



# Using the Net to build your case: A real-life example

*A killer puts evidence – hidden content – on his Web site. Would you know how to find it?*



Mortimer

**BY MICHAEL MORTIMER**

In Plaintiff Magazine's July 2009 issue I discussed how to capture "smoking gun evidence" on the Internet. I provided sample captures of video and screen captures that you could download to see the recommended program in action (FastStone Capture.)

Since that article appeared, a noteworthy event has occurred. Specifically, I was following up on a news story when I discovered some online evidence. I submitted this evidence to federal law enforcement and then to the national news. Both the national news organizations and ABC's Nightline mentioned the secret evidence that I had discovered using FastStone Capture and e-mailed to them per their request.

The information I discovered in my online "investigation" pertained to the August 4, 2009, Pittsburgh *LA Fitness* killings by George Sodini. George Sodini went into the fitness club's aerobics class, gunned down three innocent women, wounded nine others and then turned one of his guns on himself and committed suicide.

## Background story

In addition to practicing law, I teach torts and civil litigation classes. One technique I use in teaching is to grab current controversies, stories and headlines off the Net and from television to discuss with my students in class. My lectures typically include accessing the Net, playing videos and looking at files I have uploaded to the personal Web site I designed for each class.

I use current controversies for issue spotting exercises, ana-

lyzing claims and causes of action, identifying potential defendants, formulating discovery strategy, addressing insurance questions, etc. This technique stimulates discussion, keeps things fresh and most important, keeps the students awake.

When the news of the Sodini killings was announced, I said to myself that would be a good subject for the upcoming torts and litigation classes. So a few hours after the murders I started gathering the material for my lecture.

## The reason for this article

By watching the news, I learned that Sodini had a Web site that some media called a *blog* and others labeled a *diary*. No matter what they wanted to call it, within 10 hours of the killings I was snooping around the Net and on Sodini's Web site, saving pages, pictures and other content.



Image 1



SEPTEMBER 2009

the information and later gave me the green light to sending my information to the media.

### The “captured evidence”

While this was not a case I was handling, what I was doing that morning was a real life example of using the Net to build a case. You can read and view the material and draw your own conclusions. But for the best “I am a really smart lawyer” experience when reading, just imagine that you are a lawyer representing your client, a survivor of this shooting.

What questions would you have? How would you use the Net information to formulate a discovery plan, witness list and exhibit list? Who do you see as potential defendants? What theories of liability exist? Are there sources to get an award paid? What is remarkable to me is just how much the Net now plays in investigating, finding facts, gathering evidence, analyzing the case and even making trial presentations.

Because of space constraints, I cannot discuss nor summarize all of the information I obtained during my Net sleuthing. However, I have provided links to my server so you can download the material and form your own conclusions about what each document reveals or its importance in case prosecution.

I captured all documents using the \$20 FastStone Capture program (the same program I recommended in my article in the July 2009 issue of Plaintiff.) While I did not provide all the different formats for upload, for my use and to be extra cautious, I saved each document in three different formats: JPEG, PDF and BMP.

You can download the information from the following links. Due to the popularity of Sodini’s Web site after the killings, data is now either difficult to obtain due to high traffic; the domain provider may close down the site because the high traffic now exceeds the plan Sodini paid for or an interested party (heir or potential defendant) may have it shut down.

