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5
6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF PINAL

8 STATE OF ARIZONA,

9 Plaintiff,

10 vs.

11 TYLER JAMES KOST,

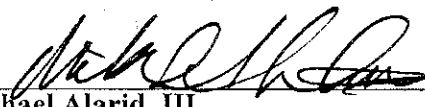
12 Defendant.

Case No.: S1100 CR2014-00949; CR2014-01054; CR2014-01772

**MOTION FOR LEAVE TO EXCEED
PAGE LIMIT IN MOTION TO
COMPEL DISCLOSURE OF
SOCIAL MEDIA RECORDS**

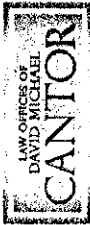
13 Pursuant to Rule 35.1 of the Arizona Rules of Criminal Procedure, Defendant Tyler
14 Kost hereby requests leave of this Honorable Court to exceed the page limit and submit the
15 simultaneously filed Motion to Compel Disclosure of Social Media Records. This request is
16 necessitated by the voluminous nature of the allegations including the number of individual
17 alleged victims and Counts.

18
19 **RESPECTFULLY SUBMITTED** this 23rd day of March, 2015.

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21 
22 **Michael Alarid, III**
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Phoenix, Arizona 85004

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1 ORIGINAL OF THE FOREGOING
mailed this 23rd day of March, 2015, to:

2 Clerk of the Court
3 Pinal Superior Court
971 N. Jason Circle, Building A
4 P.O. Box 2730
Florence, Arizona 85232

5 COPY OF THE FOREGOING
6 Hand-delivered this 23rd day of March, 2015, to:

7 Honorable Kevin D. White
971 N. Jason Circle, Building A
8 P.O. Box 2730
Florence, Arizona 85232

9
10 Deputy County Attorney Assigned
Pinal County Attorney's Office
11 P.O. Box 887
Florence, Arizona 85232



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8 Attorneys for Defendant

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16 Defendant.

Case No.: S1100 CR2014-00949; CR2014-01054; CR2014-01772

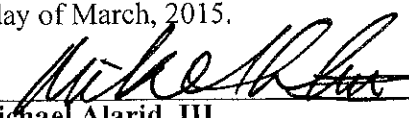
MOTION TO COMPEL DISCLOSURE OF SOCIAL MEDIA RECORDS

(Oral Argument Requested)

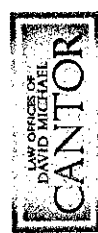
(Status Conference set: April 6, 2015)

17 The Defendant, Tyler Kost Defendant, by and through undersigned counsel, and
18 pursuant to Rule 15.1, Arizona Rules of Criminal Procedure and the Due Process Clause of the
19 Arizona and United States Constitution, hereby moves this Court to Order the State to disclose
20 any and all social media accounts belonging to the remaining alleged victims in this case with
21 leave to compel additional social media records of witnesses should they become necessary.

RESPECTFULLY SUBMITTED this 23rd day of March, 2015.



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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. RELEVANT FACTS AND PROCEDURAL HISTORY

3 As the Court is aware, the defendant, Tyler Kost, has been indicted in three separate
4 case numbers. The three cases involve allegations made by thirteen separate alleged victims
5 accusing Mr. Kost of varying degrees of sexual misconduct. Specifically, there are eleven
6 alleged victims associated with the case number ending in 0949: HJ, LP, RC, CM, SB, PR, CB,
7 TS, MR, JM and KG; there is one alleged victim associated with the case number ending in
8 1054: RH; and finally, there is one alleged victim associated with the case number ending in
9 1772: JB. (See Indictments CR2014-00949; CR2014-01054; and CR2014-01772).

