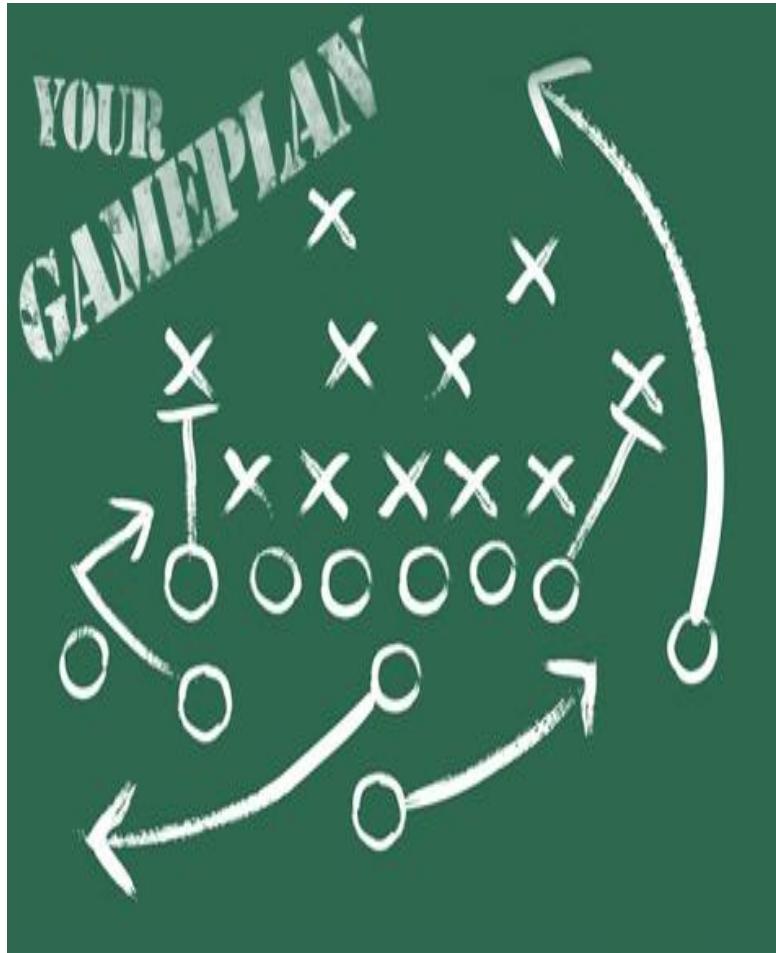


WORKSHOP 10: *Social Media and Digital Evidence: Evolution or Revolution*

**John GREGORY, Ministry of the Attorney General
(Ontario)**

**Patrick GINGRAS, Ministère de la Justice
(Québec)**

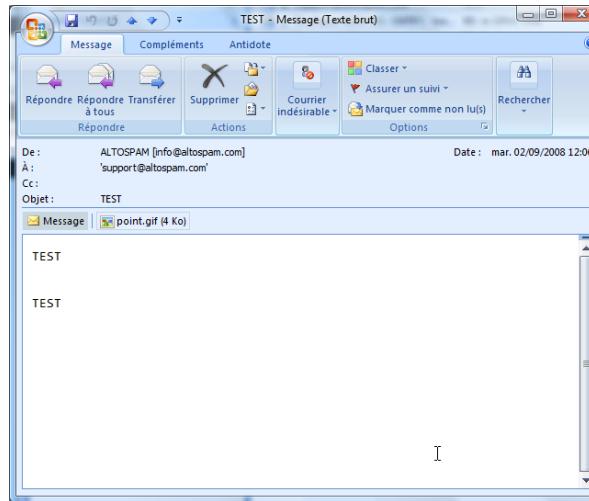
Social Media/Médias sociaux



- 4 scenarios / 4 scénarios
- For each scenario / Pour chaque scénario:
 - a) Scenario + questions / Scénario + questions
 - b) Group work / Travail en groupe
 - c) Discussion

1st scenario / 1^{er} scénario

- During a hearing, a party wants to produce electronic evidence: an e-mail and an Excel file.
- Pendant une audience, une partie souhaite produire une preuve technologique: un courriel et un fichier Excel



A	B	C	D	E	F	G	H
1	Type	Date	Time	Source	Category	Event	User
2	Information	11/24/1998	10:23:03 PM	Browser	None	8033	N/A
3	Error	12/3/1998	11:35:55 AM	NetLogon	None	5721	N/A
4	Information	12/3/1998	11:35:32 AM	eventlog	None	6005	N/A
5	Warning	12/3/1998	11:46:31 AM	Print	None	20	a-d@ess
6	Warning	12/3/1998	11:46:56 AM	Print	None	20	a-d@ess
7	Information	12/3/1998	11:55:48 AM	eventlog	None	6005	N/A
8	Information	12/4/1998	8:31:20 AM	eventlog	None	6005	N/A
9	Information	12/7/1998	7:49:22 AM	eventlog	None	6005	N/A
10	Information	12/8/1998	4:30:01 PM	eventlog	None	6005	N/A
11	Information	12/8/1998	12:24:28 PM	eventlog	None	6005	N/A
12	Information	12/10/1998	9:26:42 AM	eventlog	None	6005	N/A
13	Information	12/14/1998	9:27:00 AM	eventlog	None	6005	N/A
14	Information	12/15/1998	9:06:53 AM	eventlog	None	6005	N/A
15	Information	12/16/1998	11:32:17 AM	eventlog	None	6005	N/A
16	Information	12/17/1998	10:09:39 AM	eventlog	None	6005	N/A
17	Information	12/17/1998	4:48:11 PM	eventlog	None	6005	N/A
18	PWarning	12/21/1998	6:38:23 AM	Browser	None	6022	N/A

