

Title: EEOC v. Simply Storage Mgmt. - 270 F.R.D. 430 -
United States District Court for the Southern District of
Indiana

Date: 01/10/11

Business Activities: Discovery, Use of Social Networks

Impact to Subscriber: Court finds that discovery of plaintiffs' social networking site ("SNS") information is appropriate as it is reasonable to expect that the plaintiff's claim, that a severe emotional or mental injury was caused by the defendant's sexual harassment, would manifest itself in some SNS content (content might reveal whether onset occurred, when, and the degree of distress), and information that evidences other stressors that could have produced the alleged emotional distress is also relevant; requiring claimants to produce only communications that directly reference the matters alleged in the complaint is too restrictive (clearly relevant communications would not be encompassed and only communications supportive of the claimants' allegations would be produced). The appropriate scope of discovery of SNS communications is any profiles, postings, or messages that reveal, refer, or relate to any emotion, feeling, or mental state, plaintiff's communications that reveal, refer, or relate to events that could reasonably be expected to produce a significant emotion, feeling, or mental state, and third-party communications if they place these claimants' own communications in context; for photographs and videos, pictures of the claimant taken during the relevant time period and posted on a claimant's profile will generally be discoverable (the context of the picture and the claimant's appearance may reveal the claimant's emotional or mental status), a picture posted on a third party's profile in which a claimant is

Authority:



Risk Guidance:



Control

Guidance:



merely "tagged," is less likely to be relevant, and a picture or video depicting someone other than the claimant is unlikely to be relevant.

Relevance:

Background Facts: the Equal Employment Opportunity Commission ("EEOC"): filed a complaint on behalf of two claimants who allege that defendant business ("Simply Storage") are liable for sexual harassment by a supervisor; and requested this discovery conference because the parties disagree as to the scope of discovery for social networking site ("SNS") profiles. Relevance to Business Activities: discovery considerations in the context of use of social networks: the disputed requests for production of documents seek: all photographs or videos posted by the two claimants or anyone on their behalf on Facebook or MySpace; electronic copies of the individuals' complete profile on Facebook or MySpace, including all: updates, changes or modifications to the profile; status updates, messages, wall comments; causes joined, groups joined, activity streams; blog entries, details, blurbs, comments; and applications to the EEOC. The EEOC requests the production of all SNS content: the requests are overbroad, not relevant, and unduly burdensome: they improperly infringe on claimants' privacy and will harass and embarrass the claimants. Simply Storage claims that discovery of these matters is proper: EEOC responses place the emotional health of the claimants at issue. the Federal Rules of Civil Procedure Rule 26 standard on discovery scope: parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense; the court may order discovery of any matter relevant to the subject matter involved in the action; and all discovery is subject to the limitations imposed by Rule 26(b)(2)(C): the discovery: is unreasonably cumulative or duplicative; or can be obtained from another source that is more convenient, less burdensome, or less expensive. the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or the burden or expense of the proposed discovery outweighs its likely benefit, - considering the: needs of the case; amount in controversy; parties' resources; importance of the issues at stake in the action; and importance of the discovery to resolving the issues. general principles applicable to

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