10 To date the State has disclosed the social media accounts belonging to the following
11 alleged victims which were obtained by the Pinal County detectives investigating these cases:

- 12 • **CR2014-00949:**
 - 13 1. RC -- Facebook and Instagram
 - 14 2. CB -- Facebook and Instagram
 - 15 3. MR -- Facebook
 - 16 4. KG -- Facebook
 - 17 5. JM -- Facebook
 - 18 6. TS -- Facebook
 - 19 7. PR -- Facebook
 - 20 8. HJ -- None
 - 21 9. LP -- None
 - 22 10. CM -- None
 - 23 11. SB -- None

- 24 • **CR2014-01054:**
 - 25 12. RH -- None

- **CR2014-01772:**
 - 13. JB -- None

22 As discussed at the last Status Conference on March 2, 2015, it was undersigned
23 counsel's understanding that the social media accounts for the remaining alleged victims had



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1 been requested by law enforcement but they had not yet been received by the State. Based
2 upon undersigned counsel's recent discussions with the assigned Deputy County Attorney,
3 Shawn Jensvold, the social media accounts belonging to the remaining alleged victims have not
4 and will not be requested by law enforcement.

5 In an effort to obtain the remaining social media records on our own, undersigned
6 counsel researched Facebook's written policies for obtaining user content. Based upon
7 Facebook's written policy it is Facebook's position that "[f]ederal law does not allow private
8 parties [including defense counsel] to obtain account contents (ex: messages, Timeline posts,
9 photos) using subpoenas. See the Stored Communications Act, 18 U.S.C. s. 2701." (See
10 <https://www.facebook.com/help/473784375984502> last visited 3/20/15.) In fact, per
11 Facebook's policy, "Facebook may provide basic subscriber information (not content) where
12 the requested information is indispensable to the case, and not within a party's possession upon
13 personal service or a valid federal California or California domesticated subpoena and after
14 notice to people affected." (See *Id.*) Therefore, per Facebook policy, defense counsel may only
15 obtain "basic subscriber information (not content)" through a court ordered subpoena.

16 On the other hand, per Facebook policy, Facebook will easily provide user content to
17 law enforcement. In fact, per Facebook policy, "Law enforcement officials may use the Law
18 Enforcement Online Request System at [facebook.com/records](https://www.facebook.com/records) for the submission, tracking and
19 processing of requests." (See <https://www.facebook.com/safety/groups/law/guidelines/> last
20 visited 3/20/15.) The ease at which law enforcement may obtain Facebook content may be
21 easily gleaned from the fact that the State has disclosed seven of the thirteen alleged victim's
22 Facebook accounts already which were obtained by law enforcement request. Unfortunately,
23 per Facebook policy, the defense, even with the Court's subpoena power, is prohibited from
24 obtaining user content.

1 Undersigned counsel provided Mr. Jenvold with the above referenced Facebook
2 policies and requested that the State obtain the remaining Facebook accounts. He declined.
3 Specifically, the State's position is that the State "does not have possession or control over the
4 information and [the State] sees no reason for us to order it."

5
6 **II. STATEMENT OF THE LAW**

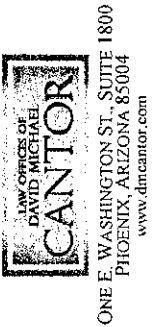
7 **A. The Social Media Accounts Belonging to Alleged Victims and Witnesses are**
8 **Within the Possession and Control of the Pinal County Attorney's Office and**
9 **are Discoverable Pursuant to Rule 15.1 Ariz.R.Crim.P.**

10 The State is required to disclose matters relating to the guilt, innocence, or punishment
11 in a criminal case. *See*, Rule 15.1, Ariz.R.Crim.P. Rule 15.1 provides, in part, as follows:

- 12 b. Except as provided by Rule 39(b), the prosecutor shall
13 make available to the defendant the following material
14 and information within the prosecutor's possession or
15 control. . .
- 16 (8) All then existing material or information
17 which tends to mitigate or negate the
18 defendant's guilt as to the offense charged, or
19 which would tend to reduce the defendant's
20 punishment therefore:

21 The prosecutor's duty to disclose this information is ongoing and the prosecutor's duty to obtain
22 this information extends to persons who have participated in the investigation or evaluation of
23 the case and who are under the prosecutor's control. Specifically, Rule 15.1(f) provides:

- 24 f. **Disclosure by prosecutor.** The prosecutor's obligation
25 under this rule extends to material and information in the
 possession or control of any of the following:
- (1) The prosecutor, or members of the
 prosecutor's staff, or
- (2) Any law enforcement agency which has
 participated in the investigation of the case
 and that is under the prosecutor's direction or
 control, or





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- (3) Any other person who has participated in the investigation or evaluation of the case and who is under the prosecutor's direction or control.

