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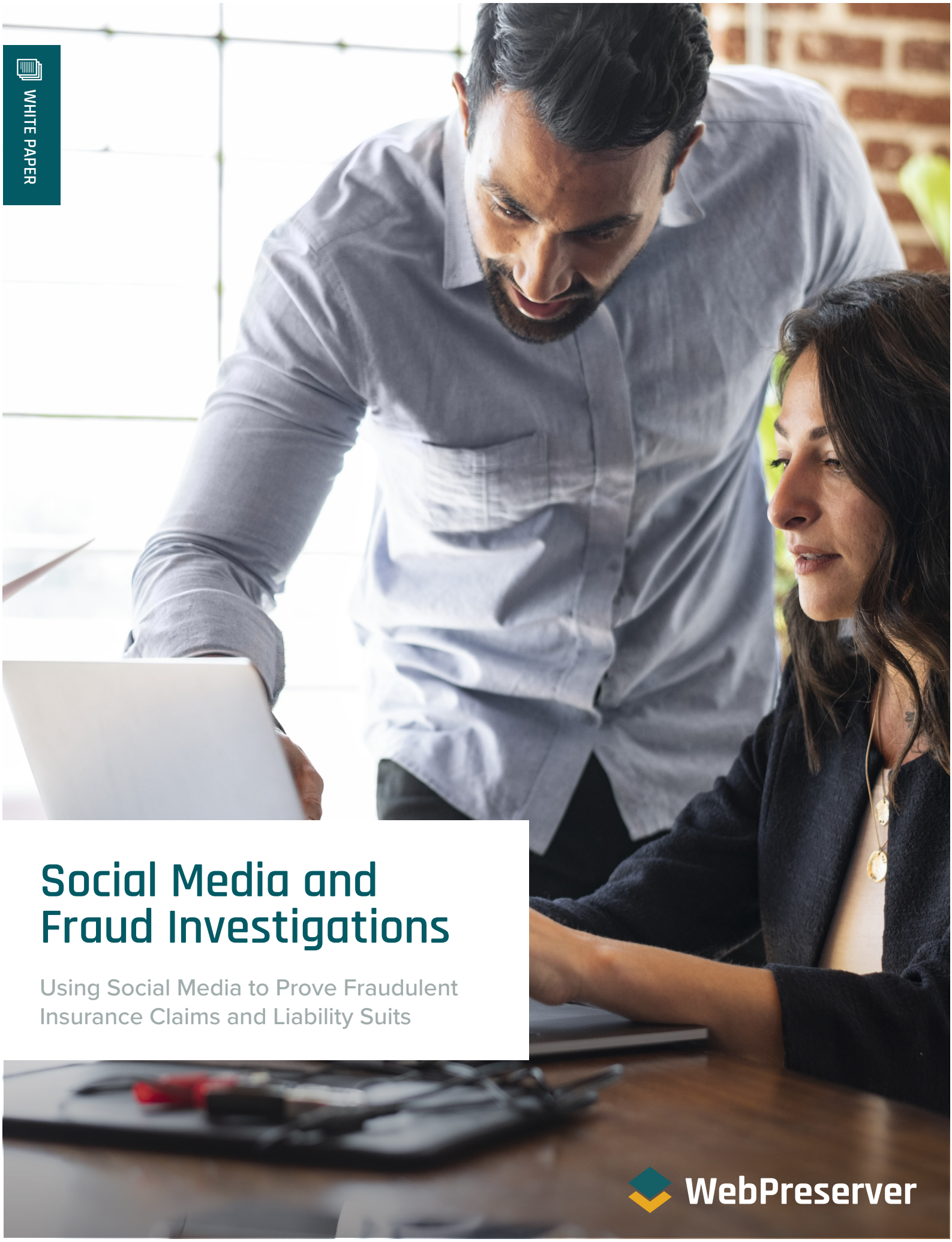

