORPORATION, AMERICAN CLEANING CONTRACTING,
INC., and FIRST CHOICE BUILDING MAINTENANCE, INC.,**
Respondents.

No. 4D14-138

[January 7, 2015]

Petition for writ of certiorari to the Circuit Court for the Seventeenth
Judicial Circuit, Broward County; John J. Murphy, III, Judge; L.T. Case
No. 10-45572 (21).

John H. Pelzer of Greenspoon Marder, P.A., Fort Lauderdale, and Victor
Kline of Greenspoon Marder, P.A., Orlando, for petitioners.

Nicolette N. John and Thomas W. Paradise of Vernis & Bowling of
Broward, P.A., Hollywood, for respondent, Target Corporation.

GROSS, J.

Nucci v. Target Corp. 162 So.3d 146 (Fla. 4th DCA 2015)

- Defendant sought phone and FB content
- NOT IN OPINION = FB implicated because relatives later posted, “don’t text and drive.”
- Arguably not a “social media” case but same analysis

Social Media Discovery



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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

VICKI HOGWOOD and
JAMES HOGWOOD,
Plaintiffs,

Case No. 2011CA013010
Civil Division: AI

v.

HCA HOLDINGS, INC.; PALMS WEST
HOSPITAL LIMITED PARTNERSHIP, d/b/a
PALMS WEST HOSPITAL; MICHAEL
WING, M.D.; PALMS WEST RADIATION
THERAPY, L.L.C.; and 21ST CENTURY
ONCOLOGY, L.L.C.;
Defendants.

ORDER OVERRULING IN PART AND SUSTAINING IN PART PLAINTIFFS'
OBJECTIONS TO DEFENDANTS' INTERNET SOCIAL MEDIA
REQUEST TO PRODUCE AND INTERROGATORIES

Hogwood v. Palms West (Fla. 15th Cir. Ct. Aug 12, 2015)

- Judge Sasser (*Levine*) applies *Nucci & Root*
- Granted in part, denied in part

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
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VICKI HOGWOOD and
JAMES HOGWOOD,
Plaintiffs,

Case No. 2011CA013010
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HCA HOLDINGS, INC.; PALMS WEST
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REQUEST TO PRODUCE AND INTERROGATORIES

Hogwood v. Palms West (Fla. 15th Cir. Ct. Aug 12, 2015)

Interrogatory

With respect to each social media website which Plaintiff has used or maintained an account from one year prior to the incident that is the basis for the subject lawsuit to the present, please provide Plaintiff's user name and password.

Alternatively, pursuant to Rule 1.340(c), Fla. R. Civ. P., please provide a copy of all content/data shared on each account during the one year prior to the incident that is the basis for the subject lawsuit to the present.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

VICKI HOGWOOD and
JAMES HOGWOOD,
Plaintiffs,

Case No. 2011CA013010
Civil Division: AI

v.

HCA HOLDINGS, INC.; PALMS WEST
HOSPITAL LIMITED PARTNERSHIP, d/b/a
PALMS WEST HOSPITAL; MICHAEL
WING, M.D.; PALMS WEST RADIATION
THERAPY, L.L.C.; and 21ST CENTURY
ONCOLOGY, L.L.C.;
Defendants.

ORDER OVERRULING IN PART AND SUSTAINING IN PART PLAINTIFFS'
OBJECTIONS TO DEFENDANTS' INTERNET SOCIAL MEDIA
REQUEST TO PRODUCE AND INTERROGATORIES

Hogwood v. Palms West (Fla. 15th Cir. Ct. Aug 12, 2015)

Request for Production

Please provide the content of each and every social media website, utilized by the Plaintiff, Vicki Hogwood, for the one year period prior to the incident which is the subject matter of this litigation to the present. For clarification, this would include, but not be limited to, Facebook, Twitter, Instagram, LinkedIn, XboxLive, Foursquare, Gowalia, Myspace, and Windows Live Spaces, and dating websites.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

VICKI HOGWOOD and
JAMES HOGWOOD,
Plaintiffs,

Case No. 2011CA013010
Civil Division: AI

v.

HCA HOLDINGS, INC.; PALMS WEST
HOSPITAL LIMITED PARTNERSHIP, d/b/a
PALMS WEST HOSPITAL; MICHAEL
WING, M.D.; PALMS WEST RADIATION
THERAPY, L.L.C.; and 21ST CENTURY
ONCOLOGY, L.L.C.;
Defendants.

ORDER OVERRULING IN PART AND SUSTAINING IN PART PLAINTIFFS'
OBJECTIONS TO DEFENDANTS' INTERNET SOCIAL MEDIA
REQUEST TO PRODUCE AND INTERROGATORIES

Hogwood v. Palms West (Fla. 15th Cir. Ct. Aug 12, 2015)

Application of Nucci:

“Patient’s objections must be overruled to the extent they seek to prevent disclosure of photographs from her Facebook page. As in *Nucci*, Patient has placed her long-term health at issue in this action. Therefore, photographs of her daily life before and after the incident leading to this litigation are exceedingly relevant.”

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

VICKI HOGWOOD and
JAMES HOGWOOD,
Plaintiffs,

Case No. 2011CA013010
Civil Division: AI

v.

HCA HOLDINGS, INC.; PALMS WEST
HOSPITAL LIMITED PARTNERSHIP, d/b/a
PALMS WEST HOSPITAL; MICHAEL
WING, M.D.; PALMS WEST RADIATION
THERAPY, L.L.C.; and 21ST CENTURY
ONCOLOGY, L.L.C.;
Defendants.

ORDER OVERRULING IN PART AND SUSTAINING IN PART PLAINTIFFS'
OBJECTIONS TO DEFENDANTS' INTERNET SOCIAL MEDIA
REQUEST TO PRODUCE AND INTERROGATORIES

Hogwood v. Palms West (Fla. 15th Cir. Ct. Aug 12, 2015)

Application of Root:

“Defendants here seek discovery of “all content/data shared” on Patient’s Facebook account. Such a request implicates the concerns raised in *Root* and would be the equivalent of the proverbial impermissible “fishing expedition”.

Case Is Pending in Second District Court of Appeals

**IN THE DISTRICT COURT OF APPEALS
SECOND DISTRICT COURT OF APPEALS, STATE OF FLORIDA**

STATE OF FLORIDA

CASE NO.:

VS.

L.T. CASE NO. 2018CF9167

WILLIAM JOHN MONTANEZ
Defendant

_____ /

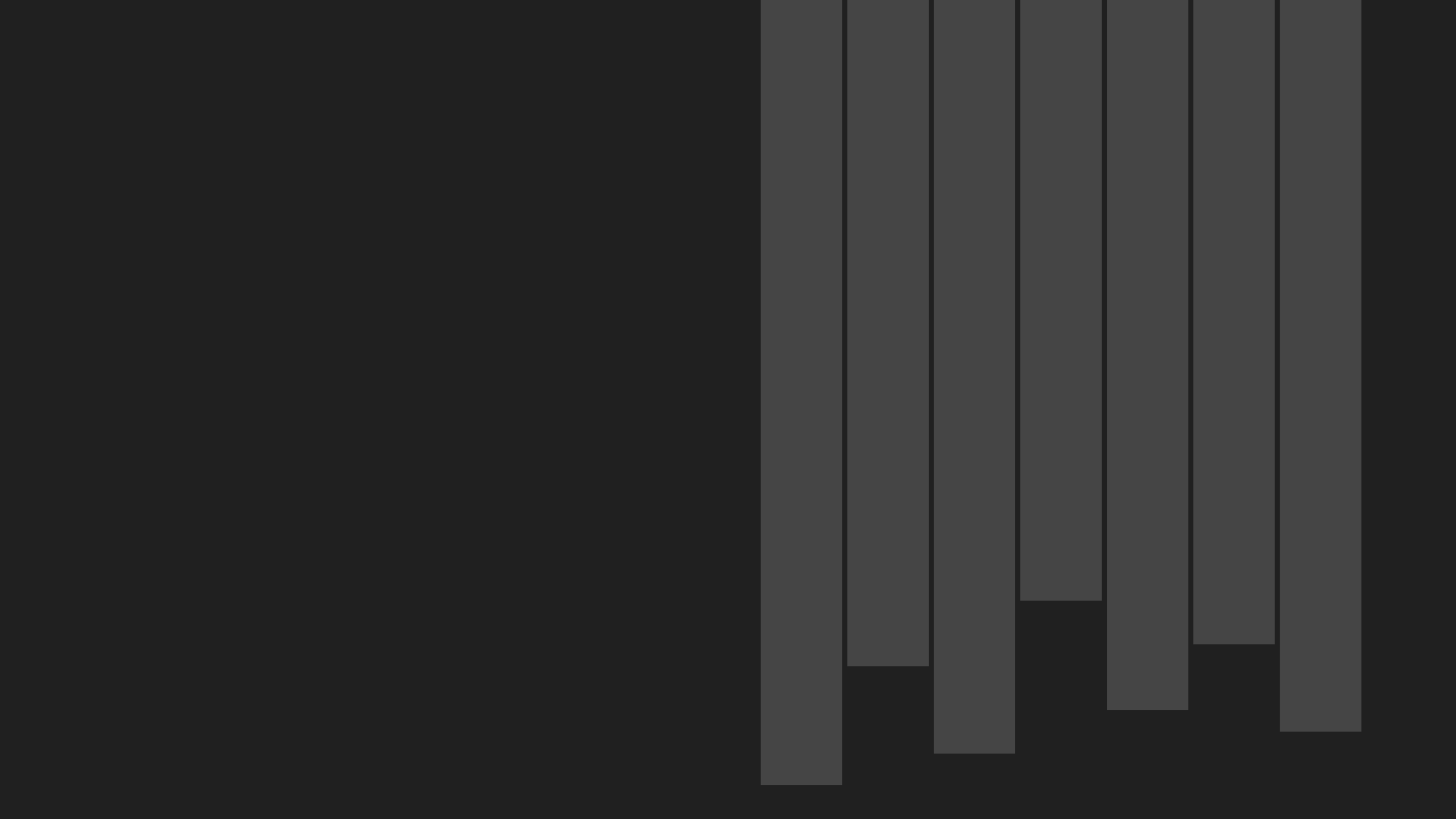
Case Is Pending in Second District Court of Appeals

White / Red iPhone cellular telephone / Model: A1660 / FCC ID: BCG-E3085A / IC: 579C-E3085A

Being the cellular phone owned or possessed by William John Montanez Date Of Birth: 07/07/1993
And there is now being stored on said Cellular iPhone certain evidence, to-wit: images, text messages, files, telephone numbers, call logs, graphic files, digital media and/or digital files, and any other media that can store digital files and/or digital media. Phone records, records of Internet Service Providers, E-mails and other electronic data, including but not limited to encryption, passwords telephone numbers, Emails, Instant messages or text message storage, computer images, computer programs and system documentation; documents files or any other computer data relating to encryption, passwords.