In the instant case, as outlined above, members of law enforcement are the only parties to whom Facebook will provide user content. This is evidenced by their written policy referenced above. Undersigned counsel cannot subpoena user content even with a Court's order per Facebook policy. The detectives in this case on the other hand, have access to Facebook records as evidenced by the Facebook records they have already easily been able to obtain. Therefore, the social media accounts of the alleged victims and witnesses in this case are in the sole possession of the Pinal County Attorney's Office through the their detectives and other agents who are involved in the investigation.

The Court has the authority to impose sanctions for the State's failure to comply with its obligation to disclose information as required by the Rules of Criminal Procedure. Rule 15.7(a) Ariz.R.Crim.P. states as follows:

- a. **Failure to Make Disclosure.** If a party fails to make a disclosure required by Rule 15 any other party may move to compel disclosure and for appropriate sanctions. *The court shall order disclosure and shall impose any sanction it finds appropriate* (emphasis added)... Available sanctions include, but are not limited to:
 - (1) Precluding or limiting the calling of a witness, use of evidence or argument in support of or in opposition to a charge or defense, or
 - (2) Dismissing the case with or without prejudice, or
 - (3) Granting a continuance or declaring a mistrial when necessary in the interests of justice, or

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- (4) Holding a witness, party, person acting under the direction or control of a party, or counsel in contempt, or
- (5) Imposing costs of continuing the proceedings, or
- (6) Any other appropriate sanction.

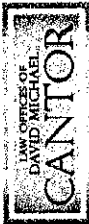
Further, under the amendment, disclosure is mandated and no longer regarded as a sanction. *See*, Committee Comment to 2003 Amendment to Rule 15.7 (emphasis added).

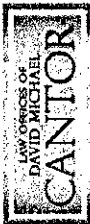
As noted above, after personal consultation and good faith efforts to do so, counsel has been unable to satisfactorily resolve this matter without judicial intervention. Undersigned counsel highlighted the Facebook policy for the assigned DCA, Shawn Jensvold, and he indicated his position is that he does not have possession or control over the social media records and would not obtain or disclose any further social media records requested by the defense.

Based on the foregoing, the prosecution has an obligation to provide Defendant with the requested disclosure. Especially in light of the charges, this particular piece of evidence has a crippling effect on counsel's ability to prepare for trial.

B. The Requested Social Media Accounts are *Brady* Material and the Defendant is Entitled to the Material as a Matter of Due Process

Not only are the requested social media records discoverable because they "tend to mitigate or negate the defendant's guilt as to the offense[s] charged" pursuant to Rule 15.1(b)(8), the requested social media records are *Brady* material. *See Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). It is well established that Due Process guarantees a criminal defendant a "right to access any evidence favorable to the defense and material to either guilt or punishment." *Id.* Furthermore, a defendant has the right to confront





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1 the witnesses against him, a right that includes the opportunity for meaningful cross-
2 examination. *Davis v. Alaska*, 415 U.S. 308. 94.S.Ct. 1105, 39. L.Ed.2d 347 (1974). These
3 rights apply whether the alleged witness is adult or juvenile. *See Id.* (a defendant’s right to
4 cross-examine juvenile witness on issue of bias overrides state’s alleged interest in preserving
5 confidentiality of delinquency adjudication records).

