



# SCYLLA

Trial and  
Jury Monitoring

CAPTURING INTELLIGENCE ACROSS DIGITAL CHANNELS

The American Bar Association's (ABA) Formal Opinion 466 opened the door for lawyers to research jurors' internet presence, in particular, their use of social media. The question is no longer whether it is ethical to search for information about jurors online—but whether there is a *duty* to conduct such investigation.

An investigation of jurors' online presence may bring forward information that could affect a trial. As a way of capturing this information, Pendulum presents Scylla Systems, a robust product used to monitor conversations on social media networks and the Web.

## WHAT IS SCYLLA?

Scylla was a six-headed mythological sea monster that devoured sailors risky enough to travel through its narrow channel of water. In today's world, people take risks online by posting personal and potentially damaging information across digital channels. Scylla Systems targets these individuals and captures their information.

Using a combination of open-source intelligence (OSINT) research and data collection, the Scylla team has the ability to dig deeper into the digital footprints, or online presence, of individuals and entities than ever before! Scylla technicians use similar techniques and the same technology as law enforcement and government agencies. Scylla has the ability to gather proprietary data as well as publically available information from sources such as newspaper archives and Web-based communities, including social media sites, blogs, and forums.

## TRIAL MONITORING

Scylla can provide a high-level view of a trial, uncovering nuggets of information that may impact trial strategy. Depending on the level of public knowledge about the trial, technicians may be able provide information on public sentiment, where the conversations are occurring, trends in the conversations, and the public's reactions to trial events. Trial monitoring can provide a broad overview of the trial that could include information from media sources, the general public, and individuals associated with the trial.

## JUROR ANALYSIS AND MONITORING

Scylla looks at the big picture but can also report on the individual level. Depending on your jurors' digital footprint, our team can provide in-depth analysis, including jurors':

- Potential biases
- Political leanings
- Personal relationships relative to the case
- Hobbies and interests
- Opinions on current news
- Relevant digital subscriptions
- Group memberships and affiliations
- Relevant social media activity during the trial

As the client, you will supply our team with key names and concepts that will be used to develop the research criteria, which will, in turn, yield a report. Reports include the scope of work and findings, with screen shots and links to any pertinent information discovered. Please see the sample report pages on the reverse side.

*Scylla Systems, LLC can only research/monitor publicly available conversations and the information those conversations contain. Privacy rules prevent Scylla from obtaining information in violation of a user's privacy settings; however, users' privacy settings are often bypassed when a user posts to a public site.*

**For more information on trial monitoring and jury analysis and monitoring, contact Pendulum at (888) 815-8250 or email [Scylla@WeArePendulum.com](mailto:Scylla@WeArePendulum.com).**

# SCYLLA

## TRIAL MONITORING REPORT

Jane Doe, Guardian ad Litem of Kate Doe, Minor,  
and Jane Doe and John Doe, Individually

v.  
ABC Corporation  
dba ABC Medical Center,  
Michael Smith, D.O.

### CAPTURING INTELLIGENCE ACROSS DIGITAL CHANNELS

Scylla Systems  
4600B Montgomery Blvd. NE, Suite 204  
Albuquerque, NM 87109  
(505) 314-5710

### CAPTURING INTELLIGENCE ACROSS DIGITAL CHANNELS

#### Report Details

Client:	ABC Law Firm
Date Ordered:	August 19, 2013
Individuals Monitored:	John Doe Jane Doe Kate Doe Michael Smith
Type of Monitoring:	Look-back
Total Monitoring Period:	September 1, 2009–August 27, 2013

#### Understanding the Report

The Jury and Trial Monitoring Report is a new way to harness the power of listening to conversations on social media networks and the Web as an additional way of managing risk. This customized report allows your organization to monitor activities and conversations regarding your assets occurring during the Monitoring Period identified above. Using a combination of Open-source Intelligence (OSINT) research and data collection, Scylla is able to monitor the Web and social networks collecting data related to the Monitoring Period and your assets are analyzed. Scylla analysts include granular specific posts for your review. The Jury and Trial Monitoring Report has limited only publicly available information is included, and privacy rules prevent Scylla from reporting information in violation of a user's privacy settings.

Disclaimer: The information provided is with the understanding that Pendulum legal opinion or any other professional consultation in regard to the subject matter made every effort to ensure the accuracy of the information enclosed; however, responsibility of the recipient to evaluate the appropriateness and use of Pendulum shall not be responsible for any damages resulting from any error or omission contained in this publication.

#### Background<sup>1</sup>

This is a case for damages related to the wrongful birth of plaintiff Kate Doe. Under an ultrasound in September 2009 due to her advanced maternal age, an ultrasound revealed a possible marker for Down syndrome, and an amnio performed at the request of Mrs. Doe. The results of the amniocentesis test in mid-September 2009, and the reviewing doctors and lab technicians' report in female chromosomal pattern. When Kate was born on January 16, 2010, she was diagnosed with a severe disorder involving a genetic deletion from chromosome 4 that mental and physical developmental delays and reduced life expectancy. That the amniocentesis test results were improperly analyzed, and had they

<sup>1</sup> This factual summary is not intended to reflect any factual findings or legal opinions.