Questions

1. What will you accept:
 - a) The original electronic document?
 - b) A PDF file of the original electronic document?
 - c) A printed copy (paper) of the original electronic document?

 2. What will you have to verify about the document? How?
-
1. Qu'allez-vous accepter:
 - a) Le document technologique original?
 - b) Un fichier PDF du document technologique original?
 - c) Une impression papier du document technologique original?

 2. Que devrez-vous vérifier à l'égard du document?
Comment allez-vous faire?

1. What will you accept / Qu'allez-vous accepter:

- a) The original electronic document? / Le document technologique original?
- b) A PDF file of the original electronic document? / Un fichier PDF du document technologique original?
- c) A printed copy (paper) of the original electronic document? / Une impression papier du document technologique original?

and why? / et pourquoi?

2. What will you have to verify about the document? / Que devrez-vous vérifier à l'égard du document?

- How ? / Comment ?
- Reliability compared to paper / Fiabilité versus le papier

Discussion

- Integrity in the technological world (metadata)
- How to assure integrity and authenticity? / How to demonstrate integrity?
- Difference between electronic document and paper document (example with an e-mail and an Excel file (calculation functions))
- L'intégrité dans le monde technologique (metadonnées)
- Comment assurer l'intégrité et l'authenticité? / Comment démontrer l'intégrité?
- Les différences entre le document technologique et le document papier (exemple avec un courriel et un fichier Excel (fonctions de calcul))



“Don’t believe
everything you
read on the
Internet just
because there’s
a picture with a
quote next to it.”

—Abraham Lincoln

Integrity / Intégrité

- The integrity of a document is ensured if it is possible to verify that the information it contains has not been altered and has been maintained in its entirety.

An Act to Establish a Legal Framework for Information Technology, RSQ, c C-1.1 s. 6

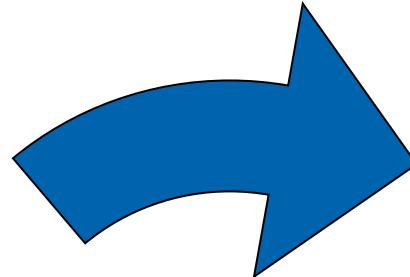
- L'intégrité du document est assurée, lorsqu'il est possible de vérifier que l'information n'en est pas altérée et qu'elle est maintenue dans son intégralité.

Loi concernant le cadre juridique des technologies de l'information, LRQ, c C-1.1 a. 6

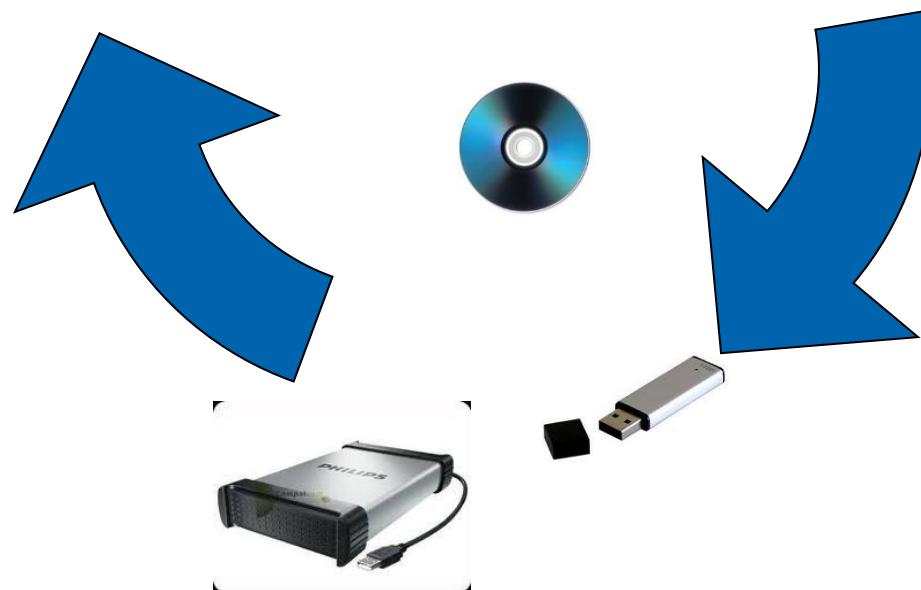
Integrity / Intégrité

- The integrity of an electronic record may be proved by evidence of the integrity of the electronic records system by or in which the data was recorded or stored.
 - Evidence Act (Ontario) s. 34.1(5.1) (cf. Uniform Electronic Evidence Act)
- L'intégrité d'un document électronique peut être démontrée par des éléments de preuve établissant la fiabilité du système d'archivage électronique par lequel ou dans lequel les données ont été enregistrées ou mises en mémoire.
 - Loi de l'Ontario sur la preuve, art. 34.1(5.1). (cf. Loi uniforme sur la preuve électronique)

E-Doc



Information
+ metadata /
métadonnées



Metadata / Métadonnées

- Data about data content / Données concernant l'information.