6 While generally “the victim of a crime has the right to refuse to hand over medical
7 records, [or arguably social media records] pursuant to Arizona's Victims' Bill of Rights,” this
8 right is not absolute. *State v. Sarullo*, 219 Ariz. 431, ¶19, 199 P.3d 686, ¶19, (App.2008); *See*
9 *also State ex rel. Romley v. Superior Court*, 172 Ariz. 232, 237–38, 836 P.2d 445, 450–51
10 (App.1992). As the *Sarullo* court stated, “this right is not absolute, and in some cases a victim
11 may be required to produce his or her medical records [or social media records] for an *in*
12 *camera* inspection by the trial court.” *Id.*; *See also, Connor*, 215 Ariz. 553, ¶ 10, 161 P.3d at
13 601. “The defendant, however, must first show a ‘reasonable possibility that the information
14 sought by the defendant include[s] information to which [he or] she [is] entitled as a matter of
15 due process.’” *Id.* Here, not only is the defense is entitled to the above requested social media
16 records pursuant Rule 15.1(b)(8) Ariz.R.Crim.P., but also pursuant to the Due Process Clause
17 of the Arizona and United States Constitutions. U.S. Const., Amendments 5, 6 and 14; Ariz.
18 Const., art. II, §30, *see also State ex rel. Romley v. Superior Court*, 172 Ariz. 232, 237–38, 836
19 P.2d 445, 450–51 (App.1992).

20 **1. The Social Media Accounts Already Disclosed Indicate Collusion Amongst**
21 **Multiple Alleged Victims and Witnesses to Make False Allegations Against**
22 **the Defendant Amounting to Clearly Exculpatory Evidence**

23 Based upon undersigned counsel’s review of the social media records disclosed by the
24 State so far, there is a mountain of clearly exculpatory evidence. For example, as the Court is
25 aware from presiding over the *Simpson* hearings in this matter, alleged victim TS told



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1 detectives that Mr. Kost groped her during an encounter in a parking lot on February 26, 2014.
2 (See Counts 21-22, CR2014-00949) As the Court is also aware, TS's friend and alleged victim
3 MR, told detectives that Mr. Kost violently sexually assaulted her on March 6, 2014. (See
4 Counts 23-24, CR2014-00949.) However, according to TS's Facebook account which was
5 disclosed by the State, on February 20, 2014, only one week before their alleged victimizations,
6 TS, MR, and alleged victim PR, engaged in a group discussion on Facebook to make a plan to
7 take revenge against Mr. Kost for being a "player." The group discussion on Facebook
8 involved the three alleged victims, TS, MR, and PR, as well as three other girls who are not
9 named in the indictments, MH, MR, and CG¹. (See TS's Facebook records p. 1663-1680
10 attached as Exhibit A to the Appendix filed separately under seal.)

11 Specifically, the group discussion between the three alleged victims TS, MR and PR,
12 along with the three other girls went as follows:

13 2/20/2014 19:31:44 UTC
14 TS: So I have no idea how to set up a group chat.
14 MR: Lol loser
15 TS: BIAAAATCHHH.
15 MR: Haha love you too ^^
16 TS: My dogs are 69'ing. Omfg.
16 TS: Okay so this group thing is about Tyler.
17 MR: TMI
17 MR: Yeah
18 TS: MICHELLE LEFT.
18 MR: Add her again
19 TS: Ahhaha. Fuuuckk. Okay so I don't really know what to say.
19 CG: She's probably at work
20 TS: No she straight up left the convo.
20 TS: Tyler is a douche.

21
22 ¹ Although undersigned counsel does not know the ages of the three girls not named in the
23 indictment who were involved in the group discussion, because of the possibility they are
24 juveniles undersigned counsel will refer to them by their initials in an effort to protect their
25 identities. Their names can be ascertained by the Court from the Facebook records submitted
in an Appendix to this Motion filed separately under seal.