Scylla Trial Monitoring Report — Doe v. ABC Corporation

### CAPTURING INTELLIGENCE ACROSS DIGITAL CHANNELS

daughter had a severe disorder, they would have terminated the pregnancy. They also allege that they were denied the opportunity to make an informed decision in this regard due to the false-normal result they were given.

#### Scope of Work

The client requested a jury and trial monitoring report on the case Jane Doe, Guardian ad Litem of Kate Doe, Minor, and Jane Doe and John Doe, Individually v. ABC Corporation dba ABC Medical Center, Michael Smith, D.O. in order to determine the validity of Jane Doe's claims.

On August 20, 2013, technicians began the research and programming process. A search for public records and social media accounts was initiated to accurately identify the individuals and their Web presence. The technician implemented searching mechanisms within Facebook to identify the individual's public posts and photos in which they may have been tagged, and pages they have "liked" and are following.

#### Conversation Detail<sup>2</sup>

##### Hugs4Kate Blog Posts

**An Unexpected Journey**  
I can't say the same for **Kate**. I want to, but I can't. Not yet. I don't know if I'll be able to look at her with the same love that I did my son. Right now, I admit that I see her as the substitute for the daughter I was supposed to have—the one who died on the 10th, and I am still grieving. So one precious day for the news that Mark and I were given 8 days after what was supposed to be one of the happiest moments in your life—their child has an extremely rare chromosome disorder. Oh... There is...

**My Hailmark Moment**  
I received a card you do not give to someone in that situation. "Congratulations on the birth of your baby!" Oh... **Kate**... I see **Bob**. I have not felt at all like her birth is a celebratory occasion. It has been a time of sadness, tragedy, and heartache. The cards I did receive congratulating me on the birth of my daughter sent me into crying. It's open the cards and while I could acknowledge the sincerity behind the message, I would feel sick to my stomach...

<sup>2</sup> This report is based on open-sourced data in a publicly available domain. Pendulum does not vouch for the accuracy or authenticity hereof.

### CAPTURING INTELLIGENCE ACROSS DIGITAL CHANNELS

**No one is promised a rose**  
My life has hardly been a fairytale so far, but I must admit that I feel blessed to have the child I have been given. Growing from **Kate's** doctor appointment today caused me to think about all that I have to be grateful for—in my health, I am definitely not in the best shape of my life, and I have not even begun to shed the extra baby weight from the end pregnancy, and I am walking, thinking, smiling, reading, and able to share all that is around me and appreciate the beauty of the world in which I exist. For that, I am grateful... My parents, I would never have received the past 11 years without the unconditional love and never ending support of my parents. They love...

**Kate is 5 months old!**  
I happened, but I cannot remember I am blessed to have the support of some very special (to us) individuals in this life. They help me to remember that life can only be taken one day at a time, and they remind my faith that there is a reason that **Kate** is here on earth, and a reason why I had chosen to be her mother. One of these amazing women posted a song on her...

#### Article Written by Jane Doe

##### Meet Kate

30 weeks and weekly monitoring after she was born. The first few months of what the diagnosis **Kate** is her surprising nothing that the silver lining had been good throughout the whole network of YES parents to meet and that **Kate** would do many laughs in my life without me...

##### Hugs4Kate Comments

**Hugs4Kate**  
I have been down this road before; my oldest daughter has global physical and mental challenges. The one thing she doesn't have is a physical deformity that makes it obvious to those around her that she is not a typical 11-year old. Hence, she has had many comments made and has been stoned at over the years because people didn't bother to consider what might be beyond the outward appearance that might account for her differences. Now that my baby daughter **Kate** has been born with Wolf Hirschhorn...

fears come with the stigma of specifically with how little she learned how to accept a child have yet to be the mother appearance that will make her in commentary. People are so hurt us as much—if not more—they are quick to pass judgment with unable to step outside their perfect little children to coast. Maybe someday, our children will have to do that.

**Reply**

**Hugs4Kate**  
I am in your shoes; my daughter. We learned of her diagnosis. However, I am not aware of special needs—I have an 11 year learning challenges, as well. I allow myself to compare over years, I have watched myself development—even my young that she. It is so hard not to be benchmark by which we determine most focus when determining how **Kate** and other YES children every day that she will write he doesn't matter when she has the confidence that one day she will be so fresh that I will have not in the situation. I, too, started and share in our story. I hope together with you; we can find women in this YES group are writing today if I hadn't found many of the others who offer me will share again. :)

Scylla Trial Monitoring Report — Doe v. ABC Corporation

### CAPTURING INTELLIGENCE ACROSS DIGITAL CHANNELS

#### Conclusion

A large number of conversations were recorded. These conversations transpired in news reports as well as on Facebook, Twitter, and blogs. A total of 33 Hugs4Kate blog posts were found, but as access to the blog is by invitation only, the technician was only able to grab snippets of text. Eleven articles were written by Jane Doe, and one appears to have been written by John Doe. From 2010 to 2013, 213 comments associated with the pseudonym Hugs4Kate were recorded on several online blogs; it was observed that several of these Hugs4Kate comments were related to the Does' lack of financial support. Overall, there is a mix of positive and negative statements.