Download this PPT:

InternetLawCommentary.com



Facebook, Twitter, Instagram, Email and Smartphone
Evidence: The Ultimate Guide



Metadata

Made Simple



chopkins@mcdonaldhopkins.com

Meta Data Made Simple

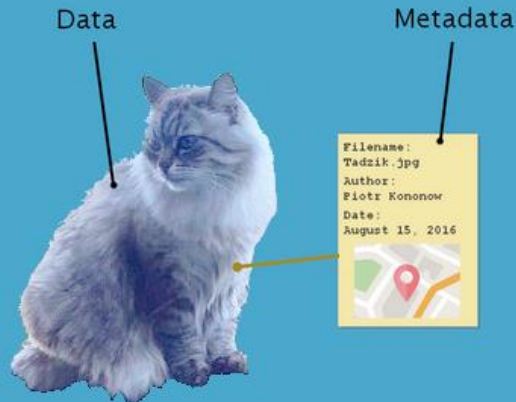


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Metadata

[noun]

What is
Metadata



- Data about data / “meta” (self-referential, conscious of self)
- Descriptive, structure, administrative
- **Word doc** – who created, modified, what changed?
- **Image** – GPS, device, etc
- Generally used to authenticate, time-stamp, or find people who “touched” the data
- This is why people want “native” format

Meta Data Made Simple



McDonald Hopkins



Native format

[noun]

- file that is maintained in its original format
- Example: you created a document in WORD, but you e-mailed it as a PDF. Which is the Native format?
- Look for the step of converting to a “foreign” format
- In production, ESI is often converted to PDF or TIFF formats
- Native preserves the original metadata

PST file [noun]

- Personal Storage Table

- This is an example of (most common) ESI
- Microsoft email and calendar files
- Export all emails / calendar events into a file
- Native format. Searchable. Has metadata



Example:
Warrant in Las Vegas
Shooter Case

Litigants can / should learn from law enforcement how to phrase their e-discovery requests

ATTACHMENT "A1"

ONLINE ACCOUNT TO BE SEARCHED

1. This warrant applies to information associated with the Microsoft email account centralpark1@live.com (the "Target Accounts") from their inception to present, which is stored at premises owned, maintained, controlled, or operated by Microsoft Corporation, headquartered at 1 Microsoft Way, Redmond, Washington, 98052.

Warrant in Las Vegas Shooter Case

ESI
which the
Government
sought from
Microsoft
(email account
provider)

- a. The contents of all emails associated with the account, including copies of emails sent to and from the account, draft emails, the source and destination addresses associated with each email, the date and time at which each email was sent, and the size and length of each email;
- b. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the types of service utilized, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, alternative email addresses provided during registration, methods of connecting, log files, and means and source of payment (including any credit or bank account number);
- c. All records or other information stored in the Online Accounts, including address books, contact and buddy lists, calendar data, pictures, applications, documents, and other files;
- d. All records pertaining to communications between Service Provider and any person regarding the account, including contacts with support services and records of actions taken.
- e. All third-party application data and content associated with the Target Account through any Android operating system and/or any Microsoft-related facility.



Warrant in Las Vegas Shooter Case

Metadata
which the
Government
sought from
Microsoft
(email account
provider)

- a. The contents of all emails associated with the account, including copies of emails sent to and from the account, draft emails, the source and destination addresses associated with each email, the date and time at which each email was sent, and the size and length of each email;
- b. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the types of service utilized, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, alternative email addresses provided during registration, methods of connecting, log files, and means and source of payment (including any credit or bank account number);
- c. All records or other information stored in the Online Accounts, including address books, contact and buddy lists, calendar data, pictures, applications, documents, and other files;
- d. All records pertaining to communications between Service Provider and any person regarding the account, including contacts with support services and records of actions taken.
- e. All third-party application data and content associated with the Target Account through any Android operating system and/or any Microsoft-related facility.



McDonald Hopkins

iPhone Apps: Photo & Video Metadata

Metapho (iPhone)



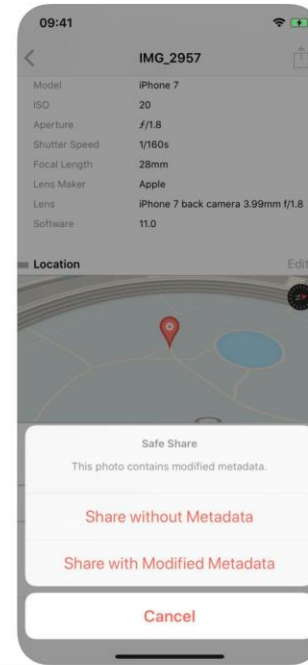
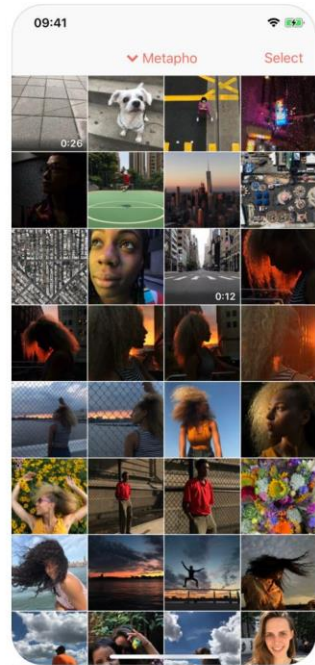
Metapho 4+

Check and Edit EXIF Metadata
[Zininworks Inc.](#)

★★★★★ 4.6, 617 Ratings

Free · Offers In-App Purchases

Screenshots iPhone iPad



Metapho

Description

Take full control of your photo's metadata.

*Note: Remove Metadata, Date / Location Edit, and Safe Share are premium features, require single "Unlock Everything" in-app purchase.

Metapho is a simple and clean viewer for photo metadata such as date, file name, size, camera model, shutter speed, location and more.

Metapho Action lets you check metadata of a photo and export it without metadata, from anywhere with iOS share sheet.

- Browse all your photos in iCloud Photo Library
- See essential EXIF data of a photo
- Get photo location and lens direction on the map
- Safe Share: Remove geotag and personal data before sharing
- Remove Metadata: Erase/Restore metadata without duplication
- Date Edit: Change date and time of a photo
- Location Edit: Add or change geolocation data of a photo
- Batch Operation: Edit multiple metadata at once

Metapho also supports Live Photos, Gifs, and videos.

*Note: Remove Metadata, Date / Location Edit, and Safe Share are premium features, require single "Unlock Everything" in-app purchase.



Photo Investigator (iPhone)



Photo Investigator: Edit, Remove GPS EXIF Metadata 4+

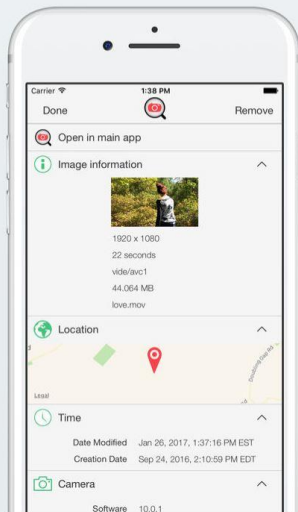
Daniel Anderson

★★★★☆ 4.4, 567 Ratings

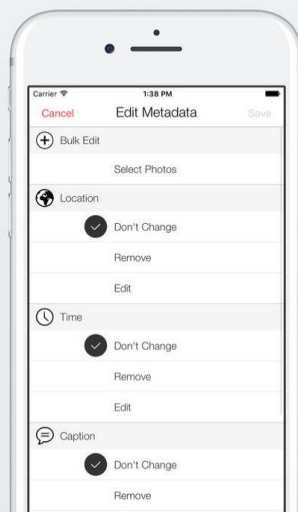
Free · Offers In-App Purchases

Screenshots [iPhone](#) [iPad](#)

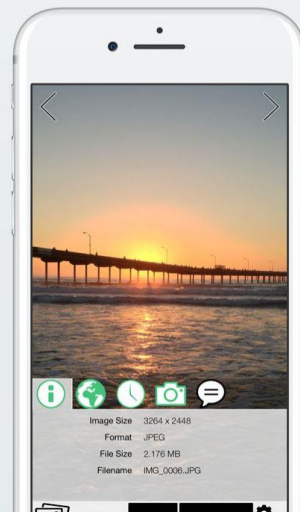
Use the Extension
From Photos or Messages



Remove All Metadata or
Edit GPS, Date, Caption



Summarized Metadata
or View All



Find GPS Photos FAST



Photo Investigator

Description

- See all available metadata: time, location, camera, etc.
- Remove or edit GPS, caption, and timestamp (requires in-app purchase)
- Open the location (if available) in Waze, Apple, or Google Maps

When scrolling through your photos, photos with a globe overlay have GPS metadata, so you can quickly tell which photos have GPS coordinates.

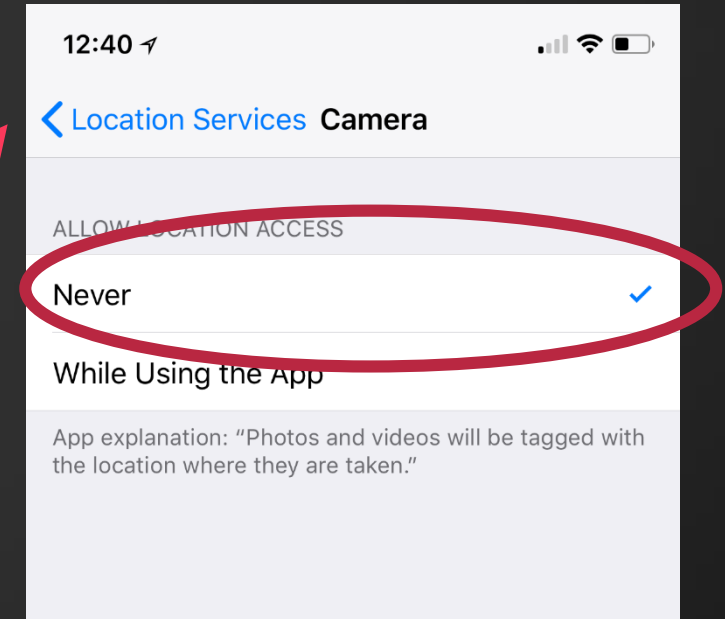
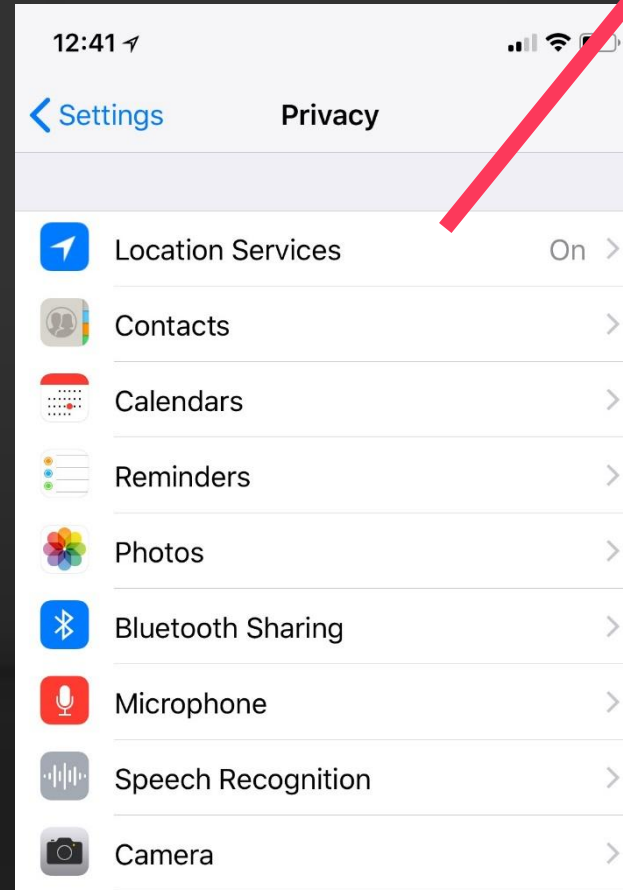
Use the extension to view photo metadata from Messages, Photos, and other apps.

