

The Sedona Canada Commentary on Discovery of Social Media (September 2021)

Social media is ubiquitous throughout most of the world, with users numbering in the billions irrespective of age, geography, or socioeconomic status. Not only consumers, but also governments and businesses employ social media to communicate with their constituencies and target audiences. With so many individuals and organizations communicating through social media, it is increasingly becoming a subject of discovery in legal proceedings and investigations. Lawyers must understand the different types of social media and the unique discovery issues they present so they can advise and assist their clients in properly preserving, collecting, producing, and requesting such information in discovery.

The Sedona Canada Commentary on Discovery of Social Media builds on similar principles and guidelines regarding social media developed by the Sedona Conference Working Group 1 for the United States, including *The Sedona Conference Primer on Social Media*, first published in 2012 and updated in 2019. However, this *Commentary* focuses on the regulatory and practice requirements of the Canadian legal profession.

Section II of the *Commentary* discusses traditional and emerging social media technologies and the discovery challenges they present. Section III examines relevance and proportionality in the context of social media. It also explores preservation challenges, collection, and search obligations, together with review and production considerations. Section IV describes the impact of cross-border issues on social media discovery, and Section V explores authentication issues. The *Commentary* concludes in Section VI by analyzing ethical issues that lawyers should consider in connection with social media discovery.

The full text of *The Sedona Canada Commentary on Discovery of Social Media* is available free for individual download from The Sedona Conference website at

https://thesedonaconference.org/publication/Sedona_Canada_Commentary_on_Discovery_of_Social_Media.

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