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1 MR: AMEN
MH: All I saw was my dogs are 69ing so I left
2 CG: Oh well for Tyler what were you all thinking
TS: He needs to be taught a lesson
3 MR: We need to come up with a plan. And yes. We should sacrifice him to satan.
MH: We'll teach him a lesson alright
4 TS: Yes!!!
MR: Agreed >:)
5 MH: [AD] wants to beat Tyler up
TS: he's gonna feel the pain he put every girl thru.
6 MR: Someone please do <3 just kill him
TS: And [AD] almost ran over to his truck and tipped it over
7 MR: Lets fuck with his mind and his car
TS: Exactly. I'm down (:
8 MR: Yes!! I already know this is just gonna be so much fun! <3
MH: We should do everything hes ever done to a girl to him. Except rape him cause
9 hes gross
TS: [PR] needs to get in this lol. And yeah. I want to kick him in the []
10 MH: Let's cut his balls off
TS: [][]
11 MR: I could "accidentally" hit him in the [] when I see him :)
TS: Be like "whoops! You hit a bump!"
12 MR: I should release my kitten on him. Shes vicious
CG: Oh my [MR]. That's just violent
13 MR: Oh wellll
CG: Haha
14 MR: Haha he hasn't done anything to me yet but omfg I wanna rip his dick
off...UGH I'VE NEVER HATED A PERSON SO MUCH! Like wtf is wrong
15 with you dude?!?
TS: He's desperate.
16 CG: Yep
MR: Like...UGH!!! He asked me out yesterday and I just puked...like what in gods
17 glorious name makes you think any girl would wanna be with you? You sick
twisted mother fucker!
18 TS: He's such a player.
MR: He's so dumb
19 TS: I heard he might have an std.
MR: LOLOL
20 CG: Probably
TS: And I heard he has a small penis.
21 MR: We should get someone in on this and like date him and get him so fucking
whipped and have her use him and break his heart
22 TS: Merrrr is already on it lol
MR: That's what I'm here for *.^
23 MR: Haha yeah ^.^
TS: Cause she's my best friend <3

24
25



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1 MR: Got that mother fucker wrapped round my finer ^.^ Finger **
MR: I swear to god...he tries to kiss me...imma puke in his mouth js
2 PR: I don't think we need someone to break his heart but they need to expose how
big of a dick he is. & what he does to girls so no one will ever fall for him
3 TS: Be like "no I don't kiss a walking herpe"
PR: Say you're shy
4 MR: I agree with [PR]! Lol
PR: Lol
5 MR: Truee we should do the whole john tucker must die
MR: YES!
6 TS: Omg merrr watch that movie!
PR: Mhhmmmm
7 MR: We should all just hangout and watch the movie and plan
TS: Omg yes.
8 MH: How's Saturday sound?!?:)
TS: I'm down!:(
9 TS: Cause I was gonna be with you anyway lol
MR: Yes! Lmao true :p who's house tho?
10 MR: Me and [MH] are going to a concert
MR: :/ Sunday?
11 TS: Sunday fundaaayyyy!
MR: Yes!
12 MR: Sunday worksss
TS: I can pick up who ever is in ccr
13 MR: Yay! I spend most of my weekends with [TS] anyways so
MR: Aka me. Whos house?
14 MR: [TS]'s
TS: So you and [CG]. Idk not mine
15 MR: Hmmm :/ mines might be over run with annoying adults :/
TS: Anyone who does not have a cat.
16 MR: That leaves me out
MR: [PR]?
17 TS: I'll see if we can do mine, but most likely yes
MR: Ok cool :)
18 MR: Yay!

19 (sic.) (See TS's Facebook records p. 1663-1680 attached as Exhibit A to the Appendix filed
20 separately under seal.)

21 As evidenced by the Facebook records, this conversation took place on February 20,
22 2014. TS's allegations are that she met Mr. Kost to hang out with him one week later on
23 February 27, 2014, and during that encounter she claims he groped her. Likewise, MR alleges



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1 that she went home with Mr. Kost to hang out on March 6, 2014, and during that encounter she
2 claims she was sexually assaulted. Considering TS and MR hated Mr. Kost, met with four
3 other girls on Sunday, February 23, 2014 to watch John Tucker Must Die “and plan” their
4 revenge against Mr. Kost for being a “player,” then initiated hanging out with Mr. Kost to carry
5 out their plan the following week, the truthfulness of their allegations is seriously called into
6 doubt. As such, these social media records contain clearly exculpatory material².

7 Further, it is important to note that while this group conversation appears in TS’s
8 Facebook records and PR’s Facebook records, it does not appear in MR’s Facebook records.
9 This is an example of why it is crucial for the defense to be disclosed the social media accounts
10 of all of the alleged victims involved, as well as other witnesses who may be discovered as the
11 investigation goes on such as MH, MR, and CG who are not alleged victims but were part of
12 the John Tucker Must Die planning.

