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Cases Challenged Over 'Tweeting' Jurors

Lawyers Say They Will Appeal Verdicts After Jurors Comment on Facebook, Twitter

By **SCOTT MICHELS**

March 17, 2009

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Jurors aren't supposed to discuss the cases they hear outside the jury deliberation room. But what happens when they [post comments](#) on social networking sites?

The issue has disrupted two recent cases in [Pennsylvania](#) and [Arkansas](#). Defense attorneys in [Philadelphia](#) said Monday they plan to appeal the conviction of former [State Sen. Vincent Fumo](#) because a juror discussed the case on [Facebook](#) and [Twitter](#).

Last week, a building materials company in [Arkansas](#) [appealed](#) a \$12.6 million [verdict](#), saying a juror's [Twitter](#) messages sent before and after the trial showed that he was biased against the company.

Jurors are supposed to consider only evidence presented in court and are typically admonished by the judge not to read news accounts of a trial or to

Juror admits to using [Twitter](#) account but says he didn't post trial details.

discuss the case outside jury deliberations.

There have been very few reported cases of jurors using social networking sites to post comments during trials, but lawyers say courts will need to learn how to deal with jurors who communicate online.

A [recent search on Twitter](#) for the term "jury duty" found dozens of people posting comments about jury duty, though most were general complaints, not discussions of what was happening in the jury room.

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Jury Trials in a 'Wired Universe'

"Our [legal] doctrine is not made for a wired universe," said Daniel Richman, a former federal prosecutor who teaches at Columbia Law School.

"The jury system is based on this anachronistic notion that members of the community will come in to court, render their decision and then leave and become ordinary members of the community again," he said. "We're coming into a world where the stability of that model is in question."

Courts tend to be more concerned with preventing outside influences on the jury, Richman said, rather than with jurors communicating their thoughts about the case with the outside world without a response.

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Nothing necessarily makes Twittering a problem any different than other forms of communication, said Anne Reed, a lawyer and jury consultant in Milwaukee. Courts will usually consider how widespread the information was spread, whether the juror discussed the substance of secret jury deliberations, and whether there is any indication that the juror was not honestly deliberating, she said.

"There's one simple rule that I tell everyone," she said. "If the person said the same thing offline, what would we do?"

The issue has come up in at least two recent cases. After a nearly five-month-long trial, Fumo was convicted Monday morning of 137 counts, including obstruction of justice and defrauding the state Senate, a charity and a museum of \$3.5 million. He was released on bail pending sentencing.

The verdict was announced shortly after Judge William Yohn ruled that a juror could remain on the jury panel despite his posts about the case on Facebook and Twitter. Fumo's lawyers filed an emergency motion over the weekend, asking the judge to stop the jury's deliberations and question or remove one or more jurors.

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Juror Facebook Post: 'Stay Tuned for a Big Announcement Monday'

According to the defense motion, the juror, who was not named, posted a Facebook message Friday that said, "Stay tuned for a big announcement on Monday everyone!"

He then sent out a Twitter message, or "tweet," that said, "This is it ... no looking back now!"

He also posted other comments, such as "Day 1 has come to a close."

The juror reportedly wrote that one of his main interests was blogging. Fumo's lawyers argued that "given his interest in

blogs, his apparent enthusiasm and his seeming lack of discretion," the juror may have read blog posts about the trial.

The juror told the judge Monday that no one had responded to his comments about the Fumo case. He said the posts were a way to express his thoughts and were not intended to communicate with others.

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A spokeswoman for the U.S. Attorney's Office declined to comment. Nialena Caravasos, one of Fumo's lawyers, said she expects that the issue will be raised on appeal.

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In Fayetteville, Ark., lawyers for Russell Wright and his company, Stoam Holdings, asked a judge to overturn a \$12.6 million verdict and grant their client a new trial after finding that a juror used Twitter to post messages about the case.

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A jury awarded the money to Mark Deihl and William Nystrom, two men who invested in Stoam. Deihl and Nystrom's lawyers argued the company was a scam.

According to court papers, Johnathan Pollard, the juror, posted a message about what he was doing that day that read, "Oh, nothing really, I just gave away TWELVE MILLION DOLLARS of somebody else's money."

Another read: "Oh and nobody buy Stoam. Its bad mojo and they'll probably cease to Exist, now that their wallet is 12m lighter."

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its up to us to discern what jurors say if its biased or not. And in that vein, we ourselves can be biased against picking out other peoples' biases. danlarkin84 3/18/09

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The motion for a new trial argued that Pollard's "tweets" showed that he was biased against Stoam and "predisposed toward giving a verdict that would impress his audience."

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Powell admitted to using Twitter during the trial but told ABC News affiliate KHBS that he never included details about the proceedings.

"I was just doing what I do every day," he said. "It wasn't until after it was over that I said anything specific about the trial."

The plaintiffs' attorney, Greg Brown, said he was working on a response to the motion and said a hearing on the issue had not been scheduled. He said the main issue was whether Pollard was influenced by outside information.

Brown predicted that the courts will have to deal with jurors using social networking more.

"The technology is moving so fast that it's difficult for the legal world to keep up," he said.

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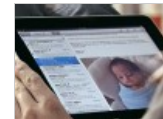
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