Photo data may include location (if enabled by the camera), date, device, software versions, file size, file name, and more. If there is not metadata about when the picture was taken, you will still see the file creation date.



Stop Saving GPS Data to iPhone Photos

Settings →
General →
Privacy →
Location Services →
Camera → **NEVER.**

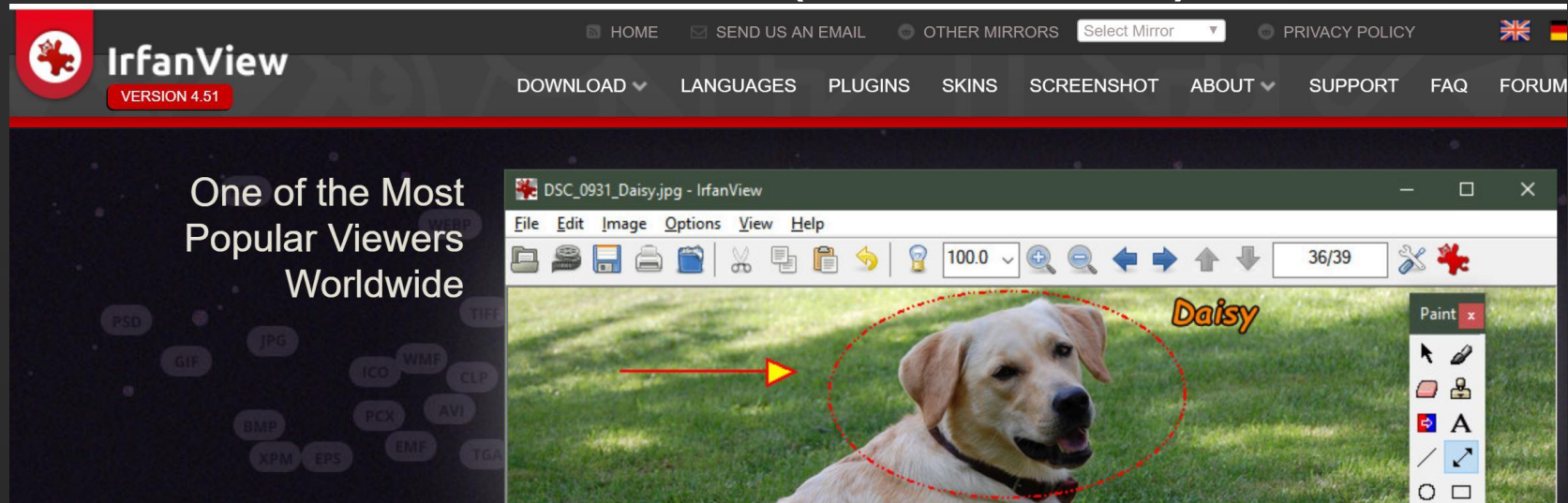




McDonald Hopkins

Windows Photo & Video Metadata

Irfan Viewer (Windows)



IRFANVIEW GRAPHIC VIEWER

- ▶ Fast and compact (just 3 MB)
- ▶ Freeware for non-commercial use
- ▶ Supports Windows XP, Vista, 7, 8, and 10
- ▶ 32 and 64 bit version
- ▶ Multi language support
- ▶ Unicode support
- ▶ Designed to be simple but powerful

[More informations about IrfanView](#)



I would like to sincerely thank all you faithful IrfanView users who send me messages of good wishes, congratulations and appreciation. THANKS !

GET IRFANVIEW (VERSION 4.51)



The program is available in 32 and 64 bit.
Which version should I download?

[See 64-bit info.](#)

32-BIT



DOWNLOAD
Current version 4.51



PLUGINS

64-BIT



DOWNLOAD
Current version 4.51



PLUGINS

OTHER DOWNLOAD SITES

USEFUL PARTNER SITES

Stempel bestellen:

www.stempelservice.de

scams.info:

www.scams.info

Lunacy, Sketch for Windows:

icons8.com

onlinebetrug.net

LOOKING FOR IRFANVIEW
AS WINDOWS 10 APP?
(MS APP STORE)









McDonald Hopkins




General Metadata

Get-Metadata.com (website)

**GET-METADATA**.COM

FREE ONLINE EXIF VIEWER




 share  54  tweet

Top 15 Meta Keys

- Mime Type
- Create Date
- File Type
- Type
- Image Height
- File Name
- Category
- Bits Per Sample
- Image Width
- Image Size
- File Type Extension
- File Modify Date
- File Size
- Size
- Megapixels

**FIND OUT
WHICH METADATA
INFORMATION YOUR
FILE CONTAINS**





DRAG & DROP YOUR FILE HERE

Choose File

No file chosen

OR CLICK HERE TO UPLOAD A FILE






Top 15 File Formats

- PDF (Portable Document Format)
- TXT (Raw text file)
- BMP (Microsoft Windows bitmap)
- XLS (Microsoft Excel Spreadsheet)
- MP3 (MPEG Layer 3 Audio)
- DOC (Microsoft Word Binary File Format)
- 3G2 (3rd Generation Partnership Project Multimedia File)
- PNG (Portable Network Graphics)
- M4A (MPEG-4 Audio Layer)
- WAV (WAVE Audio)
- JPG (Joint Photographic Experts Group JFIF format)
- GIF (CompuServe Graphics Interchange Format)
- AVI (Microsoft Audio/Visual Interleaved)
- ZIP (ZIP compression)
- MPG (MPEG Video Stream)



Get-Metadata.com (website)

 **GET-METADATA.COM**

FREE ONLINE EXIF VIEWER

Metadata Info Of Your File

The following table contains all the exif data and metadata info we could extract from your file using our free online metadata and exif viewer.

Category	application
Create Date	2018:08:15 13:11:04-05:00
Creationdate	Wed Aug 15 13:11:04 2018
Document Id	uuid:39908b8a-d7b2-4095-b295-32f6943fd223
Encrypted	yes (print:yes copy:no change:no addNotes:no algorithm:RC4)
Encryption	Standard V4.4 (128 bit)
File Modify Date	2018:08:27 18:03:16+02:00
File Name	2018 Facebook Twitter Evidence CLE.pdf
File Size	9.9 MB, 10409280 bytes
File Type	PDF
File Type Extension	pdf
Form	AcroForm
Format	application/pdf
Has Xfa	No
Instance Id	uuid:39908b8a-d7b2-4095-b295-32f6943fd223
Javascript	no
Linearized	No
Metadata Date	2018:08:15 14:07:42-05:00
Mime Type	application/pdf
Moddate	Wed Aug 15 14:07:42 2018
Modify Date	2018:08:15 14:07:42-05:00
Optimized	no
Page Count	345
Page Mode	UseOutlines