13 Next, the exculpatory nature of the social media accounts is not limited to the counts
14 involving TS, MR, and PR. As the Court is aware, nearly all of the alleged victims, as well as
15 nearly all of the witnesses disclosed by the State and Mr. Kost, all went to Poston Butte High
16 School. Their relationships are all intertwined. For example, in the above group conversation
17 where six girls planned a revenge plot against Mr. Kost, MR states that “AD wants to beat
18 Tyler up” and AD almost “tipped [Tyler’s] truck over.” Based on the police reports, the
19 evidence shows AD is alleged victim CB’s boyfriend. Although CB was not a member of the
20 group conversation between TS, MR and PR transcribed above, the fact that her boyfriend was
21 mentioned in that conversation as wanting to “beat Tyler up” makes it clear they are all friends.
22

23 ² John Tucker Must Die (Twentieth Century Fox Film Corporation 2006) is a movie in which a
24 group of ex-girlfriends plot to take revenge on their former boyfriend.



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1 Tellingly, CB's Facebook records indicate clearly exculpatory evidence as well. As the
2 Court is aware from the *Simpson* hearings, CB's allegations are that she was violently sexually
3 assaulted much in the same way MR claims she was sexually assaulted. CB alleges Mr. Kost
4 assaulted her after attending the Poston Butte homecoming dance on October 19, 2013. (See
5 Count 20, CR2014-00949.) She further claims that this sexual assault resulted in a pregnancy
6 which she terminated at Planned Parenthood in Tempe³. However, despite being allegedly
7 violently sexually assaulted and impregnated by Mr. Kost on October 19, 2013, she posted 41
8 photographs to her Instagram account between October 19, 2013 and December 9, 2013, in
9 which she repeatedly declares her love and admiration for Mr. Kost. (See Departmental Report
10 pages 286-288 per bates stamp, attached as Exhibit B to the Appendix filed separately under
11 seal.)

12 For example, some of CB's comments on the 41 photographs are: "he's so perfect and
13 gorgeous in every way . . . I want to marry him someday;" "Gosh I love you so much;" "He
14 makes me whole;" "Tyler is a dream come true of a boyfriend." (See *Id.*) In one particularly
15 compelling comment posted on November 26, 2013, one month after the alleged violent sexual
16 assault, CB wrote:

17 So . . . Today marks 2 months that I FINALLY asked @Tyler_kost out:3 I don't
18 regret it even a little bit. I love him with such a near and dear passion. He watches
19 out for me and takes care of me when I need it or even when I don't need it. I
20 know we have only been dating for 2 months but we've been "together at heart.
21 And we both know that (; hint hint. Lol. I won't let anyone or anything ruin us.
22 We are forever. I love you more than life itself and I'm so happy you're in my
23 life. I don't want to live or even imagine life without you. And hopefully I don't

22 ³ As the Court is aware there have been numerous media reports regarding CB's allegation that
23 the staff at Planned Parenthood ignored her disclosure that her pregnancy was due to a sexual
24 assault, an allegation that is contradicted by the Planned Parenthood Medical Records
25 previously disclosed the defense.



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1 have to. I love you Tytybear [heart][smiling face with heart eyes][heart] have a
2 great day [heart] I love you to pieces [heart] @tyler_kost (sic.)

3 (See CB's Instagram post from 11/26/2013 attached as Exhibit C to the Appendix filed
4 separately under seal.)

5 Considering CB's emphatic and repeated public declarations for her love and
6 admiration for Mr. Kost on her social media accounts were posted after the alleged violent
7 sexual assault which is the basis for Count 20 of the indictment, the truthfulness of her
8 allegations is seriously called into doubt. As such, these social media records are clearly
9 exculpatory evidence. Further, considering CB's boyfriend, AD, is mentioned by TS, MR and
10 PR in their group discussion planning a John Tucker Must Die type revenge against Mr. Kost,
11 indicates that many of the alleged victims are colluding with each other calling the truthfulness
12 of all of their allegations into doubt. Clearly, the remaining alleged victim's social media
13 records are necessary to complete the story and to determine just how far the collusion went.

