


# ***MOVING FROM*** **SURVEILLANCE** ***TO*** **MONITORING**

*Why social media and digital due diligence  
should re-shape claims investigations.*

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Insurance claims investigations are undergoing monumental changes in the Digital Age. The explosion of social media and online content is bringing change and opportunity to the field. From an investigative standpoint, the popularity of social mediums designed for easy sharing of personal information in textual, photographic and video form is a veritable treasure trove. Even individuals who wish to post anonymously to the web and social media can have their actions traced by trained investigators aided by quality database connections. Preferably used early and in conjunction with traditional investigative resources, social media monitoring is a very effective tool.

## ***WHERE ARE WE HEADING?***

The contemporary phenomenon of “self-surveillance” is what drives the relevance of social media investigations today. The term, coined by sociologists, describe citizens of our Digital Age who, it is said, are inching tirelessly toward a reality in which they voluntarily track many of their own daily activities via social media. This is not a far-fetched reality, as our own Research Analysts uncover geotagged photographs, location updates, blogs, weight-loss charts, and videos daily, which provide a rich layer of information to develop any claim file. Such a plethora of information begs an obvious question: Why would a claimant or plaintiff post information which, if found, would jeopardize their claim or their lawsuit? Simply put, for a large group of the population, promoting a “personal brand” online trumps the traditional desire for privacy. Sharing,

connecting and broadcasting have simply become too important to give up for the sake of an insurance claim or lawsuit. This shift in social norms will ensure the increasing relevance of these investigations.

The only inherent problem with social media investigations is that anyone can claim to do them properly (the same could also be said of surveillance). The barrier to entry is so low that every private investigation firm in the nation now offers this service in one form or another. There is a marked difference, however, between “Intense Googling” by office personnel and a targeted search by a fulltime, trained Research Analyst equipped with quality database access who is more computer savvy than anyone he or she is likely to be investigating.

# **GOALS OF SOCIAL MEDIA MONITORING**

Initiating social media monitoring requires that you as claims professionals forge investigative relationships based on the assumption that your vendor is an enthusiastic student of evolving social norms, legal precedents and information technology. Conducted legally, social media investigations are but one tool of many available to insurance professionals faced with suspect claims. Any examination should center on what Digistream Investigations refers to as the Four C's:

## **CONTENT**

Rich content is that which is useable in court for impeachment purposes, or by a claims professional to aid in surveillance or the denial of a claim. Photographs and video of activity are what the trained investigator is looking for, as well as postings indicating recent or future activities and the locations of these activities.

## **CONTEXT**

The content gathered by an investigator is best used when placed in the context of both the insurance claim as well as the individual's background information. For example, an investigator may not grasp the true relevance of a claimant's Craigslist posting stating he is interested in buying circuit boards if he is unaware there is a computer repair business registered to his address. Likewise, hobbies and interests following the date of injury are more significant than those documented years in the past.

## **COMPARE**

Social media should provide a means of comparing the claimant's statements or activities uncovered during surveillance with their social media posts. Statements in a deposition that they "love" their job can often be contrasted by acutely negative remarks online about their work environment.

## **COURTROOM RELEVANCE**

Improperly logged social media investigations have little evidentiary value, particularly if profiles have been made private. Issuing subpoenas to Facebook and other sites after a file has become litigated is expensive and are often rejected on the grounds they are "overly broad" or place "undue burden" on the social media site. All social media and internet evidence should be properly logged, date and time stamped by the investigator to ensure its evidentiary value from the start. The investigator should also be prepared to offer an affidavit detailing how the identity of the claimant was resolved and how evidence was handled.

Like any investment, the return on social media monitoring should be evaluated over an extended period of time, not on the basis of a few cases. It is not uncommon for a claims professional to refer a single file for social media monitoring after attending a seminar on the subject, only to be disappointed that the investigation was not more fruitful. Being a discerning judge of which files are appropriate for social media investigation is important.

# **WHEN TO CONDUCT SUCH INVESTIGATIONS**

There are four guiding features which can help assist a claims or legal professional in determining whether a file should be referred for a social media investigation:

## **DEMOGRAPHIC**

Special attention should be paid to claimants born after 1970 as they represent a large portion of the useful content available. It should be noted, however, that social media is no longer dominated by the “Millennial” generation; roughly one-third of all users of Facebook, for example, are between the ages of 45 and 54. With that said, the frequent posting of upcoming social activities, as well as the utilization of geotagging, photo sharing

## **ALLEGED INJURY**

Stress, psyche and anxiety claims should warrant immediate social media investigation. The nature of these claims is such that social media content is generally more applicable to refuting the claim than surveillance. It is one of the few places in which a person’s disposition can be clearly documented and saved.

## **“RUMOR MILL”**

When rumors surface that an individual may have been injured while on vacation, while engaging in outside employment or physical activities, a social media investigation is a prudent starting point. While surveillance is forward-looking, social media chronicles the past and efforts on this front should be exhausted before moving ahead with surveillance.

## **IMMINENT SURVEILLANCE**

Cursory scans for social media content are always a prudent way to prepare for surveillance. However, leveraging the resources of a full-time Research Analyst devoting hours to trawling for content in a full-fledged investigation is advisable on high exposure claims or in cases where the client wishes surveillance to be more targeted.

In summary, social media monitoring should make up an increasing portion of any legal or claims professionals investigative portfolio. Forge a relationship with a vendor offering full-time analysts and refer early, selectively and consistently. The cost-benefit ratio of a concerted effort to utilize the service will ensure outsized benefits to the insured