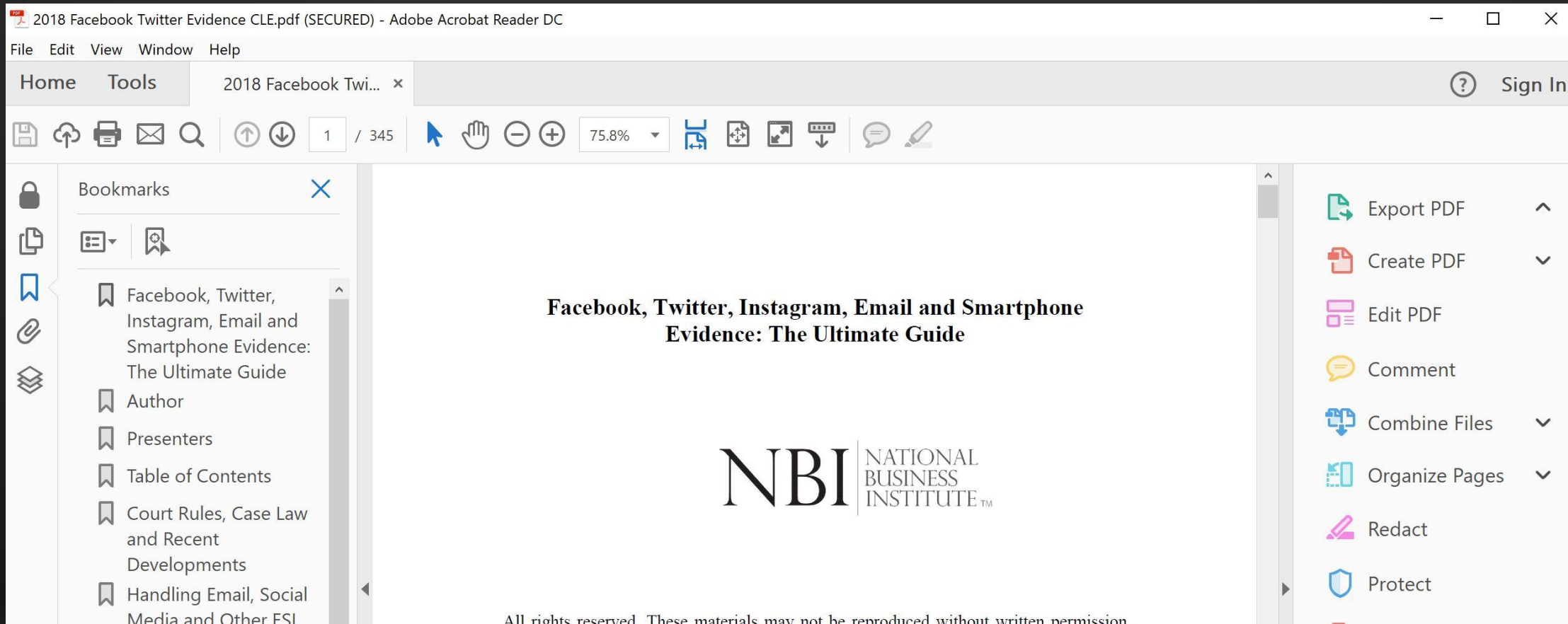




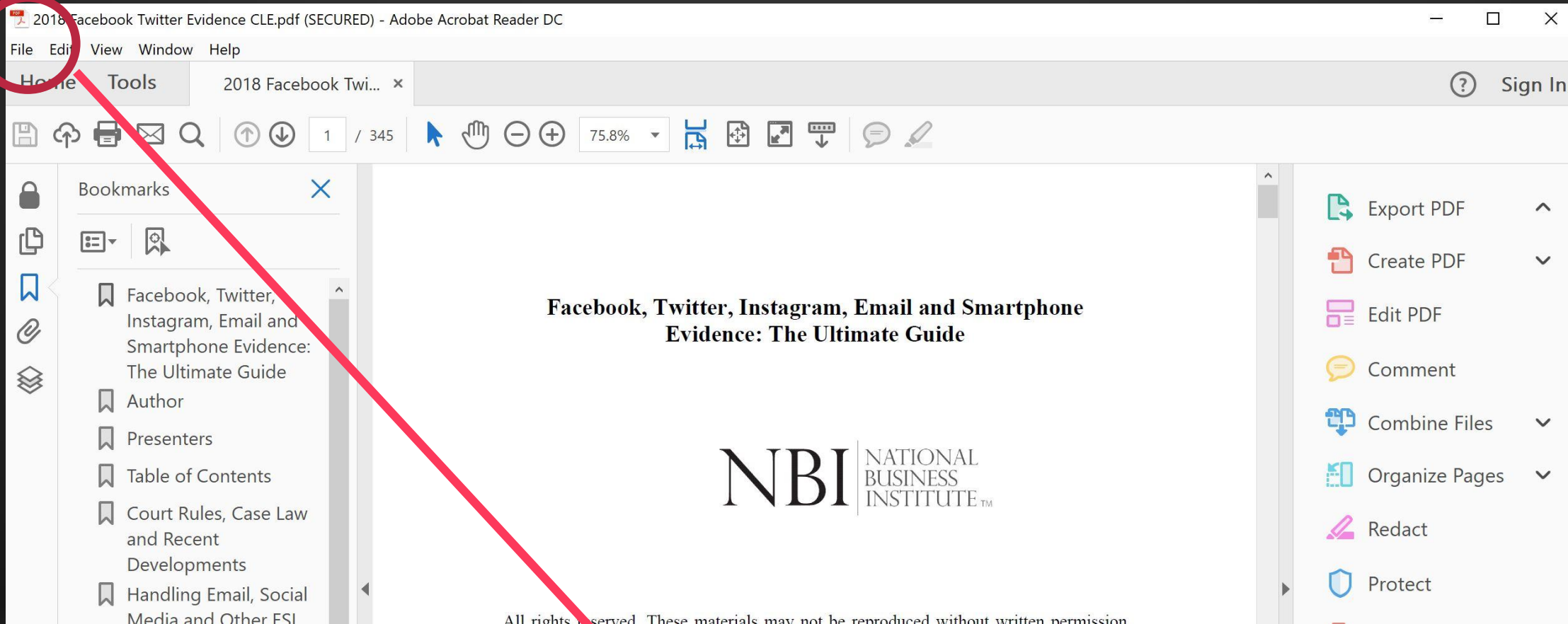
McDonald Hopkins

Adobe Acrobat PDF Metadata

PDF Metadata (Adobe Reader DC)



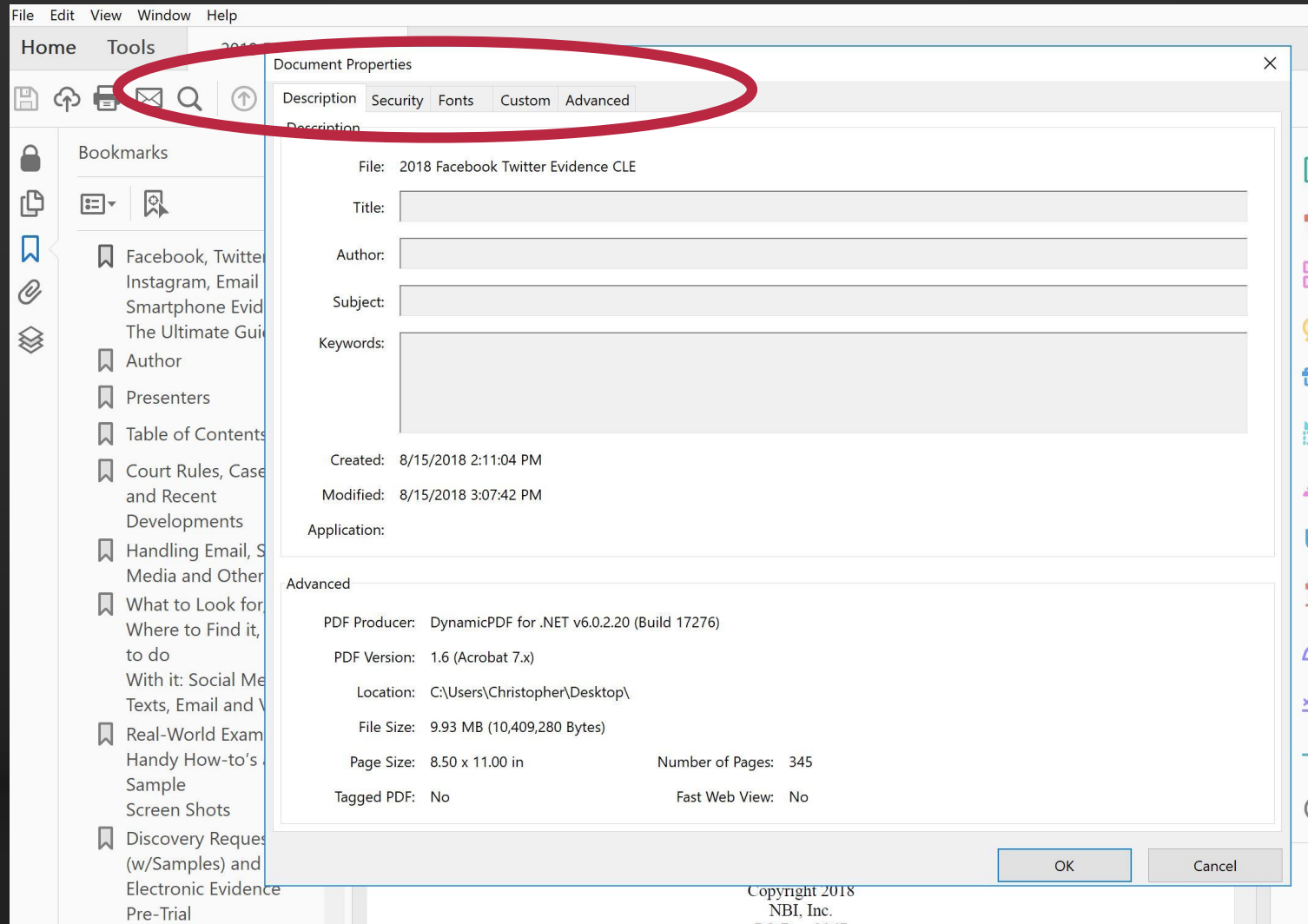
PDF Metadata (Adobe Reader DC)



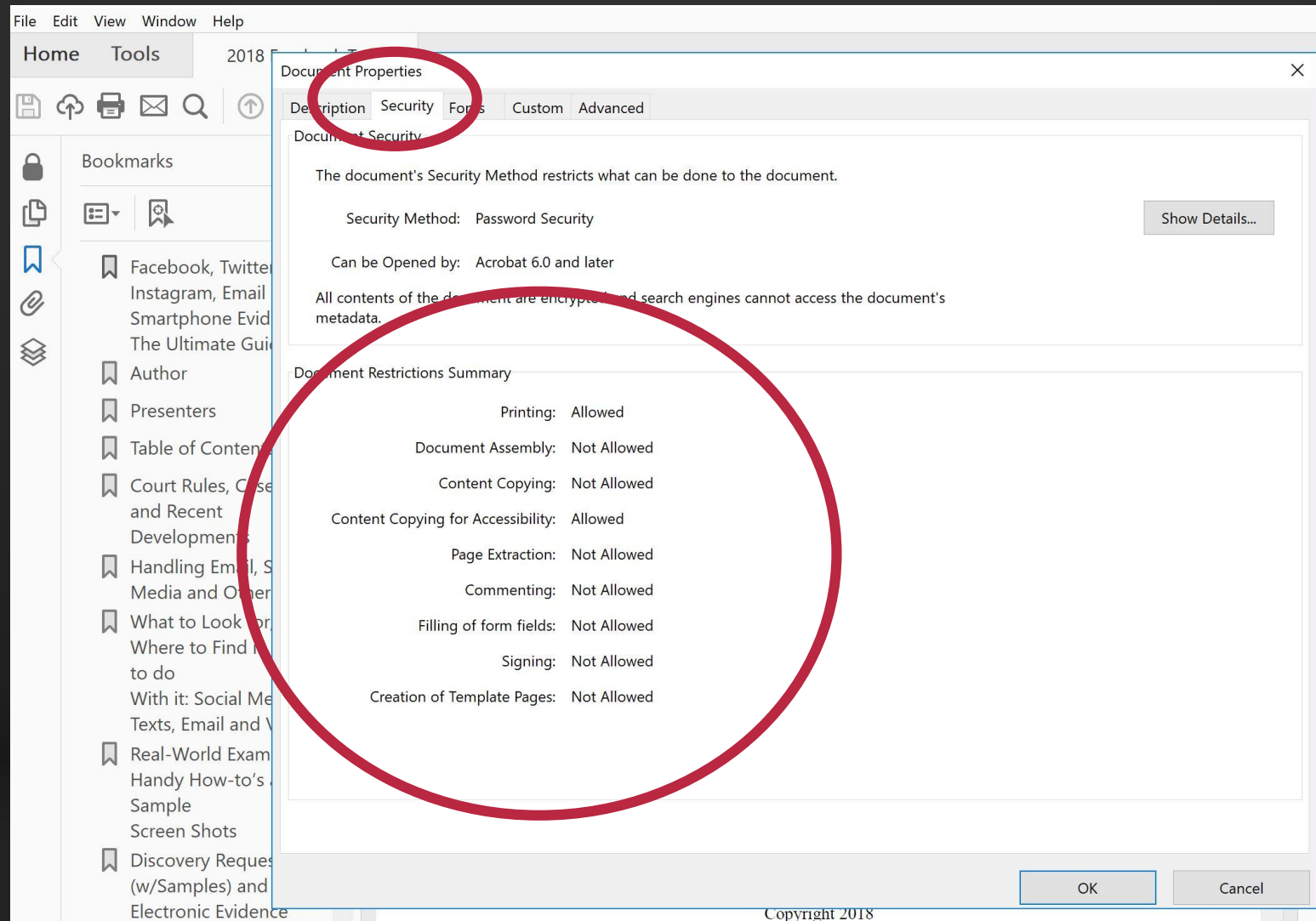
Select "Properties"



PDF Metadata (Adobe Reader DC)



PDF Metadata (Adobe Reader DC)





McDonald Hopkins

Microsoft Word 2016 Metadata

Microsoft Word 2016 Metadata

Microsoft Word 2016 interface showing the ribbon (File, Home, Insert, Design, Layout, References, Mailings, Review, View, Help, BriefCatch, Design, Layout) and the document content.

