



WINTER 2015 E-NEWSLETTER

At Digital Mountain we assist our clients with their computer forensics, e-discovery and cybersecurity needs. A primary area of growth is digital evidence preservation and analysis from smartphones. With the explosion of Bring Your Own Device (BYOD), we chose to theme our Winter 2015 E-Newsletter on these topics.

CASE LAW ON BYOD CONTINUES TO EMERGE

Despite the turn of the calendar to 2015, no case law squarely addresses Bring Your Own Device or "BYOD" issues and case law on discovery from mobile devices in general is scant. A few recent decisions offer some guidance in otherwise murky legal waters.

A plaintiff's destruction of text data attracted sanctions in one case. See *Calderon v. Corporacion Puertorrique a de Salud*, 2014

WL 171599 (D.P.R. Jan. 16, 2014) (adverse inference imposed where a party "cherry-picked" evidence by selectively destroying harmful text messages). Some courts have been less likely to order discovery from purely personal devices. See, e.g., *Bakhit v. Safety Marking, Inc.*, 2014 US Dist LEXIS 86761 (D. Conn. June 26, 2014) (motion to inspect plaintiffs' co-workers' personal cell phones denied; court persuaded by privacy interest implications where plaintiffs had not sought similar evidence through other discovery); *Federico v. Lincoln Military Housing, LLC*, 2014 WL 7447937 (E.D. Va. Dec. 31, 2014) (court declined to impose sanctions for text messages lost from personal devices where there was no showing that data was relevant and loss occurred as the result of routine operations before a clear duty to preserve existed).

If nothing else, the above-cited cases make clear that discovery obligations related to data stored on personally-owned mobile devices remain largely amorphous, and that parties should consider mobile device data preservation when faced with litigation, whether potential or realized.



UPCOMING INDUSTRY EVENTS

March 2015

The Masters Conference, Managing the E-Discovery and Social Media Minefield: March 31

April 2015

RSA Conference: April 20-24

May 2015

CEIC 2015: May 18-21

[Click here to see more upcoming events and links](#)



Digital Mountain, Inc. Founder and CEO, Julie Lewis, will be presenting at some upcoming industry events. Please send requests for speaker or panel participation for her to marketing@digitalmountain.com.

Please update your records with our corporate headquarter's new address below as of November 1, 2014!

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Contact us today!

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