



Entertainers, Facebook Messages And The Work-Product Doctrine?

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A federal district court in New York recently ruled that Facebook messages sent by plaintiffs in anticipation of litigation were eligible for qualified protection under the “work-product” doctrine (meaning they would be shielded from disclosure). Plaintiffs were former entertainers at the Penthouse Executive Club, and brought a collective action alleging the defendants failed to pay minimum wages and overtime compensation.

The messages, sent to potential class members, reflected conversations with plaintiffs’ counsel regarding litigation strategy. The communications also included responses to specific questions about the lawsuit. However, reply messages from nonparties *were not* shielded from disclosure.

The Discovery Order provides a perfect example of how employee use (and misuse) of Social Media sites like Facebook or LinkedIn continues to saturate the workplace.

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