# Social Media and Fraud Investigations

## Using Social Media to Prove Fraudulent Insurance Claims and Liability Suits

WebPreserver

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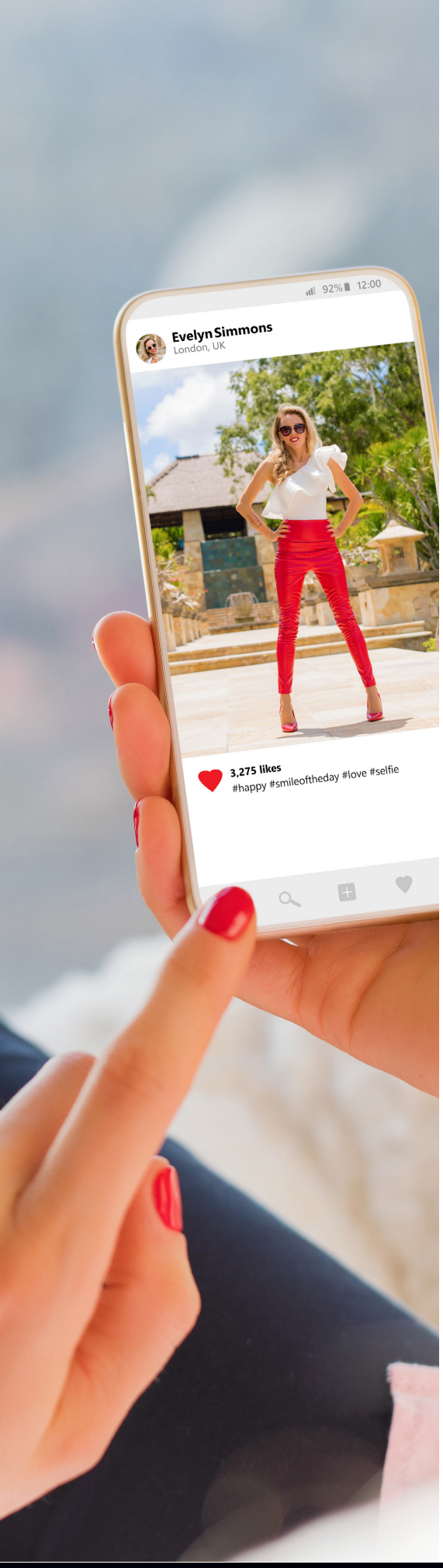



# THE RISE AND RISE OF SOCIAL MEDIA

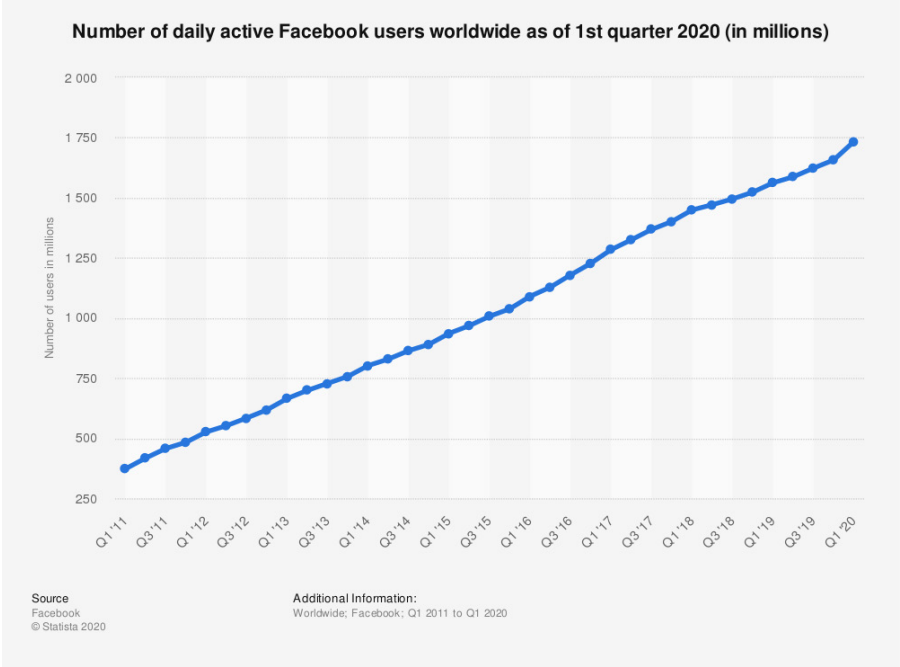
When Pew Research Center started tracking the use of social media in 2005, a mere 5% of adults in the U.S.A. were actively using one of the new platforms. By 2011, this number had increased to 50%—and it has only continued to trend upwards over the last decade. Today, 72% of people use some form of social media, and for individuals aged between 18 and 49, the percentage is 86%.