The screenshot shows the Windows Properties dialog for a file named PGingras.jpg. The 'Appareil photo' tab is selected, displaying camera settings:

Propriété	Valeur
Appareil photo	NIKON
Modèle d'appareil photo	E995
Focale	F/2.7
Temps d'exposition	1/60 secondes
Vitesse ISO	ISO-100
Compensation	0 étape
Longueur de la focale	9 mm
Ouverture maxi	0
Mode de contrôle de logiciel	Motif
Distance au sujet	
Mode flash	Flash
Niveau de puissance du flash	
Longueur de focale 35mm	

Below the table, there are sections for 'Photo avancée' and 'Fabricant de l'appareil'. At the bottom, there are links to 'Supprimer les propriétés et les informations personnelles' and 'Aide'.

A Microsoft Excel spreadsheet is shown with a single row of data:

	A	B	C	D
1	1	4	8	
2	2	3	4	
3	3	7	12	
4				

The formula $=C2+C1$ is entered in cell C3.

The screenshot shows an email client interface with an open message window. The subject line is 'Designer Watches Under 79.99, La Class Couture, Body Jewelry, Summer Scrubs, Dead Sea Spa...'. The 'En-tête complet' (Full header) button is highlighted.

The full header content is as follows:

```
From Beyond the Rack Sun May 19 06:31:22 2013
X-Apparently-To: patrickgingras@yahoo.com via 72.30.237.47; Sun, 19 May 2013 13:31:32
+0000
Return-Path: <bounce-451_HTML-383962-10274-7001062-
196@bounce.e.beyondtherack.com>
Received-SPF: pass (domain of bounce.e.beyondtherack.com designates 68.232.203.167 as
permitted sender)
aXMgZWI1haWwgYXNlMgYSSB3ZWlgcGFnZSBJbnZpdGUgYSBmcmlbmQsIEldCAk
MTAgV09NRU4gfCBNRU4gfCBLSURTHwgSE9NRSBXaG8gc2FpZCBuaWNlHdh
dGNoZXMaGF2ZSB0byBiZSBleBIBmNpdmu_IE5vdCB1cyEgU2hvcCB0aGlz
IGVZWW50IGZvcBleWU1Y2F0Y2hpbcgdfGtZXBpZWnlcyBhdCAKzkuOTkg
YW55klHVuZGVyLbIQZXJmZWNOlGZvcib5b3yc2VsZlBvcBhIAEwAQEBAQNO
ZXh0L3BsYWluUawMwAgN0ZXh0L2h0bvWuDzI0
X-YMailISG-NxPNc00WLDSypqm1MfcCxc.NX9hxmj0qmUkdzZTwkW0LksDy
ck5gdteEu32S6R.BKfAT7JnzJ4FZocX8cv1PKCYXbjLYMaXgUOx6jbXe906
Tun6KKOrJMCQDXtrelN3vr7yOJxM9VsIBOlVoSG0.ILOvbLxqj8S8T1
ocC1mhEZq8kPGLiv27WON_DOnjiNxFgULstDAf7l0PK0tq10jp4TMPdfi
NzUmK1Zc6cq3461YWBYavLRBfPepqZk97XU.rYERE6f9236DBjECAKla8TC
itvva5FvzWgXkh0dYGQk6l3pfjzGagpIAIRAnTWhcNaAMzdvwVuLfvEptTEdl
WA9b70xs89DLVb1Q6F_Vsj6nGa7cTW0IouwM.Hc3005cIyU3Un5SsDTI4g
```

Assure integrity on creation/ Assurer l'intégrité au moment de la création

- Technological means / Moyens technologiques;
- Documentation (processes / procédés);
- Statutory presumptions /Présomptions légales
- ...

Demonstrate integrity at time of use/ Démontrer l'intégrité au moment de l'utilisation

- Metadata / Métadonnées;
- Documentation (processes / procédés);
- Affidavit (credibility / crédibilité);
- Expert : [Rapport analyse 01.pdf](#)
- Witness / Témoignage;
- Internal logic / Logique interne
- ...

2nd scenario / 2^e scénario

- During a hearing, a party wants to produce a page from Wikipedia and pictures from Google Street View and the WayBack Machine.
- Pendant une audience, une partie souhaite produire une page de Wikipédia et des photos provenant de Google Street View et de la WayBack Machine.