The document content includes a title slide for Christopher B. Hopkins, a contact information table, an Overview section, and a Professional section.

Christopher B. Hopkins

https://internetlawcommentary.com/	XXXXXXXXXXXXXXXXXX West Palm Beach, FL 33041	xxxxxxxxxx	561-xxx-xxxx
---	---	------------	--------------

Overview

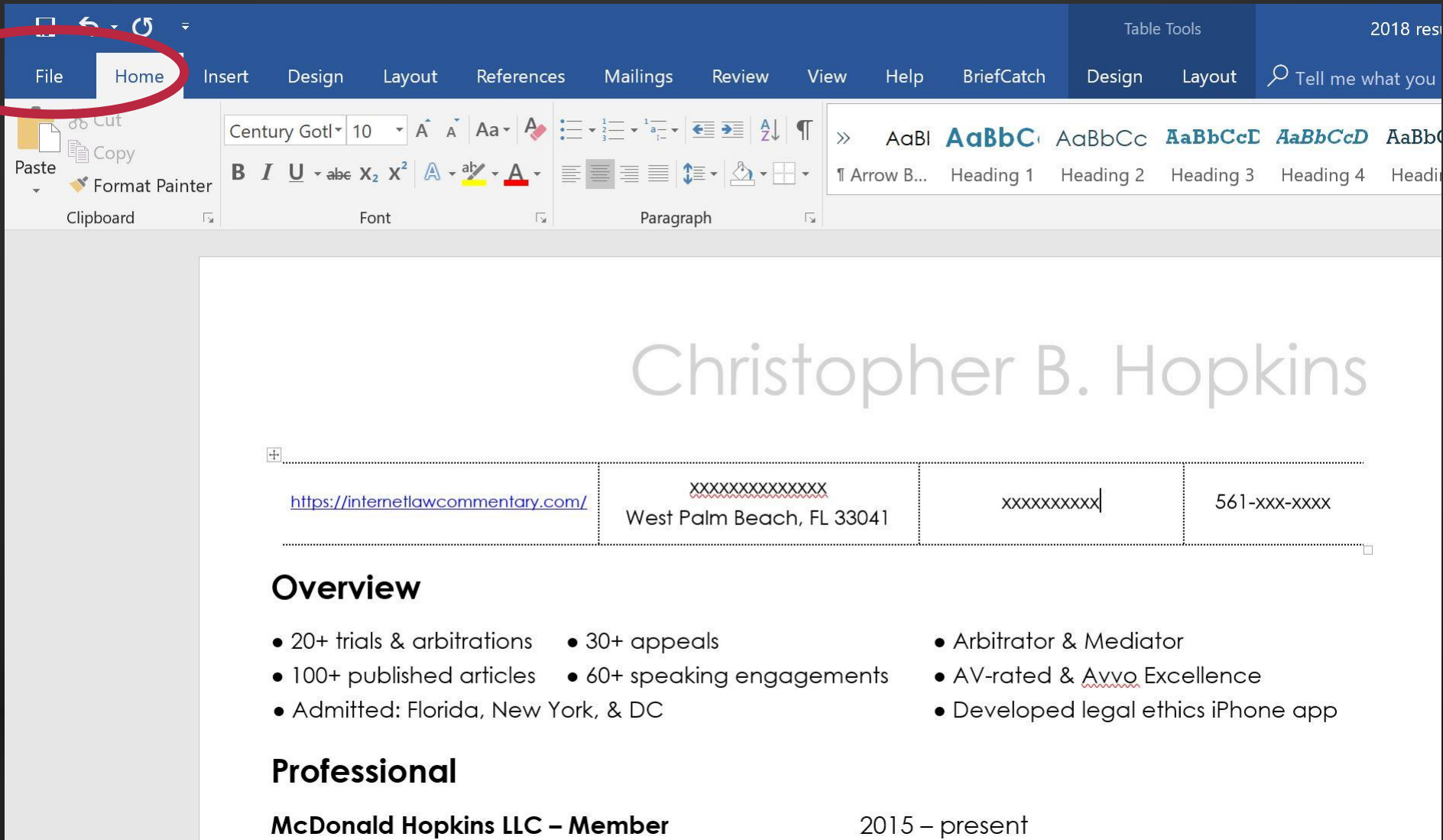
- 20+ trials & arbitrations
- 30+ appeals
- 100+ published articles
- 60+ speaking engagements
- Admitted: Florida, New York, & DC
- Arbitrator & Mediator
- AV-rated & Avvo Excellence
- Developed legal ethics iPhone app

Professional

McDonald Hopkins LLC – Member 2015 – present



Microsoft Word 2016 Metadata



The screenshot shows the Microsoft Word 2016 interface. The ribbon is set to the 'File' tab, which is highlighted with a red circle. The ribbon includes tabs for File, Home, Insert, Design, Layout, References, Mailings, Review, View, Help, BriefCatch, and a search bar. The 'Home' tab is also visible. The 'File' tab contains options for Cut, Copy, Paste, and Format Painter. The 'Home' tab contains options for Font (Century Gothic, 10, Bold, Italic, Underline, Color, Size, Spacing, Paragraph, Styles) and Paragraph (Bullets, Numbering, Indentation, Paragraph, Styles). The main content area displays a document titled 'Christopher B. Hopkins'. Below the title is a table with four columns: a URL, a location, a phone number, and a date. The table content is as follows:

https://internetlawcommentary.com/	XXXXXXXXXXXXXXXXXX West Palm Beach, FL 33041	XXXXXXXXXX	561-xxx-xxxx
---	---	------------	--------------

Below the table is a section titled 'Overview' with a list of bullet points:

- 20+ trials & arbitrations
- 30+ appeals
- 100+ published articles
- 60+ speaking engagements
- Admitted: Florida, New York, & DC
- Arbitrator & Mediator
- AV-rated & Avvo Excellence
- Developed legal ethics iPhone app

Below the 'Overview' section is a section titled 'Professional' with the following text:

McDonald Hopkins LLC – Member 2015 – present




Microsoft Word 2016 Metadata

Info

2018 resume 03

Desktop


[Upload](#) [Share](#) [Copy path](#) [Open file location](#)



Protect Document ▾

Protect Document

Control what types of changes people can make to this document.




Check for Issues ▾

Inspect Document

Before publishing this file, be aware that it contains:

- Document properties, author's name and related dates
- Headers
- Content that people with disabilities find difficult to read



Manage Document ▾

Manage Document

There are no unsaved changes.



Properties ▾

Size	39.3KB
Pages	10
Words	2816
Total Editing Time	185 Minutes
Title	Add a title
Tags	Add a tag
Comments	Add comments


Related Dates

Last Modified	8/22/2018 3:34 PM
Created	2/4/2018 3:39 PM
Last Printed	4/1/2015 5:57 PM

Related People

Author	 hloom.com
	Add an author
Last Modified By	 Christopher

Related Documents

 [Open File Location](#)

[Show All Properties](#)




Microsoft Word 2016 Metadata

Info

2018 resume 03


Desktop

[Upload](#) [Share](#) [Copy path](#) [Open file location](#)



Protect Document ▾


Protect Document
Control what types of changes people can make to this document.



Check for Issues ▾

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Before publishing this file, be aware that it contains:

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Manage Document ▾

Manage Document
There are no unsaved changes.



Properties ▾

Size	39.3KB
Pages	10
Words	2816
Total Editing Time	185 Minutes
Title	Add a title
Tags	Add a tag
Comments	Add comments


Related Dates

Last Modified	8/22/2018 3:34 PM
Created	2/4/2018 3:39 PM
Last Printed	4/1/2015 5:57 PM