# WHY FACEBOOK (AND INSTAGRAM) IS KING

Of course, the social media landscape has changed significantly over the least 15 years. Some major players, like MySpace, have disappeared, while new platforms, like TikTok, have exploded onto the scene. And Twitter, which gained so much traction early on and continues to have a lot of cultural significance, has largely plateaued in terms of daily active users and hasn't seen a significant increase in user numbers since 2016.

But one platform—or rather, company—has emerged as the clear winner, and that is Facebook.

*At the end of Q1 2020, **Facebook reported 1.73 billion daily active users and 2.6 billion monthly active users**, with around half of all social media site visits in the United States going to Facebook.*




That, however, is not the whole story, since Facebook also owns Instagram, which boasts around one billion monthly active users and 500-million daily active users. So when you combine the users numbers from both platforms, it's clear that Facebook's reach is tremendous.

# ‘PICS OR IT DIDN’T HAPPEN’

One of the main reasons Facebook and Instagram have become so popular is the fact that both platforms lean heavily into the social aspect of social media. While Twitter can feel more like a toxic antisocial platform than a social one, and an app like TikoTok leaves little room for true two-way engagement and communication, Facebook and Instagram provide platforms for sharing our everyday lives with others.


This can be a positive, but many would argue that the obsession with sharing our lives has gone too far. As the common social media saying of ‘Pics or it didn’t happen’ illustrates, it can feel as if we’re obligated to document every life event and share it on social media.

**Here’s what an article from The Guardian has to say on the matter:**

*“The cultural premium now placed on recording and broadcasting one’s life and accomplishments means that Facebook timelines are suffused with postings about meals, workouts, the weather, recent purchases, funny advertisements, the milestones of people three degrees removed from you. On Instagram, one encounters a parade of the same carefully distressed portraits, well-plated dishes and sunsets gilded with smog… Social broadcasts are not communications; they are records of existence and accumulating metadata. Rob Horning, an editor at the New Inquiry, once put it in tautological terms: “The point of being on social media is to produce and amass evidence of being on social media.”*

Regardless of one’s opinion of the current cultural obsession with sharing everything on social media, there’s no denying that it offers profound opportunities when it comes to fraud investigation. As people share every meal, workout, and vacation, finding proof of lies and fraudulent claims becomes much easier. In fact, many would argue that social media has become an indispensable investigative tool.

# SOCIAL MEDIA AND FRAUD INVESTIGATIONS

There is no shortage of examples where social media was used to prove a fraudulent insurance claim or liability suit. Some common use cases include:

## Exaggerated Injury Claims

Proving that an injury wasn't as debilitating and life-altering as someone claims has traditionally been fairly tricky and labor-intensive, with investigators usually having to follow someone around in the hopes that they'll slip out of the act long enough for a photo to be snapped or a video to be recorded.

From the claimant's perspective however, maintaining a false narrative about an injury can be equally difficult in the long run, as the temptation to go back to that favorite sport or other recreational activity is often intense. And thanks to social media, evidence of a return to previous activities can quickly become public. Some people have posted their own activities without thinking, while others found themselves 'outed' when they were tagged in others' posts.

## False Accident Claims

When it comes to insuring any valuable item, there are always certain risky and negligent activities that would automatically cause an insurance claim to be denied. One good example would be racing one's street car on a track without taking out additional track day insurance. If the vehicle was badly damaged during track use, insurance would obviously not cover it.

Needless to say, many people resort to falsifying insurance claims and pretending as if a loss occurred under normal circumstances. In a 2015 case, for instance, a man claimed that he'd crashed his $60,000 Corvette on the Interstate, while he had actually put it into a wall during a drag race at a local track.

Disproving this claim might once have required a fair bit of leg work, but thanks to social media, evidence of the lie was quickly discovered—a photographer had uploaded footage of the crash to YouTube for everyone to see.

