

## **New York Divorce and Family Law Blog**

**Texting: The New Way to Get Caught Cheating** 

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There has been much ado, of late, about how text messages are the new lipstick stain on the collar-the telltale sign of an adulterous relationship. Indeed, both <a href="Laura Holson">Laura Holson</a> in the <a href="New York Times">New York Times</a> and <a href="David Wright">David Wright</a> on <a href="Nightline">Nightline</a> did stories about this phenomenon, which has recently brought down Tiger Woods, <a href="Mayor Khame Kilpatrick">Mayor Khame Kilpatrick</a> of Detroit and Senator John Ensign.

For some reason, people feel immune when embracing a new technology – they feel that their use of it for illicit conduct will not be discovered. Texting a lover on a portable device that may be left on your night-table or a kitchen counter for a spouse to innocently discover is an invitation for disaster. For example, as detailed in the Times:



Doug Hampton, a longtime friend and employee of Senator Ensign's, said recently on the ABC show "Nightline" that he was alarmed after he had borrowed Mr. Ensign's cell phone in late 2007 to call his wife, Cynthia Hampton, and found her listed as "Aunt Judy." Mr. Hampton said he found an incriminating text message and confronted the pair about their affair at a Christmas dinner soon after.

People naively think that text messages are not discoverable. The wireless carriers may keep records of messages for a long period after they are sent. Moreover, the person receiving the text may preserve the message for their own purposes. Indeed, Tiger Woods has learned that his lovers are using his messages to them to secure their fifteen messages of fame.

But, in the end, text messages are just the latest tool in the arsenal to catch cheating spouses. Telephone records, emails and charge card receipts have long provided clues to affairs. E-Z passes and Metro-card, too, provide a time stamped trail of where someone has been. It is only time until some spouse finds his significant other "tagged" in an embrace or some other compromising position on someone's Facebook page.

In the end, the best way to ensure that you do not get caught in an extra marital affair is not to have one.