Related People

Author	 hloom.com
	Add an author
Last Modified By	 Christopher

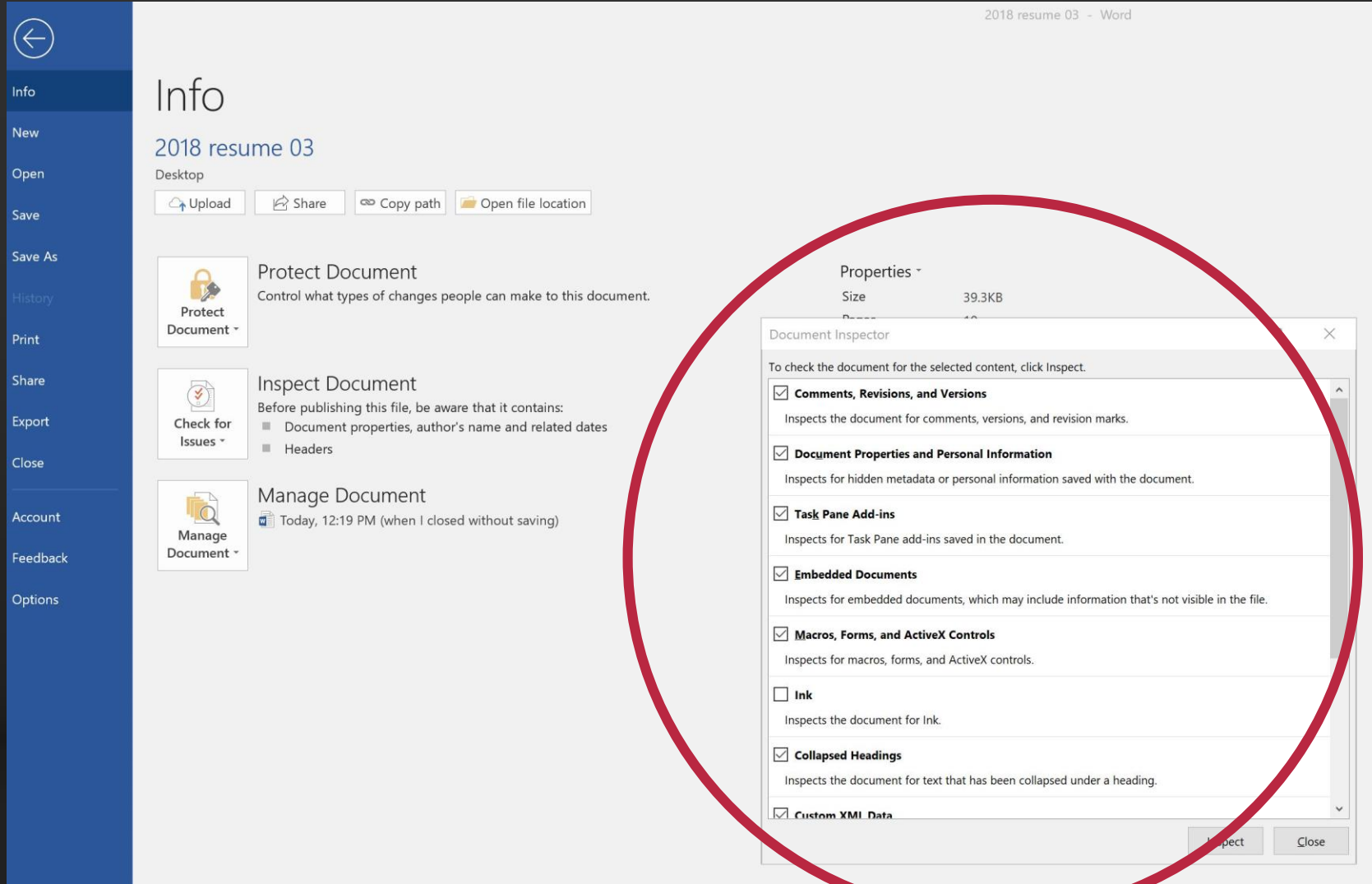
Related Documents

 [Open File Location](#)

[Show All Properties](#)



Microsoft Word 2016 Metadata



The screenshot shows the Microsoft Word 2016 interface with the 'Info' tab selected. The document is titled '2018 resume 03'. The left sidebar contains navigation options: Info, New, Open, Save, Save As, History, Print, Share, Export, Close, Account, Feedback, and Options. The main area displays the 'Info' tab with sections for 'Protect Document', 'Inspect Document', and 'Manage Document'. The 'Inspect Document' section is highlighted with a red circle, and the 'Document Inspector' task pane is open on the right, showing a list of content types to inspect. The task pane includes checkboxes for 'Comments, Revisions, and Versions', 'Document Properties and Personal Information', 'Task Pane Add-ins', 'Embedded Documents', 'Macros, Forms, and ActiveX Controls', 'Ink', 'Collapsed Headings', and 'Custom XML Data'. The 'Inspect' button is visible at the bottom of the task pane.

2018 resume 03 - Word

Info

2018 resume 03

Desktop

Upload Share Copy path Open file location

Protect Document

Control what types of changes people can make to this document.

Inspect Document

Before publishing this file, be aware that it contains:

- Document properties, author's name and related dates
- Headers

Manage Document

Today, 12:19 PM (when I closed without saving)

Properties

Size 39.3KB

Document Inspector

To check the document for the selected content, click Inspect.

- ☒ **Comments, Revisions, and Versions**
Inspects the document for comments, versions, and revision marks.
- ☒ **Document Properties and Personal Information**
Inspects for hidden metadata or personal information saved with the document.
- ☒ **Task Pane Add-ins**
Inspects for Task Pane add-ins saved in the document.
- ☒ **Embedded Documents**
Inspects for embedded documents, which may include information that's not visible in the file.
- ☒ **Macros, Forms, and ActiveX Controls**
Inspects for macros, forms, and ActiveX controls.
- ☐ **Ink**
Inspects the document for Ink.
- ☒ **Collapsed Headings**
Inspects the document for text that has been collapsed under a heading.
- ☒ **Custom XML Data**