14 To make matters more complicated, and the need for all remaining social media records
15 to be disclosed even greater, is the contamination of the investigation by Austin Schack. As the
16 Court is aware from the *Simpson* hearings, Austin Schack is the 19 year old graduate of Poston
17 Butte who made the first report to Pinal County detectives claiming that Mr. Kost assaulted his
18 friend TS. As noted above, TS was a member of the group discussion to plan revenge against
19 Mr. Kost and even held the viewing of John Tucker Must Die at her house. It is clear that
20 Austin Schack also hated Tyler and, in his own words, made it his "mission to fucking destroy
21 [Tyler]," which he sent in a text message to MH. (See text messages between Austin Schack and
22 MH attached as Exhibit D to the Appendix filed under seal.) As noted above, MH was also a
23 member of the group discussion with TS, MR, PR and two other girls to plan revenge against

1 Tyler. Based upon these associations, it is clear that Austin Schack was instrumental in the plot to
2 carry out the revenge plot against Mr. Kost. More importantly, as the Court is also aware, Austin
3 Schack contacted nearly every other alleged victim involved in this case while conducting his
4 own amateur investigation into Mr. Kost despite Pinal County detective's repeated demands for
5 him to cease contacting potential witnesses. There is no telling how far Austin Schack's
6 "mission to fucking destroy [Tyler]" went or to what extent he contaminated this investigation.
7 Clearly, the remaining alleged victim's social media records are necessary to complete the story
8 and to determine just how far the contamination went.

9 **III. CONCLUSION**

10 Based on the foregoing, it is clear that due to Facebook policies and the Victim's Bill of
11 Rights, the social media records for the remaining alleged victims are within the sole
12 possession and control of the Pinal County Attorney's office and their agents. Despite
13 attempts to resolve this matter without litigation, the Pinal County Attorney's office is refusing
14 to obtain and disclose the remaining social media records. Furthermore, the social media
15 records belonging to the remaining alleged victims are discoverable under Rule 15.1(b)(8)
16 Ariz.R.Crim.P. and *Brady* pursuant to the Due Process Clause of the Arizona and United States
17 Constitutions. Therefore, the defense requests the Court issue an Order to Compel the State to
18 obtain and disclose the social media records associated with the remaining alleged victims with
19 leave to compel additional social media records of witnesses should they become necessary.
20
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22
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24



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RESPECTFULLY SUBMITTED this 23rd day of March, 2015.

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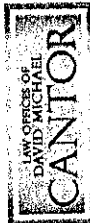
Clerk of the Court
Pinal Superior Court
971 N. Jason Circle, Building A
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Deputy County Attorney Assigned
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By:



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EG

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DEPUTY

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
7
8 IN AND FOR THE COUNTY OF PINAL

9 STATE OF ARIZONA,
10
11 Plaintiff,

11 vs.

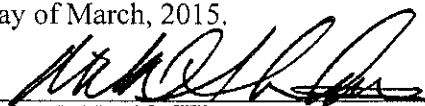
12 TYLER JAMES KOST,
13
14 Defendant.

Case No.: S1100 CR2014-00949; CR2014-01054; CR2014-01772

**MOTION TO FILE APPENDIX WITH
EXHIBITS UNDER SEAL FOR MOTION TO
COMPEL DISCLOSURE OF SOCIAL
MEDIA RECORDS**

15 The Defense requests the Appendix to the Motion to Compel Disclosure or Social
16 Media Records be filed under seal. The Appendix contains exhibits that contain the names of
17 alleged minor victims.

18
19 **RESPECTFULLY SUBMITTED** this 23rd day of March, 2015.

20 
21 **Michael Alarid, III**
22 Law Offices of David Michael Cantor, P.C.
23 One E. Washington Street, Suite 1800
24 Phoenix, Arizona 85004
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3 Pinal Superior Court
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Florence, Arizona 85232

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6 COPY OF THE FOREGOING
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7 Honorable Kevin D. White
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13
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