## Fraudulent Insurance Claims

Torching a building or wrecking a car to claim on the insurance is nothing new, but social media has made it easier to identify these lies. In one example, the owner of a $1 million Bugatti insured his vehicle for more than $2 million, and then destroyed the car in order to file an insurance claim. Unfortunately for him, this intentional destruction—he sent the sportscar into a lake—was filmed and posted to YouTube. His claim was denied and he was even sentenced to one year in federal prison.

In a similar case, a man claimed that his truck had been torched by vandals. When investigators started looking into the matter, however, it didn't take them long to find the vehicle posted for sale on Craigslist. He admitted that he'd decided to sell it, since expensive repairs were needed and he couldn't afford to pay for them.

# HOW TO USE SOCIAL MEDIA DURING AN INVESTIGATION

As the examples in the previous section show, social media can be a great investigative tool, but it's important to keep the following in mind when gathering evidence on social platforms:

## 1. Consider *All* the Options

The Facebook and Instagram accounts of the individual you're investigating are great places to start your search for evidence, but there are many other online possibilities. In fact, there are currently more than 200 widely-used social media sites. Tools like Pipl.com or ZabaSearch can be very useful in identifying someone's active social media accounts.

**Important potential sources of evidence include:**

- Other social media sites like Twitter and TikTok, as well as video sites like YouTube and Vimeo.
- The social media accounts of friends and relatives.
- Comment sections, particularly on Facebook and Instagram. Look at both comments left by the individual you're investigating, and others, as these can provide incredibly useful information and context.
- Company websites and social media accounts. An individual might be featured on their employer's site or account without necessarily being tagged.
- The website and social channels of any groups, clubs, or associations an individual may belong to.
- A personal website or blog.
- Fitness-oriented social networks like Strava.
- Online forums.
- Sites like Craigslist, Kijiji, and Facebook Marketplace where items are often bought and sold.

## 2. Understand the Rules

Generally speaking, social media evidence can be used to prove fraud or wrongdoing—provided that evidence was properly obtained. Grabbing a photo off of Facebook or Instagram is okay, but only if it is publicly visible.

That's not to say that an individual must have intended for that image to be shared publicly. It might have been shared online by a friend or colleague, but if it shows the person under investigation and it's not protected by privacy settings, it can be used.

Judge Michael Corriero of the New York State Supreme Court has stated that:

*"If someone uses a photograph of you and makes it public when perhaps you intended it not to be, you might be able to have an action against the friend for unfairly depicting you as a drunk, for example. But if you were actually drunk, then I think you're in trouble. There's no prohibition against taking that photograph. You're out in public. People are just recording that moment. If it's a matter of criminality, it's too bad. If that's an accurate representation of you, that's the strongest evidence of your guilt. So why would we keep it out of evidence? The prohibition against using illegally obtained evidence applies primarily, essentially solely, to law enforcement. It doesn't apply to another civilian. If you were foolish enough to let other people know your criminality, well that's too bad."*

As mentioned, however, the situation changes if that evidence has not been set to be publicly visible. Friending someone, or using some other loophole to gain access to private content, can be risky when it comes to an investigation, since that evidence could be thrown out. Private social media content can still be used as evidence, but investigators would need to gain access to it through a formal discovery process.

## 3. Consider the Nature of Social Media

As you search for evidence, it's worth keeping in mind that social media doesn't always reflect reality. At a most basic level, a photo or video can be much older than the post it appears in. Just because someone posted a picture of a workout after they filed a disability claim, doesn't automatically mean that the claim was fraudulent; the image could simply predate the injury.

Setting the above aside, it's also important to remember that social media accounts are highly curated. The images and experiences shared on social media do not necessarily reflect the reality of someone's life, so it's important not to jump to any conclusions when encountering a juicy piece of evidence. There could be much more to a post than meets the eye.

## 4. Act Quickly

*There is no guarantee that a relevant webpage or social media post will still be available online a day, hour, or even a minute from now, which is why it is often crucial to capture and preserve online evidence as soon as it is discovered.*

Once someone becomes aware of the fact that they're being investigated, it's incredibly likely that they'll remove incriminating content from their social media accounts, and perhaps even delete that account completely.

