

## **Using Cell Phones and Social Media in Divorce in Massachusetts**

In this increasingly digital age, technology is being used as a sword in divorce and family law actions. More and more, spouses and parents are using text messages, Facebook profiles and messages, Twitter, and other social media as evidence in divorce and other family court proceedings. This media is being used to prove infidelity, undisclosed income by a spouse/parent, and many other issues that come up in a divorce or other family law actions.

Like many states, this is happening in the Probate and Family Court actions in Massachusetts. However, in order to introduce evidence from a text message or social media, the party offering the document into evidence must comply with the Massachusetts Rules of Domestic Relations Procedure and Massachusetts laws on evidence. This requires applying certain procedural technicalities to ensure the evidence is properly authenticated, and then allowed into evidence by the court.

One way of obtaining this information properly is by subpoenaing the mobile phone carrier or social networking site for the relevant records. However, to do this, you must properly comply with the Massachusetts Rules of Court, and if the company is outside of Massachusetts, you, most likely, will also have to comply with the Rules of Court of the state where the company is situated. This can often include a lot of legal technicalities and nuances that the average person is not aware of or used to.

Another issue is that some mobile phone carriers and social media sites only retain a person's digital information for a limited period of time on their server, sometimes only a matter of days. That means in order to obtain the information so that it is properly admissible into evidence, the request to the mobile phone carrier or social media site may have to be made as soon as the message or other digital information is created, or else it can be deleted by the mobile phone carrier or social media site.

Thus, even though you may be able to just print a text message, Facebook profile or message, tweet, or other information from a social media site from your computer, in order to have it admissible in court, it must be obtained through the proper channels. However, once obtained correctly, this information can be used as useful evidence towards proving a spouse's or parent's case in family court.

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