Google maps



Questions

- | | |
|--|---|
| 1. Will you accept this(ese) page(s)/picture(s)? | 1. Allez-vous accepter cette(es) page(s)/photographie(s)? |
| 2. What will you have to verify? How? | 2. Que devrez-vous vérifier?
Comment allez-vous faire? |

1. Will you accept this(es) page(s)/picture(s)? / Allez-vous accepter cette(es) page(s)/photographie(s)?

WIKIPEDIA
The Free Encyclopedia

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Rob Ford

From Wikipedia, the free encyclopedia

For other people named Robert Ford, see [Robert Ford \(disambiguation\)](#).

Robert Bruce "Rob" Ford (born May 28, 1969) is a Canadian politician and businessman. He is the 64th and current Mayor of Toronto, Ontario, Canada. Ford was elected mayor in the 2010 mayoral election, and took office on December 1 of that year.

In November 2012, Ford was found to have violated Ontario's municipal conflict of interest law and ordered removed from office.^[2] Ford appealed the ruling^[3] and the judgement was overturned, allowing Ford to remain mayor.

Prior to being mayor, Ford was city councillor for a ward in the Toronto district of Etobicoke. He was first elected to city council in the 2000 Toronto municipal election, and was re-elected to his council seat in 2003 and again in 2006. His brother Doug is currently a Toronto city councillor. Ford's father Doug Ford, Sr. was also a politician and served as MPP. The Ford family owns DECO Labels, a multi-national labelling and printing firm based in Etobicoke.

(Doug Ford (Ontario politician))

Content [hide]
1 Personal life
2 Political career
2.1 City councillor
2.2 2010 mayoral election
2.3 Mayor
2.4 Conflict of interest trial
2.5 Other controversies
3 Further reading
4 References
5 External links

Personal life

Born in Etobicoke in 1969, Ford is the youngest of four children of Diane and Doug Ford, Sr. Ford, Sr. was the founder of DECO Labels and Tags, which makes pressure-sensitive labels for plastic-wrapped grocery products at an estimated \$100 million in annual sales.^[4] As an indication of the family's wealth, the success of the family business allowed the family to build a six-bedroom home in Etobicoke, which has a swimming pool and gardens that can host nearly a thousand visitors.^[5]

While growing up, Ford attended the public Scarlett Heights Collegiate in Etobicoke.^[6] Ford dreamed of becoming a professional football player and his father paid for Ford to attend special camps of the Washington Redskins and the University of Notre Dame. After graduation from high school, Ford went to Carleton University, where he made the football team, but did not

64th Mayor of Toronto
Incumbent
Assumed office
December 1, 2010
Preceded by David Miller
Toronto City Councillor for (Ward 2)
Etobicoke North
In office
November 14, 2009 – October 25, 2010
Preceded by Ward created

2. What will you have to verify? / Que devrez-vous vérifier?

- How ? / Comment ?

Discussion

- What is Wikipedia / Google Street View / WayBack Machine?
- More and more used in court in Canada... why?
- Wikipedia: 2 ways to see it: encyclopedia, dictionary VS community pages
 - Veracity of the information (source, history)
- Google Street View/WayBack Machine :
 - Author and date
 - How the capture has been made
 - Do you need a cross-examination?
- Qu'est- ce que Wikipedia / Google Street View / WayBack Machine?
- De plus en plus utilisés devant les tribunaux au Canada... pourquoi?
- Wikipedia: 2 façons de voir: encyclopédie, dictionnaires VS pages communautaires
 - Veracité de l'information (source, historique)
- Google Street View/WayBack Machine :
 - Auteur et date
 - Comment la reproduction a été faite
 - Faut-il contre-interroger

What is it? / Qu'est-ce que c'est?

Wikipedia

Welcome to Wikipedia,
the free encyclopedia that anyone can edit.
4,238,599 articles in English



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The Free Encyclopedia

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Rob Ford: Revision history

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From year (and earlier): 2013

From month (and earlier): all

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(newest | oldest) View (newer 50 | older 50) (20 | 50 | 100 | 250 | 500)

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- (cur | prev) 16:57, 22 May 2013 Alaney2k (talk | contribs) . . (79,216 bytes) (+262) . . ([→Allegations of substance abuse: add Ford reply to Thomson](#))
- (cur | prev) 14:07, 22 May 2013 PKT (talk | contribs) . . (78,954 bytes) (-32) . . ([rm'd inappropriately-used tag, see talk page](#))
- (cur | prev) 12:57, 22 May 2013 May122013 (talk | contribs) . . (78,986 bytes) (+32) . . ([Please discuss on the talk page and read the entire talk page to see many examples of conflict, feuds, and legal actions between Ford and media.](#))
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- (cur | prev) 16:56, 21 May 2013 Alaney2k (talk | contribs) . . (79,059 bytes) (+11) . . ([→Personal life: note intro of PC acronym](#))
- (cur | prev) 16:24, 21 May 2013 Alaney2k (talk | contribs) . . (79,048 bytes) (-23) . . ([→Allegations of substance abuse: two weeks later => later in march](#))



