



Electronic Research: How to Effectively Utilize the Internet to Investigate a Workers' Compensation Matter

by Mark A. Shaw and Garrett M. Cravener

The internet is an incredible tool for gathering information when used effectively and should be utilized when gathering information about a workers' compensation claim and a claimant. However, because of the vast size of the internet, many people suffer from "information overload" and do not know where to begin. To help reduce the occurrence of information overload, this article will highlight some of the most useful internet tools that can be utilized for researching workers' compensation matters.

Before beginning an online investigation, please keep in mind the claimant's privacy concerns as well as any discrimination issues that may arise. Readily accessible public information should be the focus of your search. Do not attempt to gain access to any of the claimant's information that is password protected, even if you know of a way to access such information. The amount of information that a claimant reveals publicly is often more than enough for investigation purposes. Also, the information that can be obtained via an online search often contains demographic information about the claimant, such as gender, race, age, national origin and disability status. Such information can lead to a discrimination lawsuit if handled improperly. Therefore, to help prevent a discrimination claim as a result of conducting an online

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investigation, screen out any individuals from the company who may have the authority to terminate the claimant. Keeping these concerns in mind will help avoid pitfalls that could arise from your search yet still yield valuable results. A more detailed discussion of these issues is available in a *LawTrends* article published earlier this year and can be found on our web site ("Social Networking: You're Hired to You're Fired The Legalities of Social Networking in Employment Practices").

Google

Google is a company best known for its online search engine. Google's search engine is by far the most widely used internet search engine in the United States. In fact, Google's search engine indexes (i.e., collects, parses, and stores) trillions of web pages so that its users can search for web pages by keyword and topic. Google's search engine is used by so many people that it processes approximately one billion search requests per day.

Because of its ability to quickly search a vast collection of web pages, and its free cost, Google is an excellent starting point for obtaining information about an individual. Indeed, Google's search engine has become so popular in mainstream society that the word "google" has become a transitive verb: the action of using the Google search engine to obtain information on the internet. This popularity would not have arisen but for the effectiveness of Google's search engine. Therefore, using Google as a starting point for obtaining information about a claimant is highly recommended.

The most effective approach is to start generically by simply searching the claimant's first and last name. In other words, just "google" the claimant. If the search results are too large, narrow the findings by adding the claimant's city of residence, address, date of birth, spouse and so on, until you find relevant information. Search results may yield very valuable information about a claimant, such as the claimant's previous places of employment, family members or a local news article about the claimant. For example, a search may return an online article describing the claimant's recent third place finish in a marathon (despite the claimant's alleged restriction of using a walking cane). Search results also can provide links to other research tools to be discussed below, such as Facebook and Twitter.

Social Media – Facebook & Twitter

Social media is all around us. Turn on the television and at the end of a commercial, sitcom, or newscast, you'll hear, "Follow us on Twitter," or "Become a fan of ours on Facebook." Chances are likely that the claimant you are investigating has a Facebook or Twitter account, or both. If you are lucky, the claimant's security settings will be publicly available to provide access to his or her accounts.

Facebook is a very popular online social network that now has over 500 million users. Facebook allows a user to create a profile, where he or she can post information such as name, date of birth, occupation and interests. Users also can post pictures, videos and status updates (i.e., what the person is currently doing or feeling), which can be very valuable evidence with regard to the individual's workers' compensation claim. Typically, only "friends" of the user can have full access to the user's account, however, depending on security settings, non-friends can still view limited information. Also, full access still can be had if the account user sets up his or her account so that his or her security settings allow the public to have full access. An excellent example of how Facebook can yield valuable evidence is the instance where a Cleveland woman searched Facebook and discovered that her husband was married to another woman. The Cleveland woman was suspicious that her husband was not traveling to the places that he alleged, and believed that he was having an affair with another known woman, so she searched that woman's name on Facebook and was shocked to discover photos of her husband with the other woman, including approximately 200 photos from a Walt Disney wedding, where the husband was dressed as Prince Charming.

Twitter is another popular online social network. By using twitter, a user can send messages to others called "tweets." Most of the time, a tweet is merely pointless babble, such as what the user had for breakfast this morning. However, such babble can be very useful for workers' compensation purposes, because the claimant may unwittingly tweet something that goes against what he or she is alleging in relation to his or her workers' compensation claim. A real world

example of a tweet that went against an individual's allegations involves Paris Hilton. At the end of August 2010, Ms. Hilton was arrested after a police officer saw a small bag of cocaine fall out of her Chanel brand purse. At first, Ms. Hilton was adamant that the purse was not hers but instead belonged to a friend. Unfortunately for Ms. Hilton, about one month prior to the incident, she tweeted, "Love my new Chanel purse I got today" and also posted a picture of the purse, which looked exactly like the purse on the date of the incident. Therefore, if a claimant has a Twitter account, it may be worth it to take some time to search through his or her tweets. While most of the content will be useless babble, some of it could prove to be very helpful to defending against the claimant's workers' compensation claim.

