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## **Social Media in the Courtroom: How Facebook Can Be Used to Investigate Claims and Prove Deception**

By [Michael J. Smith](#)

Attorneys nationwide are finding that social media is more than just a great way to keep in touch with friends – it's also a handy tool to investigate an opponent in a legal proceeding. Facebook, MySpace and other online sites offer a wealth of information about someone's personal habits and behaviors that can be used as evidence in a court of law.

For example, a man recently sued a doctor for malpractice because of back pain, but lost in court when attorneys presented a YouTube video of the man dancing. Another man who alleged severe and debilitating short-term memory problems was playing video games and posting questions about them on an online bulletin board; his case was resolved at a fraction of his demand.

Photos, videos and even comments posted online can be used as evidence at trial; and judges and juries clearly have no trouble accepting these items as evidence. Our diligence in investigating claims and our knowledge of social media is used to our clients' advantage. Here are some examples from the Lashly & Baer files:

- Parents claimed that growth plate problems caused their daughter to develop abnormally, but our attorneys found photos of the girl on Facebook in gymnastics poses. The case was dismissed.
- In a divorce case, the husband said he had no money, was unemployed, and was in debt, but then had box seats to the St. Louis Cardinals and "tweeted" about it on Twitter.
- The short-term memory case mentioned above was a Lashly & Baer case. We knew the man had an alias username on MySpace and found he was using the same alias on video game forums. We also searched the plaintiff's MySpace "friends" and found he had posted that he would be attending an upcoming high school reunion. We then filed a motion to have the plaintiff's computer produced and examined by a forensic expert. Rather than produce the computer, plaintiff accepted a settlement offer that was a fraction of his demand.

Maintaining a lie is difficult to do. Eventually a person will slip, and it's our job as attorneys to catch them when they do. The Internet has made it much easier for us to catch them, and therefore much easier to bring our clients courtroom victories.

*[Michael J. Smith](#) is the chair of Lashly & Baer's Litigation practice group and engages in civil litigation with an emphasis on representing health care professionals and insurance companies.*