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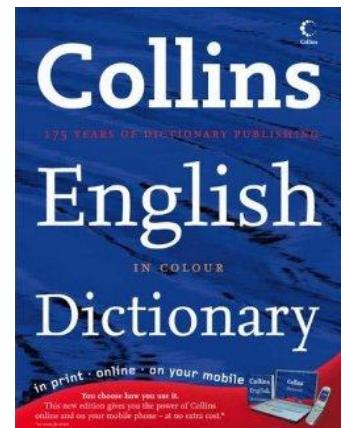
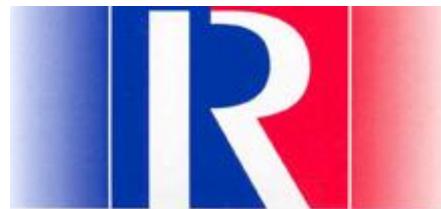
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100%

[60] This Court has more than once questioned the reliability of Wikipedia,. It is an open source reference with no editorial control over the accuracy of the information that can be inputted by anyone: (...)



Jahazi c. Canada (*Citoyenneté et Immigration*), 2010 CF 242

Google Street View / WayBack Machine / Google Cache

- Author and date
- How the capture has been made
- Do you need a cross-examination

Hier Edition Affichage Favoris Outils ?

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Browse through over 150 billion web pages archived from 1996 to a few months ago. To start surfing the Wayback, type in the web address of a site or page where you would like to start, and press enter. Then select from the archived dates available. The resulting pages point to other archived pages at as close a date as possible. Keyword searching is not currently supported.

<http://archive.bibalex.org>, the Internet archive at the New Library of Alexandria, Egypt, mirrors the Wayback Machine. Try your search there when you have trouble connecting to the Wayback servers.

Wayback Machine Hardware

The Wayback Machine

http://

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Join the K-12 Web Archiving Program!

[Apply](#) to be part of the Internet Archive K-12 program, and your school can help to capture and archive today's primary source materials on the Web.

A growing number of individuals and institutions recognize the importance of archiving and preserving the often transitory digital cultural artifacts that are distributed over the Web. But so far, the vast majority of decisions about what Web sites will live into the future have been made by adults, and reflect adults' sensibilities about what constitutes the important records of history. We want and need to hear from students.

The [Internet Archive](#), the [Library of Congress](#) and [California Digital Library](#) collaborated on a pilot in the spring of 2008 and a full-year program for the 2008/2009 school year, working with a total of 10 elementary, middle and high schools. We are looking to expand this program to new schools in the coming year. You can explore the collections created during the 2008/2009 school year on the [Archive-It](#) website [here](#).

Find a complete project description and the brief application in the "Featured Resources" section at <http://www.loc.gov/teachers/newsevents/news/>. Apply by **August 14** for full consideration.



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All

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304 Results

Note some duplicates are not shown. [See all](#).

* denotes when site was updated.

Material typically becomes available here 6 months or more after collection, with some exceptions. [See FAQ](#).