Similarly, someone might post a workout pic that contradicts their disability claim, and then delete that image as soon as they realize the mistake. So, if you're lucky enough to encounter a solid piece of evidence on a social media account, capture it immediately.

## 5. Generate Defensible Evidence

Make sure that you can defend the authenticity of the evidence you're collecting. With video editing and image manipulation being as easy as it now is, ensuring that captured content complies with court rules for digital evidence and has a clear chain of custody is crucial.

For example, it might be quick and easy to grab a screenshot of a social media post as a way of collecting evidence, but proving authenticity and integrity can be difficult. It's all too easy for someone to claim that a screenshot is fake, especially if the original post has been deleted.

What is needed instead is a collection method that captures associated metadata and provides a digital signature. Firstly, this makes it much harder for someone to state that the evidence has been fabricated or manipulated. Secondly, because metadata provides information regarding how, when, and where a post was created, it's also harder for someone to claim that an account was hacked and a post created by a third party.

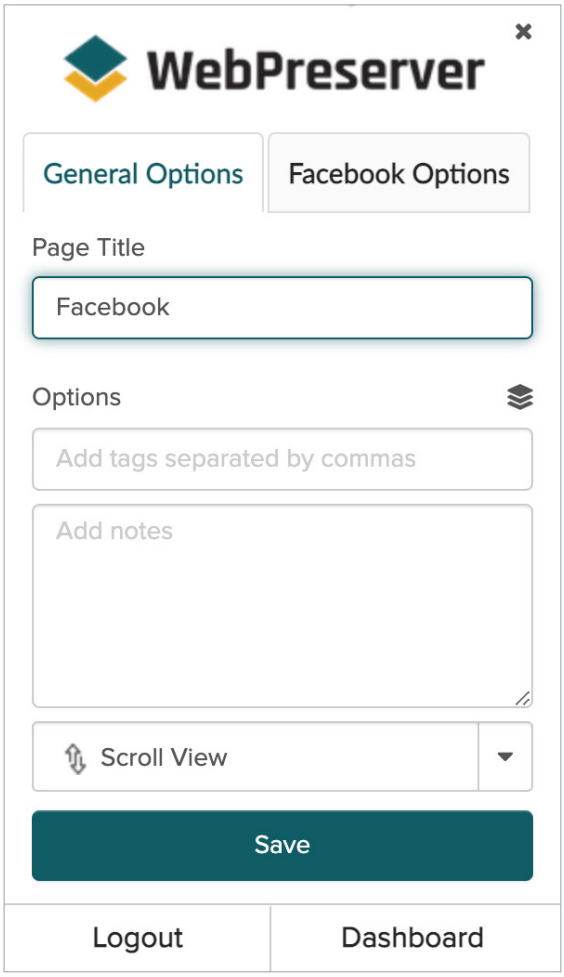
# FORENSIC PRESERVATION WITH WEBPRESERVER

Pagefreezer's WebPreserver evidence collection tool is aimed at making social media evidence an effortless, two-click process.

WebPreserver can turn any social media profile into authenticated evidence. Just pull up the profile, set preservation parameters in the drop-down menu, and preserve content. Capture the entire profile—or only what's relevant. Easily execute preservations with a variety of forensically-sound export formats to support your workflow.

WebPreser will also automatically scroll down timelines and expand comments, allowing you to capture all aspects of a timeline without having to go through it manually.