Inspect Close

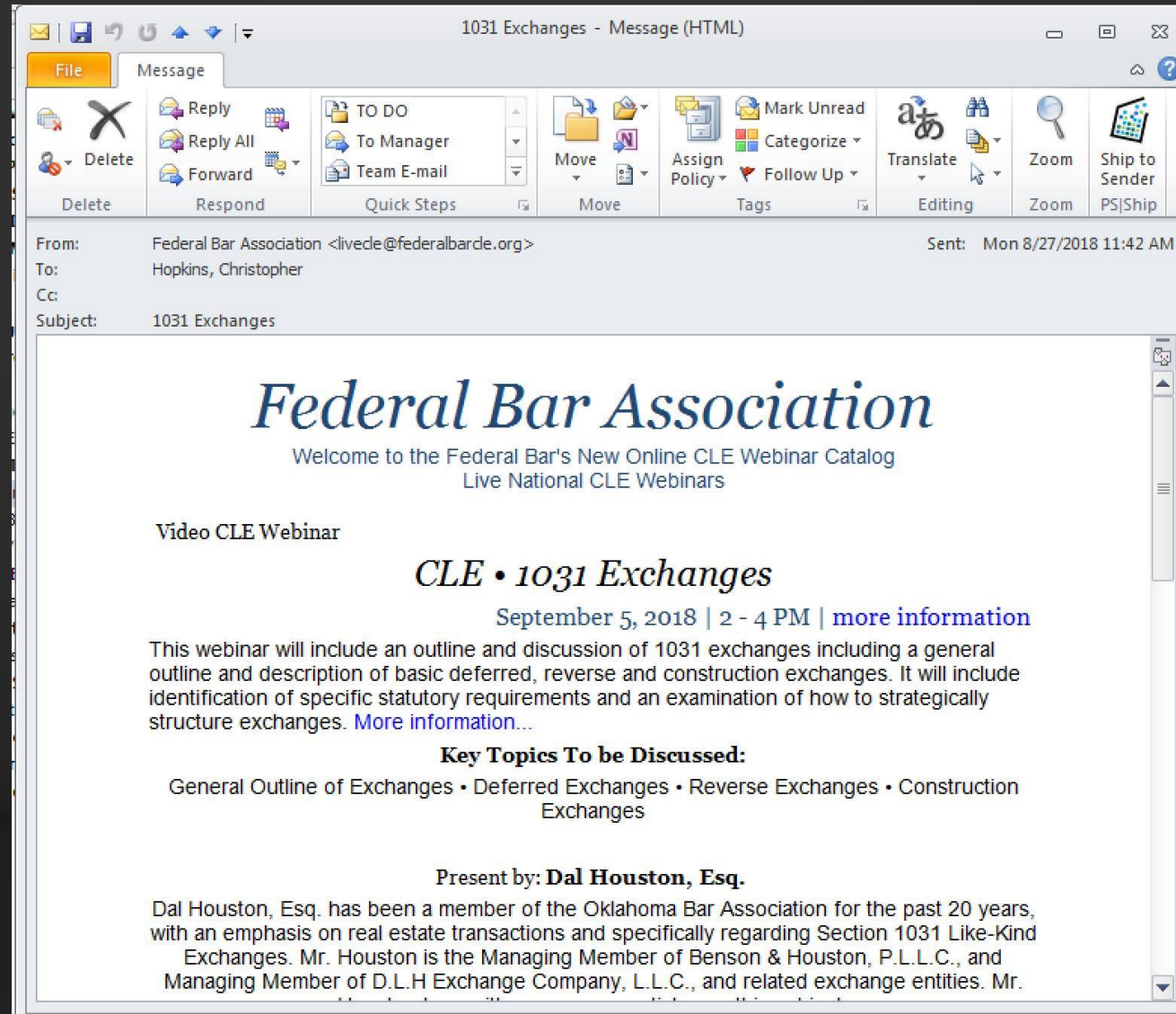




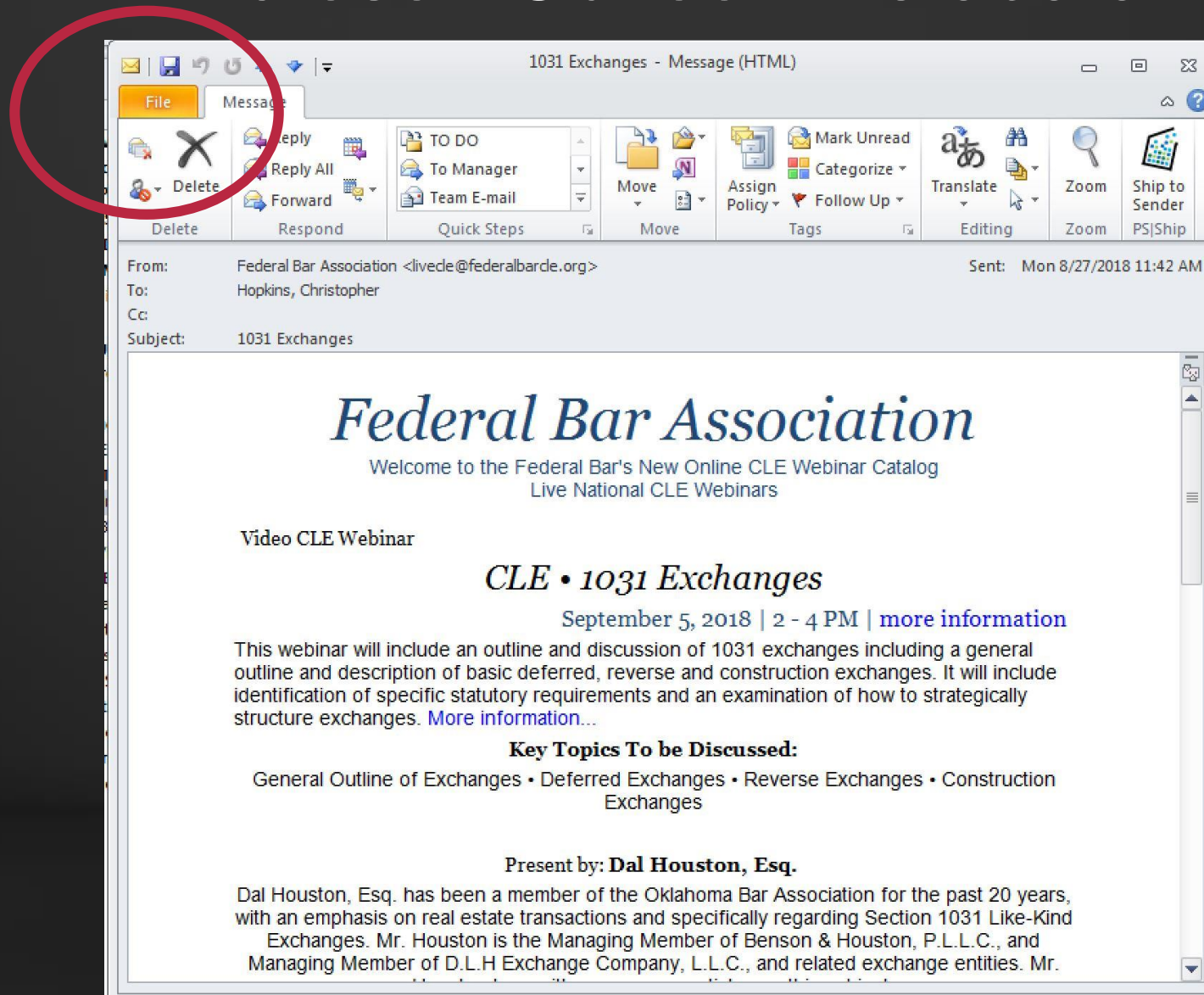
McDonald Hopkins

Microsoft Outlook PST Metadata

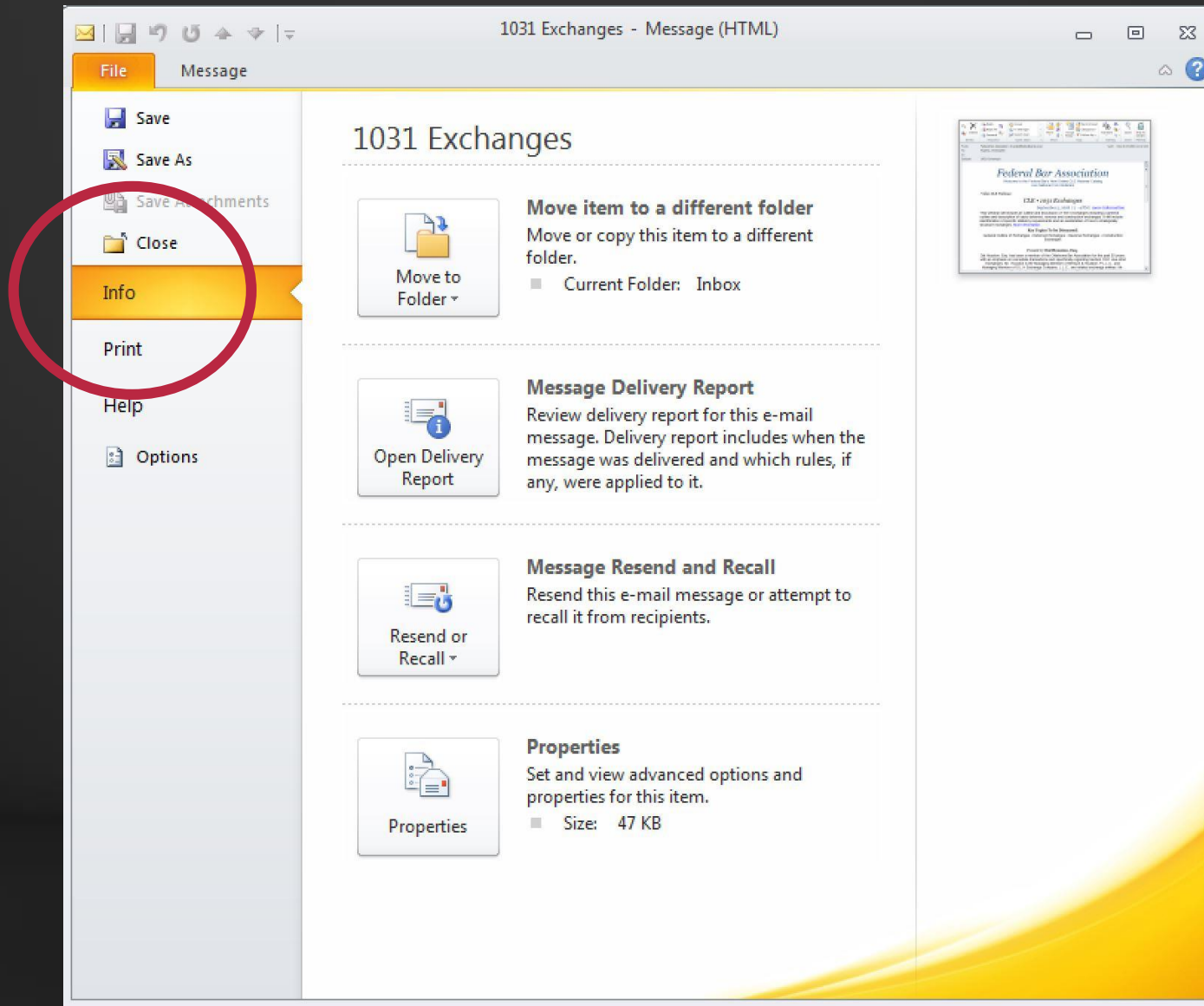
Microsoft Outlook Metadata



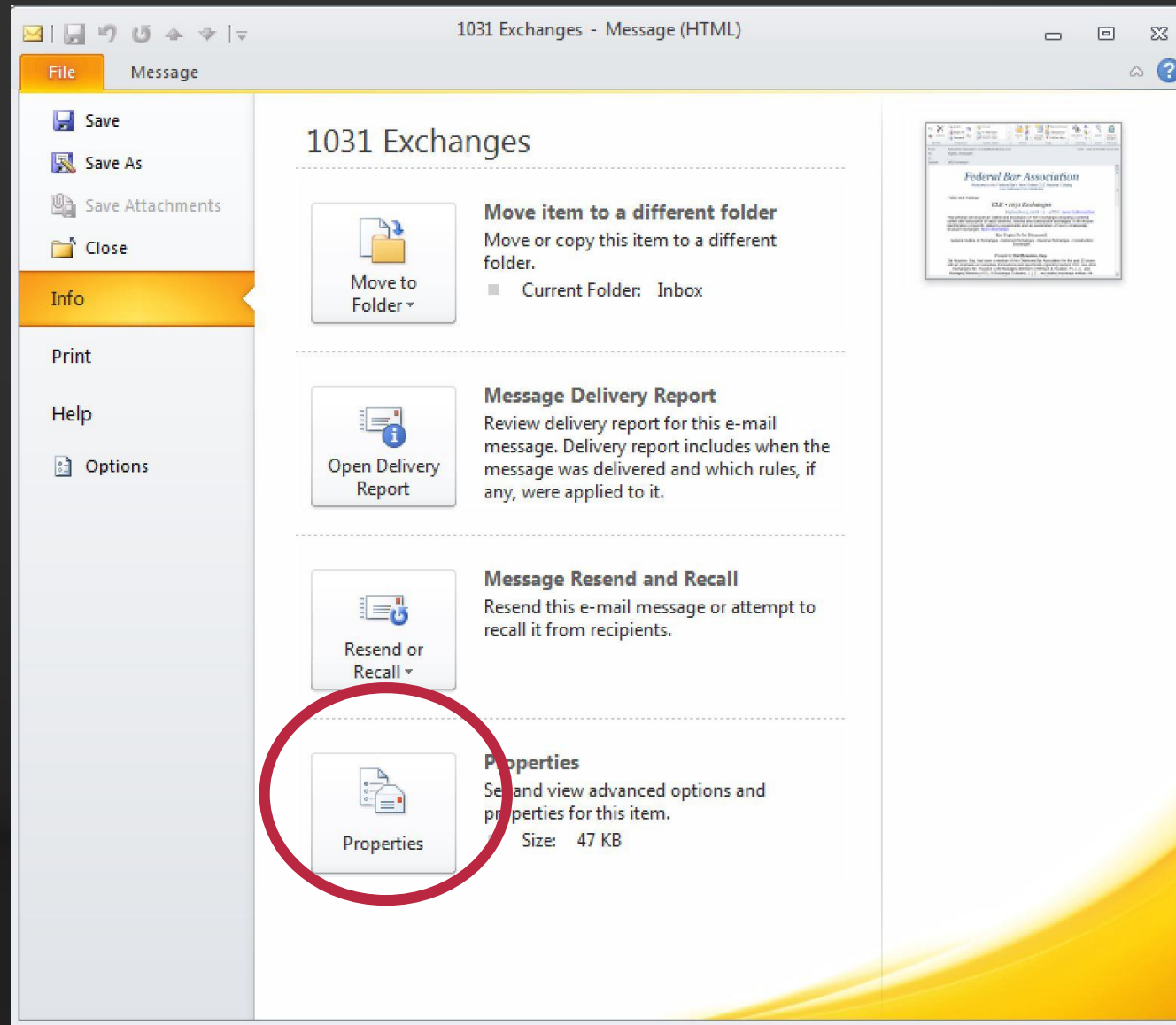
Microsoft Outlook Metadata



Microsoft Outlook Metadata



Microsoft Outlook Metadata



1031 Exchanges - Message (HTML)

File Message

Delete Reply Reply All TO DO To Manager Move Assign Mark Unread Categorize Translate Zoom Ship to Sender PS/Ship

From: Federal Hopkins
To: Hopkins
Cc:
Subject: 1031 Ex

Properties

Settings Importance: Normal Sensitivity: Normal

Security

☐ Encrypt message contents and attachments
☐ Add digital signature to outgoing message
☐ Request S/MIME receipt for this message

☐ Do not AutoArchive this item

Tracking options

☐ Request a delivery receipt for this message
☐ Request a read receipt for this message

Delivery options

Have replies sent to: Federal Bar Association

☐ Expires after: None 12:00 AM

Contacts...

