

The Request for Production You Never Saw Coming: Match.com Profile as Evidence

Dating is not always easy. Dating outside of a marriage is just asking for trouble.

The key evidence in a recent marriage fraud case was the Defendant's Match.com profile. Now, there was other substantial evidence in the case, but the evidence the court spent the most time on was a witness from Match.com.¹

The Defendant was a Bulgarian national in the United States on a student visa. The month her visa was to expire, she married a man from Bulgaria. After an investigation by INS, the Defendant was charged with marriage fraud.

The Match.com evidence included the following:

- An updated profile after the marriage for continued dating;
- Profile said "never married;"
- Communicated with others on Match.com after "marriage."

The evidence was sufficient to show the Defendant knowingly entered into a fraudulent marriage for the purpose of obtaining immigration benefits.

The explosion of online dating, social networking sites and other online activity is fueling a never ending creation of electronically stored information. Effectively using this information is a new challenge for lawyers. For example, if a Match.com or Facebook profile is evidence, how do you capture it? Can a paralegal just print it? Should you save it as a PDF? Do you need an expert to collect the webpage with special software? The answer is: "It depends on the facts."

More importantly, how do you authenticate this electronically stored information? If you do not want a situation where your paralegal may have to testify, an outside expert may be necessary. This person might be a consultant hired to collect the information from the internet or a witness subpoenaed from the website.

Many lawyers' heads spin at the idea of an online personal ad being evidence. However, we live in a world where people post their lives online. The electronically stored information is waiting online; whether or not it is relevant is for lawyers to investigate.

¹ *United States v. Dimitrova*, 266 Fed. Appx. 486, 488 (7th Cir. Ill. 2008)