Archived Results from Jan 01, 1996 - latest

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
0 pages	0 pages	2 pages	7 pages	17 pages	15 pages	18 pages	15 pages	27 pages	68 pages	32 pages	34 p
		Dec 01, 1998 *	Jan 25, 1999 *	Feb 29, 2000 *	Jan 18, 2001 *	Apr 02, 2002 *	Feb 05, 2003 *	Jan 27, 2004	Jan 17, 2005	Jan 01, 2006	Jan 05, 2007
		Dec 12, 1998	Feb 08, 1999 *	Mar 02, 2000 *	Jan 19, 2001 *	May 23, 2002 *	Feb 06, 2003 *	Apr 14, 2004	Jan 23, 2005	Jan 11, 2006	Jan 10, 2007
			Feb 18, 1999 *	Mar 02, 2000 *	Jan 23, 2001 *	May 23, 2002 *	Feb 12, 2003 *	Apr 17, 2004	Jan 30, 2005	Jan 14, 2006	Jan 15, 2007
			Apr 22, 1999 *	Mar 04, 2000 *	Feb 01, 2001 *	May 27, 2002 *	Mar 27, 2003 *	May 14, 2004	Feb 07, 2005	Jan 15, 2006	Feb 02, 2007
			Apr 29, 1999 *	Apr 08, 2000 *	Feb 02, 2001 *	May 28, 2002 *	Apr 20, 2003 *	May 25, 2004	Feb 10, 2005	Jan 16, 2006	Feb 05, 2007
			Aug 23, 1999 *	May 20, 2000 *	Feb 24, 2001 *	Jun 02, 2002 *	Apr 25, 2003 *	Jun 04, 2004	Feb 13, 2005	Jan 17, 2006	Feb 13, 2007
			Nov 15, 1999 *	Jun 07, 2000 *	Mar 01, 2001 *	Jun 04, 2002 *	Jun 01, 2003 *	Jun 11, 2004	Feb 14, 2005	Jan 18, 2006	Mar 08, 2007
				Jun 18, 2000	Mar 02, 2001	Jul 27, 2002 *	Jun 21, 2003 *	Jun 15, 2004	Feb 17, 2005	Jan 28, 2006	Mar 16, 2007
				Jun 20, 2000	Mar 03, 2001	Aug 02, 2002	Jul 19, 2003 *	Jun 16, 2004	Feb 18, 2005	Feb 01, 2006	Mar 24, 2007
				Aug 15, 2000	Mar 09, 2001	Sep 28, 2002 *	Jul 31, 2003 *	Jun 18, 2004	Feb 22, 2005	Feb 06, 2006	Mar 25, 2007
				Aug 23, 2000	Mar 31, 2001 *	Sep 28, 2002 *	Oct 16, 2003 *	Jun 23, 2004	Mar 08, 2005	Feb 08, 2006	Mar 26, 2007
				Sep 30, 2000 *	Apr 05, 2001 *	Sep 30, 2002 *	Oct 26, 2003 *	Jun 24, 2004	Mar 10, 2005	Mar 22, 2006	* Apr 05, 2007
				Oct 19, 2000 *	Apr 13, 2001 *	Sep 30, 2002 *	Nov 19, 2003 *	Jun 27, 2004	Apr 04, 2005	Apr 15, 2006	* Apr 18, 2007
				Nov 09, 2000 *	Apr 18, 2001 *	Oct 10, 2002 *	Dec 05, 2003 *	Jun 30, 2004	Apr 18, 2005	Apr 23, 2006	May 18, 2007
				Nov 17, 2000	Jun 05, 2001 *	Nov 21, 2002 *	Dec 16, 2003 *	Jul 04, 2004	May 11, 2005	Apr 24, 2006	Jun 12, 2007
				Nov 19, 2000		Nov 27, 2002	Dec 01, 2002 *	Jul 08, 2004	May 13, 2005	Apr 28, 2006	Jun 27, 2007
				Dec 06, 2000 *			Dec 01, 2002 *	Jul 30, 2004	May 14, 2005	May 19, 2006	Jul 02, 2007
							Dec 01, 2002 *	Aug 04, 2004	May 15, 2005	Jun 10, 2006	Jul 01, 2007

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- [Le ministère du Revenu du Québec enquête dans le domaine des bijoux et de l'or pur](#)

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ITV Technologies Inc. v. WIC Television Ltd., 2003 FC 1056

[16] With regard to the reliability of the Internet, I accept that in general, official web sites, which are developed and maintained by the organization itself, will provide more reliable information than unofficial web sites, which contain information about the organization but which are maintained by private persons or businesses.

ITV Technologies Inc. v. WIC Television Ltd., 2003 FC 1056

[18] As for unofficial web sites, I accept Mr. Carroll's opinion that the reliability of the information obtained from an unofficial web site will depend on various factors which include careful assessment of its sources, independent corroboration, consideration as to whether it might have been modified from what was originally available and assessment of the objectivity of the person placing the information online. When these factors cannot be ascertained, little or no weight should be given to the information obtained from an unofficial web site.

More and more used in court / De plus en plus utilisés devant les tribunaux

- Easy / Facile
- Free / Gratuit

But / Mais : Hearsay / Ouï-dire ?

3th scenario / 3^e scénario

- During a hearing, a party wants to produce an extract from a Facebook page (or a Twitter stream).
- Pendant une audience, une partie souhaite produire un extrait d'une page Facebook (ou d'un fils Twitter).



Questions

1. Will you accept the extract:
 - As primary evidence;
 - To challenge a testimony
 2. What will you have to verify? How?
 3. Can we create a false Facebook profile to obtain evidence or to “watch” someone?
-
1. Allez-vous accepter l'extrait:
 - Comme preuve
 - Pour contredire un témoignage
 2. Qu'est-ce que vous devrez vérifier?
Comment?
 3. Pouvons-nous créer un faux profil Facebook pour obtenir une preuve ou pour “surveiller” une personne?

1. Will you accept the extract: / Allez-vous accepter l'extrait:

- a) As primary evidence? / Comme preuve?
- b) To challenge a testimony? / Pour contredire un témoignage?

2. What will you have to verify? / Que devrez-vous vérifier?

- How ? / Comment ?

3. Can we create a false Facebook profile to obtain evidence or to “watch” someone? / Pouvons-nous créer un faux profil Facebook pour obtenir une preuve ou pour “surveiller” une personne?

Discussion

- What is Facebook / Twitter?
- The extract is from a private or public page
 - If information is obtained from a private page, could its use tend to bring the administration of justice into disrepute
- Information from Facebook - could it be a "reasonable cause" to support a more in-depth investigation?
- Qu'est-ce Facebook / Twitter?
- L'extrait provient-il d'une page privée ou publique
 - Si l'information provient d'une page privée, peut-elle déconsidérer l'administration de la justice
- Est-ce qu'une information obtenue via Facebook peut être un « motif raisonnable » pour débuter une enquête plus intrusive?