Categories None

Internet headers:

Received: from A-EXDG1N01.MHBH.COM (10.4.11.21) by A-EXDG1N04.MHBH.COM (10.4.11.24) with Microsoft SMTP Server (TLS) id 15.0.1365.1 via Mailbox Transport; Mon, 27 Aug 2018 11:42:29 -0400
Received: from A-EXDG1N02.MHBH.COM (10.4.11.22) by A-EXDG1N01.mhbh.com (10.4.11.21) with Microsoft SMTP Server (TLS) id 15.0.1365.1; Mon, 27 Aug 2018 11:42:29 -0400

Close

Video

This outline identifies structure

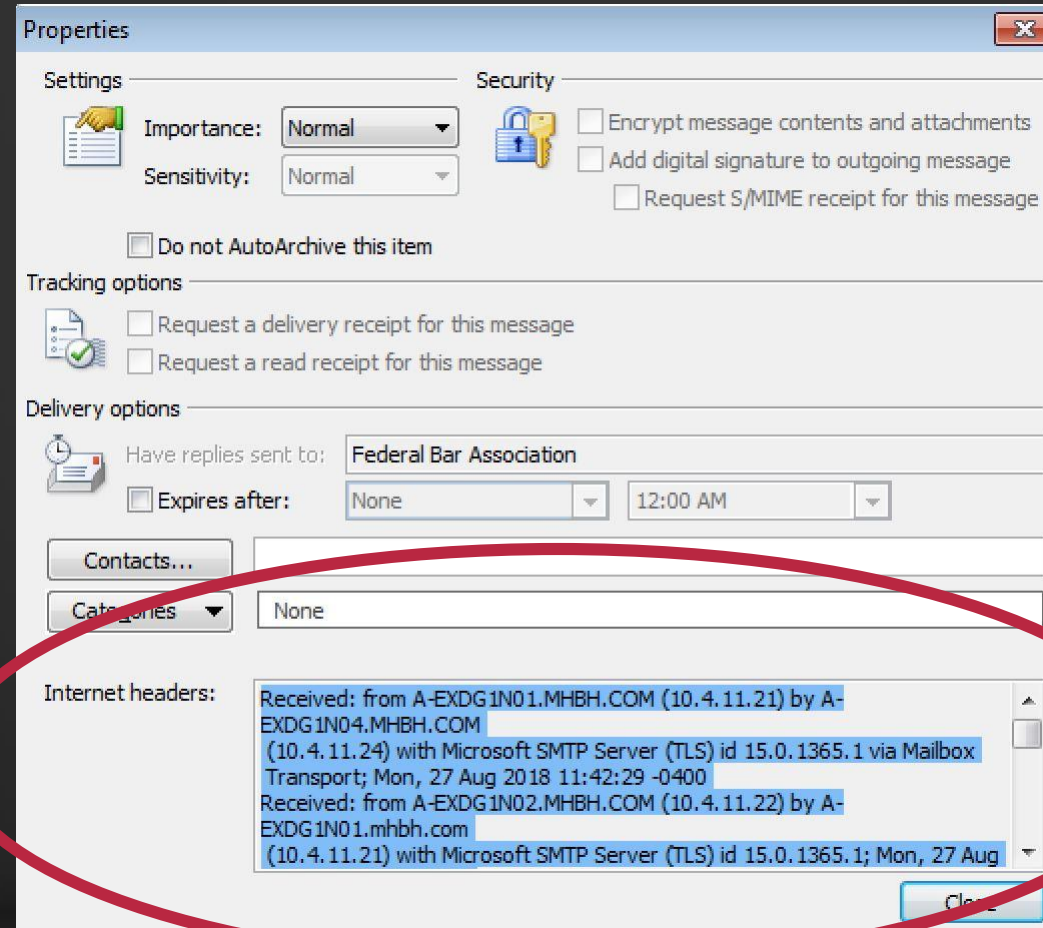
Sen

Present by Dal Houston, Esq.

Dal Houston, Esq. has been a member of the Oklahoma Bar Association for the past 20 years, with an emphasis on real estate transactions and specifically regarding Section 1031 Like-Kind Exchanges. Mr. Houston is the Managing Member of Benson & Houston, P.L.L.C., and Managing Member of D.L.H Exchange Company, L.L.C., and related exchange entities. Mr.



Microsoft Outlook Metadata



The screenshot shows the 'Properties' window in Microsoft Outlook. The 'Internet headers' section at the bottom is circled in red. The window is divided into several sections: Settings, Security, Tracking options, and Delivery options. The 'Settings' section includes 'Importance' and 'Sensitivity' both set to 'Normal', and a checkbox for 'Do not AutoArchive this item'. The 'Security' section has three checkboxes: 'Encrypt message contents and attachments', 'Add digital signature to outgoing message', and 'Request S/MIME receipt for this message', all of which are unchecked. The 'Tracking options' section has two checkboxes: 'Request a delivery receipt for this message' and 'Request a read receipt for this message', both unchecked. The 'Delivery options' section includes a 'Have replies sent to:' field set to 'Federal Bar Association' and an 'Expires after:' dropdown set to 'None' with a time of '12:00 AM'. Below these are 'Contacts...' and 'Categories' buttons. The 'Internet headers' section contains two lines of text: 'Received: from A-EXDG1N01.MHBH.COM (10.4.11.21) by A-EXDG1N04.MHBH.COM (10.4.11.24) with Microsoft SMTP Server (TLS) id 15.0.1365.1 via Mailbox Transport; Mon, 27 Aug 2018 11:42:29 -0400' and 'Received: from A-EXDG1N02.MHBH.COM (10.4.11.22) by A-EXDG1N01.mhbh.com (10.4.11.21) with Microsoft SMTP Server (TLS) id 15.0.1365.1; Mon, 27 Aug'.

Properties

Settings

Importance: Normal

Sensitivity: Normal

☐ Do not AutoArchive this item

Security

☐ Encrypt message contents and attachments

☐ Add digital signature to outgoing message

☐ Request S/MIME receipt for this message

Tracking options

☐ Request a delivery receipt for this message

☐ Request a read receipt for this message

Delivery options

Have replies sent to: Federal Bar Association

☐ Expires after: None 12:00 AM

Contacts...

Categories

Internet headers:

Received: from A-EXDG1N01.MHBH.COM (10.4.11.21) by A-EXDG1N04.MHBH.COM (10.4.11.24) with Microsoft SMTP Server (TLS) id 15.0.1365.1 via Mailbox Transport; Mon, 27 Aug 2018 11:42:29 -0400


Received: from A-EXDG1N02.MHBH.COM (10.4.11.22) by A-EXDG1N01.mhbh.com (10.4.11.21) with Microsoft SMTP Server (TLS) id 15.0.1365.1; Mon, 27 Aug

Close

Copy and
paste into
blank Word
document to
examine




PDF Metadata Viewer (Windows)

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From [CF Examiner](#):

By simple definition, metadata is data about data. Metadata is structured information that explains, describes, or locates the original primary data, or that otherwise makes using the original primary data more efficient. A wide variety of industries use metadata. Select multiple PDF files and folders to load into the application. All loaded documents are shown in a spreadsheet-like view by displaying file name, title, subject, author and keywords standard metadata fields. The software can automatically load all selected PDF.





Kernal Outlook PST Viewer (Windows)



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Kernel Outlook PST Viewer

Kernel Outlook PST Viewer helps in opening .PST files without installing MS Office Outlook. With this portable free-to-download solution, you can:

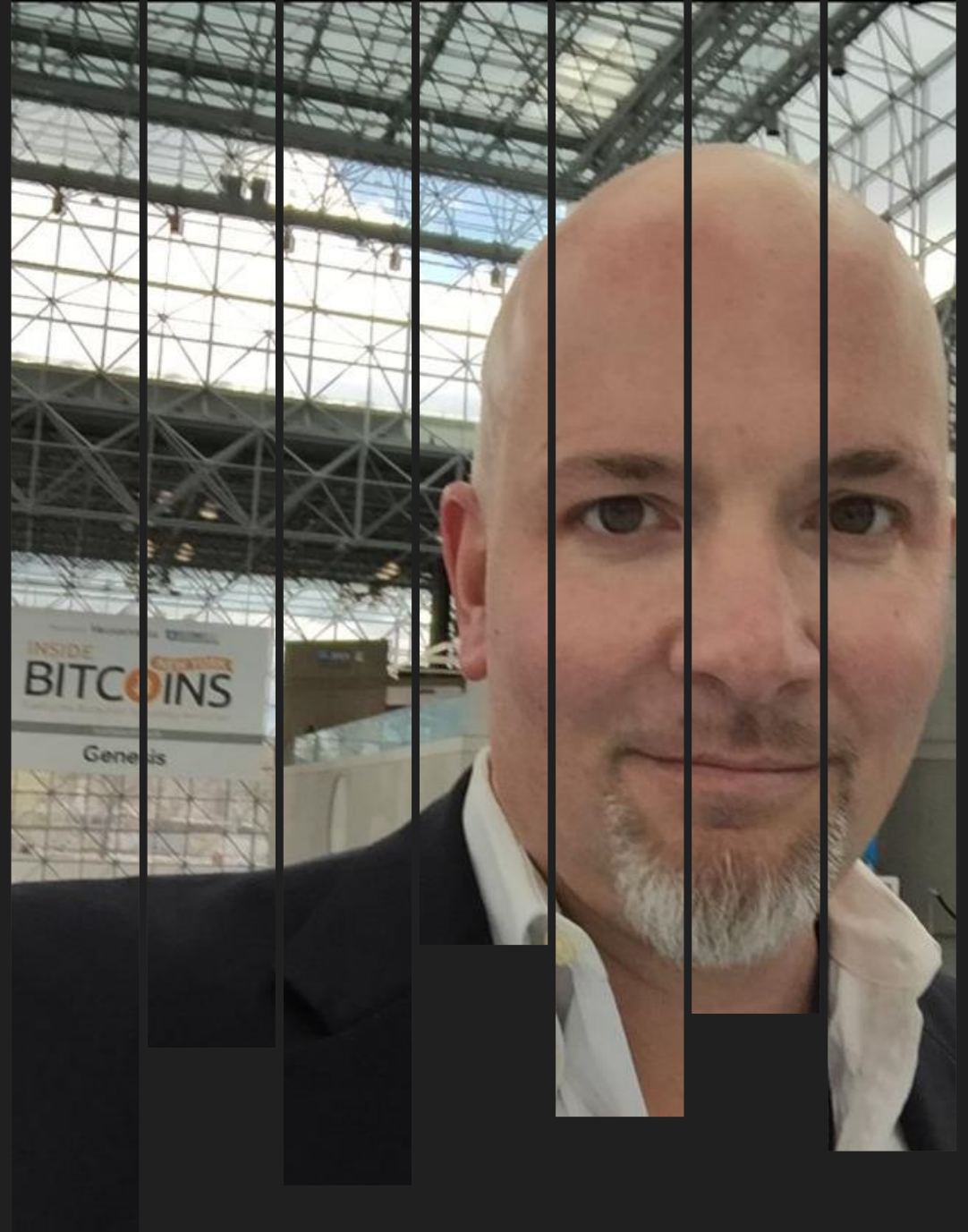
- ✓ Open healthy as well as corrupted PST files
- ✓ View all folders in the original hierarchy.
- ✓ View Emails, Contacts, Calendars, Tasks, Journal, Notes, etc.
- ✓ Open Email attachments.
- ✓ View deleted items (they are shown in Red color).
- ✓ Filter for required emails by their Subject, From, To, and Date.
- ✓ Search and find specific items.
- ✓ Generate various reports
- ✓ View complete properties of the items for forensic purposes.
- ✓ Open any number of PST files absolutely free of cost.



Christopher Hopkins

McDonald Hopkins LLC – West Palm Beach

Handouts & this PPT are at
InternetLawCommentary.com



@cbhopkins

chopkins@mcdonaldhopkins.com



Linkedin.com/in/cbhopkins