I.C.O.N.

The Industrial Commission of Ohio provides online access to the claimant's workers' compensation file. The online access is called the "Industrial Commission Online Network," or simply I.C.O.N. The following information is made available to employers, injured workers and representatives:

- Active claim information, including copies of hearing orders;
- Documents in the claim file;
- Contact information for all claim participants;
- Online appeal/objection submission for most claims;
- .522/.52 relief filing; and
- Hearing schedules (for representatives and employers)

I.C.O.N. only provides access to active claims (i.e., claims currently being processed by the Industrial Commission or those that have been completed within the last 28 days) with which the employer is associated. Therefore, unless a document within the claim file references other injuries or accidents (e.g., a medical note from the claimant's treating physician that discusses an injury that pre-dates the industrial injury), I.C.O.N. will not be helpful to determine whether the claimant has other injuries or workers' compensation claims. To have access to I.C.O.N., the representative will need to use its Rep ID number or risk number and obtain a password, which can be obtained by filling out the "Outside Party I.C.O.N. Request Form." The form can be obtained by going to the Industrial Commission of Ohio's web site.

OhioBWC.com

The Ohio Bureau of Workers' Compensation (BWC) also provides online access to claim information. The online system was formerly called "Dolphin" by the BWC, and it still referred to such by practitioners and representatives. Therefore, if someone refers you to Dolphin, know that they are merely referring to the BWC's online access system. An ID and password will be needed to gain access to the BWC's online system, which is distinct from the ID and password used to gain access to I.C.O.N. An e-account is simple to create: visit www.ohiobwc.com, click on "Create E-Account," and fill out the online form.

Like I.C.O.N., the BWC's online access system provides information related to the workers' compensation claim at issue. However, unlike I.C.O.N., access still can be had for inactive claims. Therefore, if you are trying to obtain documents for a particular claim on I.C.O.N., and access is refused because the claim is not "active," then go to the BWC's online system, which will give you the opportunity to view and print the document for which you are searching.

The BWC's online access system also can be helpful if the employer cannot remember whether the claimant has other claims with the employer. If you have the claimant's Social Security number, which should be listed on the FROI-1 form, then you can enter that number on the BWC's online access system, which will provide you the claim numbers associated with that Social Security number and that employer. This is particularly useful when the conditions at issue in the current claim could be related to a prior claim for which the claimant has already been compensated.

Clerk of Courts Online Docket

More and more courts of common pleas are providing online access to the documents that are being filed in a case. Therefore, searching the online docket for the applicable court of common pleas can provide useful information. The most relevant online docket to search would be the one that applies to the claimant's county of residence.

Most clerk of courts online dockets allow the public to search for cases by first and last name. By entering this information, all cases, if any, associated with the claimant will be listed in the search results. From there, you can access the parties involved, status of the case, and documents filed with the court (if they have been scanned into the system). If documents are posted online, a good document to view for a workers' compensation case would be the complaint, which should briefly describe the injury, claim number, and conditions at issue in the claim. A non-workers' compensation case can also provide helpful information, such as a domestic matter. For example, by searching the online docket for a domestic case, you can obtain names of the claimant's relatives, which, after a Google search, could lead to Facebook or Twitter accounts for such relatives, who, in turn, could be divulging information that an employer may find useful in defending a claim.

Outside Vendors – OPENonline

OPENonline is an online service provider that specializes in background checks. In the past, outside vendors such as OPENonline were excellent resources for obtaining claim information about an individual. Often, by providing the claimant's personal information, OPENonline could provide all workers' compensation claims associated with the claimant. However, after the passage of Senate Bill Seven by the Ohio General Assembly, workers' compensation claim records, which includes a claimant's address and phone number, are no longer considered a matter of public record. Consequently, the amount of information that an outside vendor can obtain has been restricted, which limits the value of utilizing an outside vending service in the context of claim investigations.

Access to information will be even greater as the internet continues to expand and evolve. Nevertheless, even today, the amount of information that can be obtained about an individual via a simple online search is immense. Therefore, when investigating a claimant and his or her workers' compensation claim, utilize the value of the internet before expanding your search into more expensive research tools. If you have any questions or comments about effective electronic research and any legality concerns, please feel free to contact Mark A. Shaw or Garrett M. Cravener at our Columbus office.



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