What is it? / Qu'est-ce que c'est?

Facebook | Anyeta Fecher - Windows Internet Explorer

http://www.facebook.com/#/profile.php?ref=profile&id=100000559782560

Live Search

Facebook | Anyeta Fecher

View Photos of Me (5)

Edit My Profile

Write something about yourself.

Information

Relationship Status: Single

Birthday: November 4, 1981

Friends 1,036 friends See All

Create a Profile Badge

happy new year....
14 hours ago · Comment · Like · See Wall-to-Wall

Have a safe and happy 2010...
Blingee Book - Postcards
'Susie Radder Ryan' has posted a Blingee Postcard

I just sent you a gift!
Here's a gift! See what it is! Please send me one back!

RECENT ACTIVITY

Anyeta and [redacted] are now friends. · Comment · Like

Anyeta and [redacted] are now friends. · Comment · Like

Anyeta and [redacted] are now friends. · Comment · Like

Blingee Book - Postcards
[redacted] has posted a Blingee Postcard

Like

Like

More Ads

36

What is it? / Qu'est-ce que c'est?



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Québec, QC Canada

1 510 TWEETS 142 ABONNEMENTS 506 ABONNÉS



John D. Gregory
@johndgregory VOUS SUIST
Toronto lawyer and law reformer interested in law and policy of electronic communications. Tweets are not opinions of the government of Ontario.
Toronto ON · euclid.ca

128 TWEETS 16 ABONNEMENTS 92 ABONNÉS

Tweets

 **Patrick Gingras** @patgingras 6 h
Preuve de la procédure de traitement du courrier par Revenu Canada - perte d'une lettre? Nacom c La Reine 2013 CCI 90 Canlii.ca/t/fxhbx
[Ouvrir](#)

 **IT.Can** @ITdotCan 16 Mai
When Facebook Posts Come Back to Haunt You: A B.C. court finds that Facebook posts can negatively impact a par...
bit.ly/148d4Vp
 Retweeté par Patrick Gingras
[Ouvrir](#)

 **IT.Can** @ITdotCan 16 Mai
Pour être en possession d'un document, il faut en avoir le contrôle: Un document en cache inaccessible à l'usa... bit.ly/13patUg
 Retweeté par Patrick Gingras
[Ouvrir](#)

Tweets

 **John D. Gregory** @johndgregory 7 h
Couchiching sponsors good discussion on legal ed - Ottawa May 27 slaw.ca/2013/05/22/cou...
[Ouvrir](#)

 **John D. Gregory** @johndgregory 15 Mai
Are you legally at fault if you don't check that your email was received? slaw.ca/2013/05/15/ver...
[Ouvrir](#)

 **John D. Gregory** @johndgregory 13 Mai
Hacking Back: the flavour of the month or the Next Big Thing? slaw.ca/2013/05/13/hac...
[Ouvrir](#)

 **Jordan Furlong** @jordan_law21 9 Mai
Out of all the crazy things in the legal industry, defining "productivity" as "hours billed" remains the gibbering tinfoil-hat king.
 Retweeté par John D. Gregory
[37 Ouvrir](#)

Private vs public/ Privé vs public

The Plaintiff has set her Facebook privacy settings to private and has restricted its content to 67 friends. She has not created her profile for the purpose of sharing it with general public. Unless the Defendant establishes a legal entitlement to such information, the Plaintiff's privacy interest in the information in her profile should be respected.

Schuster c. Royal & Sun Alliance Insurance Company of Canada, 2009 CanLII 58971 (ON SC)

The plaintiff argues that privacy concerns should be sufficient to prevent production. I disagree. The plaintiff has put her social life in issue as well as her ability to do certain activities being negatively affected by her injuries from the accident. These issues because of this lawsuit are therefore now part of the public domain. She also posted photographs of herself, before and after the accident, on her Facebook account to others-how many is not known and is not really relevant since it was clearly more than one. Under these circumstances the privacy argument has little weight.

False profile / Faux profile

- Fundamental rights and freedoms breach / Atteinte aux droits et libertés fondamentaux;
- Used would tend to bring the administration of justice into disrepute / Utilisation susceptible de déconsidérer l'administration de la justice.

False profile / Faux profile

[50] En l'espèce, la preuve démontre que l'employeur a usé de subterfuge et de moyens détournés afin de devenir « l'ami » de la travailleuse sur le réseau social. En conséquence, la preuve *Facebook* présentée par l'employeur a été obtenue grâce à des moyens frauduleux. Ce constat est d'autant plus vrai que l'employeur a utilisé des informations personnelles et confidentielles de la travailleuse dans le seul but de créer un profil qui correspond parfaitement aux attentes de cette dernière

Campeau et Services alimentaires Delta Dailyfood Canada inc., 2012 QCCLP 7666

4th scenario / 4^e scénario

- Electronic media in the tribunal hearing room / Electronic media and adjudicators.
- Médias électroniques dans les salles d'audience / Médias électroniques et les juges administratifs.



