

## FJC Releases Report on Juror Use of Social Media

February 2, 2012 by [Sean Waiert](#)

Here at *MassTortDefense* we have observed the many ways in which the evolution and spiking popularity of social media has affected the practice of law. We are blogging, obviously, can be followed on twitter (@MassTortDefense), and have a presence on [LinkedIn](#). On the day Facebook has filed for an [historic IPO](#), it may be a good time to look at the issue of the use of social media by jurors in the courtroom.

The Federal Judicial Center released a [report](#) on the topic last week. At the request of the Committee on Court Administration and Case Management, the Federal Judicial Center conducted a survey of district courts to assess the frequency with which jurors use social media to communicate during trials and deliberations, and to identify effective strategies for curbing this behavior. The results, based on the responses of 508 responding judges, indicate that detected social media use by jurors is so far infrequent, and that most judges have taken steps to ensure jurors do not use social media in the courtroom. The most common strategy is incorporating social media use into jury instructions—either the model jury instructions provided by CACM or judges' own personal jury instructions. Also common are the practice of reminding jurors on a regular basis not to use social media to communicate during trial or deliberations, explaining the reasons behind the ban on social media, and confiscating electronic devices in the courtroom.

Only 30 judges reported instances of detected social media use by jurors during trials or deliberations. But almost half the judges said they had no good way of knowing whether jurors were using social media. Nearly 94 percent of the judges who responded to the survey have specifically barred all case-connected use of social media. Judges admit that it is difficult to police jurors, and therefore use of social media is difficult to detect.

Of the types of social media used by jurors, Facebook was ranked as the most common, with instant messaging second. Twitter lagged behind in this survey. In most instances, the social media use was in the form of posts about the progress of the case. But the judges reported a handful of attempts by jurors to "friend" one or more participants in the case. And three reported jurors who revealed aspects of the deliberation process.