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Judge Reins in Intrusive Social Media Discovery in Discrimination Case

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In a sexual harassment and retaliation lawsuit pending in Connecticut federal court, Judge Merriam issued a [decision](#) denying the employer's motion to compel broad discovery concerning the plaintiff's social media. The decision is consistent with a recent and long overdue trend that restricts intrusive and irrelevant social media discovery.

Lauren Marsteller alleges that defendants sexually harassed her, watched her changing her clothes on a company security camera, showed the video of her changing clothes to other employees, and retaliated against her. She sued for harassment, retaliation and intentional infliction of emotional distress. In discovery, defendants requested that Marsteller provide direct access to her social media accounts, or copies of her social media communications. Marsteller objected, and defendants moved to compel.

Judge Merriam [denied the motion to compel](#): "Requiring plaintiff to provide her social media passwords to defendants would constitute a wholesale invasion of her privacy, and would be far outside the bounds of proportionality. One can hardly imagine a better example of a fishing expedition."

Before consenting to broad social media discovery, plaintiffs should consider whether less intrusive discovery may be more probative. Producing all social media posts to an adverse party discloses a wide range of personal matters that are wholly irrelevant to the claims. Even worse, providing all social media posts may let the adverse party use discovery to harass the plaintiff and dissuade her from pursuing valid claims.

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