Questions

- | | |
|---|---|
| 1. Can we tweet or otherwise communicate electronically during an hearing? <ul style="list-style-type: none">– Are there different rules for different classes of people in the room? | 1. Pouvons-nous tweeter or communiquer électroniquement pendant une audience? <ul style="list-style-type: none">– Est-ce qu'il y a des règles pour différentes catégories de personnes dans la salle? |
| 2. Can a judge have a Facebook page or LinkedIn profile (impartiality – neutrality)? | 2. Est-ce qu'un juge peut avoir une page Facebook ou un profil sur LinkedIn (partialité – neutralité) ? |
| 3. Can adjudicators be ‘friends’ with counsel or representatives of parties? | 3. Un adjudicateur peut-il être “ami” de procureurs ou de représentants de parties? |
| 4. Should decisions be released on social media platforms? | 4. Devrait-on diffuser des décisions dans les médias sociaux? |

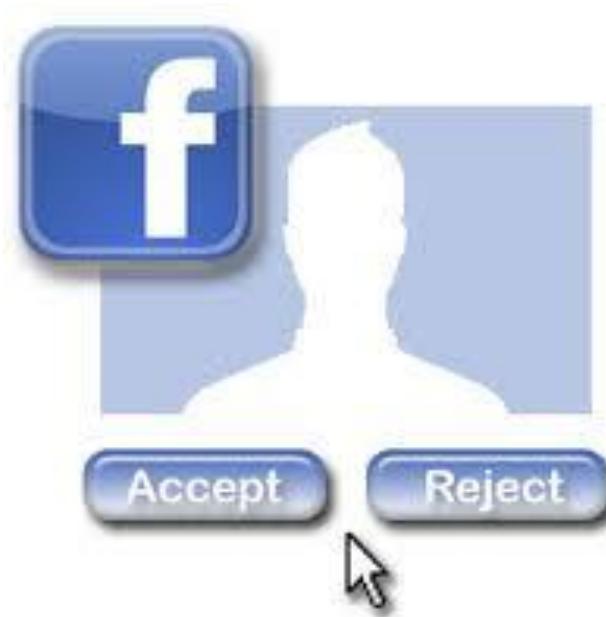
Discussion

- Principles for e-media in the hearing room:
 - Disruption
 - Improper activities (communicating with excluded witnesses, breaking publication bans)
 - Reasons to distinguish classes: media, counsel, parties, public
- Principes pour les e-médias dans la salle d'audience:
 - Perturbation
 - Activités inappropriées (communication avec les témoins exclus, défier les interdictions de publication)
 - Raisons pour distinguer les classes: médias, avocats, parties, public

Tweeting during a hearing ?/ Twitter pendant une audience ?

- Are there different rules for different classes of people in the room?
- Quebec rules - http://www.tribunaux.qc.ca/c-appel/English/Current/new/docs/dir_utilisation_tech_no_salle_audio-a.pdf
- Ontario rules -
<http://www.ontariocourts.ca/scj/en/policies/electronic-devices.htm>

Judge / Juge & Facebook / LinkedIn



Canadian Union of Postal Workers v. Canada Post Corporation, 2012 FC 975

[12] A pre-hearing conference was held on April 30, 2012, at which the appellant's counsel again requested that the arbitrator recuse himself in light of new information. The first piece of information was a Facebook page in the arbitrator's name, in which the "activities and interests" category included links to the Westmount Ville-Marie Conservative Association and the page for Michelle Rempel, Conservative Member of Parliament for Calgary Centre-North. The page also contained a list of "friends", including Minister Raitt, who was responsible for appointing the arbitrator, as well as Minister Steven Fletcher, the minister responsible for Canada Post. In May 2012, Arbitrator Dufort removed these links from his Facebook page.

Adjudicators’ “friends” /”amis” d’adjudicateurs

A judge may participate in electronic social networking, but as with all social relationships and contacts, a judge must ... avoid any conduct that would undermine the judge’s independence, integrity, or impartiality, or create an appearance of impropriety.

Un juge peut participer au réseautage social, mais comme c'est le cas avec toute relations ou contacts sociaux, un juge doit ... éviter toute conduite qui risquerait de compromettre son indépendance, son intégrité ou son impartialité ou de créer un air d'inconvenance.

- *Judge's Use of Electronic Social Networking Media* (American Bar Association Standing Committee on Ethics and Professional Responsibility, Formal Opinion 462) February/février 2013
 - <http://goo.gl/UgV3B>

Decisions released on social media platforms / Décisions publiées sur les réseaux sociaux

- From the Supreme Court / de la Cour suprême:
[https://twitter.com/SCC CSC](https://twitter.com/SCC_CSC)
<https://twitter.com/USSupremeCourt>
But/mais: <https://twitter.com/iSupremeCourt>
- From the cloud / du nuage:
<http://www.lexum.com/en/products/decisia>
- Government /gouvernement:
<https://twitter.com/ontmag>