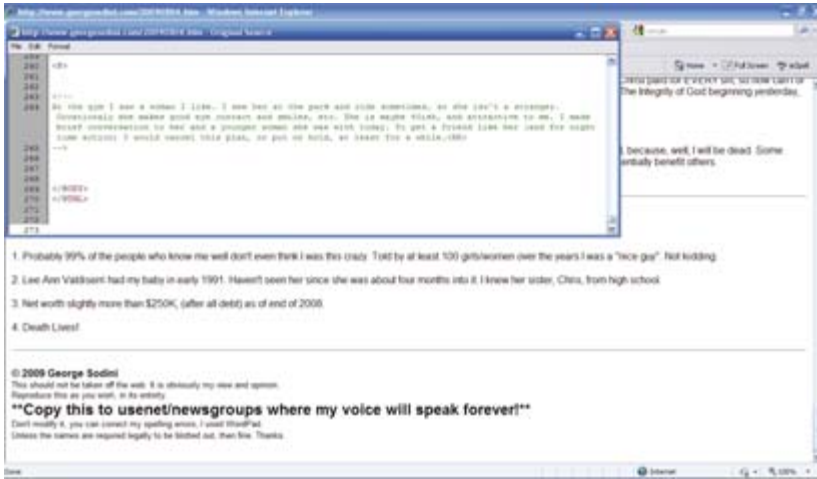


Image 2 - FastStone screen capture of the hidden content on Sodini’s Web page.



Image 3 – Sodini’s Web page with comment about the woman in the picture.

What is significant is that while “investigating,” I discovered that the killer had put hidden content on his Web page that he was most likely simply keeping in draft form, to be edited and posted at a later time.

If I had been working on a case, this would have been akin to finding significant evidence, the discovery providing clues to understanding the killer’s mental state.

What Sodini had written to himself (in hidden code, see below) indicated that if he could be in a relationship with a “40ish” neighbor he bumped into, he would have canceled or postponed his plan to murder the women in the aerobics class.

Because I determined that this information was important, I contacted Pittsburgh law enforcement who were investigating the crime. They appreciated



The names of the documents explain what they are.

- [www.litigationuniverse.com/SodiniBlogPublicview.pdf](http://www.litigationuniverse.com/SodiniBlogPublicview.pdf)
- [www.litigationuniverse.com/SodiniBlogSourceHiddenMsg.pdf](http://www.litigationuniverse.com/SodiniBlogSourceHiddenMsg.pdf)
- [www.litigationuniverse.com/SodiniOldPageWayback1.pdf](http://www.litigationuniverse.com/SodiniOldPageWayback1.pdf)
- [www.litigationuniverse.com/SodiniWebPageBikeTrailandRide.pdf](http://www.litigationuniverse.com/SodiniWebPageBikeTrailandRide.pdf)
- [www.litigationuniverse.com/SodiniPostDeathBlogRDS.pdf](http://www.litigationuniverse.com/SodiniPostDeathBlogRDS.pdf)
- [www.litigationuniverse.com/SodiniBlogMainHTMLPublicviewWithPics.pdf](http://www.litigationuniverse.com/SodiniBlogMainHTMLPublicviewWithPics.pdf)
- [www.litigationuniverse.com/SodiniNightlineCoverage.wmv](http://www.litigationuniverse.com/SodiniNightlineCoverage.wmv)

Here is Sodini's website. It may or may not be accessible:  
<http://georgesodini.com/20090804.htm>  
(Note that Sodini named the page for

the date that he murdered the women and killed himself, August 4, 2009.)

### Conclusion

Remember what you had to do in the old days if you had a personal injury practice? The lawyer, unable to afford a private investigator, had a 35mm camera to use at accident scenes, the hospital or wherever. You didn't need more than your two feet and a cheap camera to do a "thorough" PI investigation.

As lawyers, we are supposed to know how to analyze information and the law, issue spot and find information. The competent plaintiff lawyer knows how to gather and preserve online information and evidence.

In the July 2009 issue and this article, I have shown you how easy and effective it is to capture, preserve and analyze

information that you find on the Net. The Sodini hidden content shows how one can even discover information that no one else has or is not yet aware (and could even be considered "smoking gun" evidence.)

So download the FastStone Capture program and get capturing. Here is the link in case you missed it: <http://www.faststone.org/FSCaptureDetail.htm>.

*Michael Mortimer is a federal trial lawyer with offices in San Francisco and author of two upcoming books: Welcome to the World of Big Time Litigation and An In Camera Guide For Lawyers – From Underwear to Appellate Briefs. You can reach him at [sanfrancisco@att.net](mailto:sanfrancisco@att.net).*

