

# THE NATIONAL LAW REVIEW

## Family Law: Social Media Evidence In Divorce Cases

Thursday, February 14, 2019

Social media influences everything these days, from pop-culture to even divorce. To elucidate this point, simply try to find one person in your family, or among your friends, or peers at work that does not have a Facebook account. If your circle is anything like mine, you will be hard pressed to do this successfully. Chances are much greater in fact that they will all have Twitter, Instagram, and any number of other social media app accounts as well. It is ubiquitous, unavoidable, and ineluctable. The courtroom is not immune to its presence either. When divorce is involved, the question of electronic evidence, and social media evidence, in particular, comes into play in various ways. Modern relationships fall hazard to the sometimes illicit goings-on of spouses that end up publicized for all the world to see (and “like” or comment on) on the Internet.

According to one study, “[Results show that using \[social networking services\] is negatively correlated with marriage quality and happiness, and positively correlated with experiencing a troubled relationship and thinking about divorce.](#)” Another source adds that social media “[evidence can also highlight character attributes in custody arrangements, hidden assets such as boats and cars in alimony settlements, contradict oral testimonies and more.](#)”

### Social Media Evidence in Divorce Cases

Attorneys have to account for these modern times and the Facebook or Twitter posts, direct messages (or “DM’s” in common parlance), Instagram photos, and countless other potentially damning evidence during divorce cases. Web Preserver aggregates some [startling statistical figures to drive home this point](#):

- 81% of attorneys discover social networking evidence worth presenting in court
- 66% of cases involving divorce employ Facebook as one of their principal evidence sources
- 1/3 of all legal action in divorces cases is precipitated by affairs conducted online

The numbers don’t lie here. Social media is affecting relationships and being brought to bear on divorce litigation in serious and important ways. For a lawyer to effectively use (or defend against) social media evidence in a divorce case, he or she needs to understand both the ramifications of admitting such evidence and the legal precedent therein.

In general, according to one [periodical](#), a spouse’s posts on social media platforms are admissible as evidence in the United States during divorce proceedings, given that they are not procured illegally (a few specific states are listed below). Some clients may be comforted to know that an opposing attorney or the estranged husband or wife is not legally allowed to open false accounts with the purpose of “Friending” them. They might attempt this in order to obtain particular photos or posts on their Facebook or Instagram profiles (or elsewhere) to bring to court as damning evidence, but it will not be admitted. In the same way, spouses are not legally permitted to come by those same posts via “hacking” or other equivalently nefarious means.



Article By [PracticePanther](#)  
[Jaliz MaldonadoPractice Panther](#)

[Family Law / Divorce / Custody](#)  
[All Federal](#)

All that being said, posts or photos that are made public are able to be seen or inspected by anyone in the world with an account on that platform (and sometimes by those even without an account; such is the case with Twitter). That material is (perhaps obviously) fair game to be admitted as evidence for or against someone. Further, if a spouse's social media contact (or "Friend") decides to re-post or re-share a photo or text post, those secondary posts might then be seen by an ex, in which case they can legally employ them in court.

## **Conclusion**

States will differ in how social media posts are admitted and employed during a divorce trial. In Florida, [posts on social networking platforms are admissible as evidence](#), may prove that someone did not comply with a protective order, prove financial status through photographic evidence, affect cases involving custody of children, and much else. A divorce attorney in New York echoes much of this same information, as does a lawyer in California. The ubiquity of the media correlates to a plethora of evidence, and this is generally true across the country. Being aware of how it may affect a divorce client is paramount to reaching a favorable result in the courtroom.

© Copyright 2019 PracticePanther

**Source URL:** <https://www.natlawreview.com/article/family-law-social-media-evidence-divorce-cases>