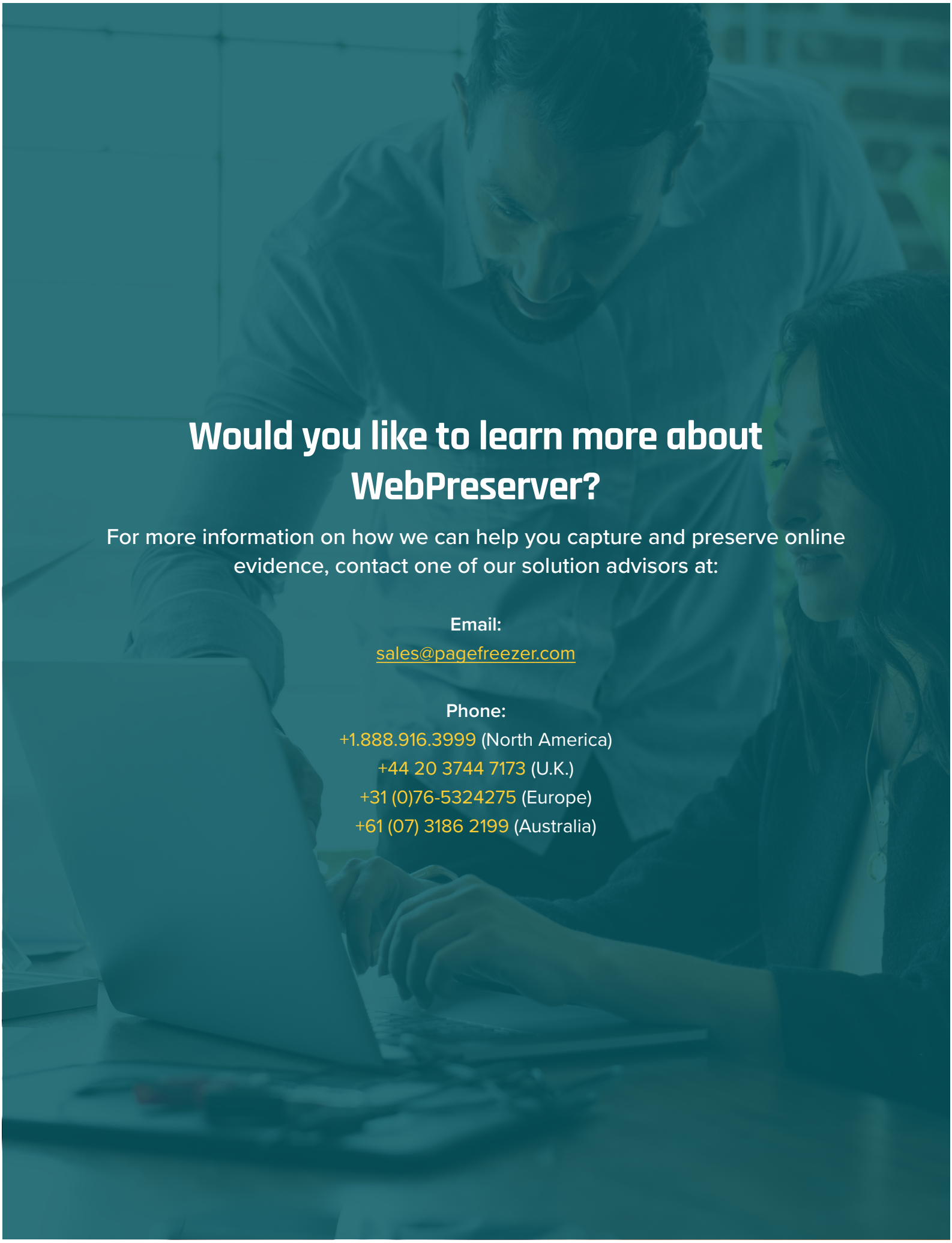
WebPreserver preserves entire web domains with one click, without the usual JavaScript-based snags encountered with most crawlers.



WebPreserver not only includes a third-generation web crawler but also features our proprietary web harvesting bulk-capture tool that effortlessly preserves any type of web domain (or sections thereof), including complex javascript content, with one click. Web pages, web domains, web forums (Reddit, Yelp, etc.), the Wayback Machine, blogs... if you can gain access to it, WebPreserver can collect it.

Collection is largely an automated process. Once you've set preservation parameters, the tool doesn't need to be actively managed, even if you're capturing a large website or social media feed. So lawyers, paralegals, and other litigation support staff don't need to spend endless hours manually screenshotting pages.

Are you attempting to tackle a social media profile with a lot of critical video evidence? WebPreserver will collect all videos within your specified preservation scope and make them available for immediate download, along with all other associated content. You don't have to juggle multiple tools anymore and you don't have to live with simple file exports that can be doctored, or risk the suggestion by opposing counsel that the videos you collected have been tampered with.



# Would you like to learn more about WebPreserver?

For more information on how we can help you capture and preserve online evidence, contact one of our solution advisors at:

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