### **Redaction Failures:**

How to (Properly) Shield Confidential Information in Public Filings

FACEBOOK, INC. 16, DUGUID ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NOTH EIGHT.

No. 19–311. Argued December 8, 2002—Decided April 1, 2021

The Telephone Consumer Protection Act of 1991 (TCPA) proscribes about view telementaring practice by a morn gather thing, respiriting certain communications made with as an equipment with the capacity both to stere or produce telephone numbers to be called, using a random or expectable generator, and to dish those numbers, 4T U. St. C. 257/20AD. Petitioner Facebook, how, maintains a for receive test messages when someone attempts to log in to the user's account from a new device or browers. Facebook are unable test to Noah Darpad, alerting him to begin activity on a Facebook account inhed to his telephone number. How Deguid never created that account inhed to his telephone number. How Deguid never created that account inhed to his telephone number how the control of the control of the service of the control of the control

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#### **Today's Goal**

By the end of this CLE, you should be able to answer three questions:

- •Why do I need to know how to redact information?
- What happens if I don't redact information properly?
- •How do I redact information properly?

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## Why redact?

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#### Why redact?

You may be required to by law.

- The "default" status of most publicly filed documents is public, not private or sealed.
- A law, regulation, or court order may require you to keep certain information confidential.
  - Witness, victim, or party identities (e.g., confidential informant, minor)
  - Confidential personal information (e.g., SSN, medical information)
  - Trade secret or other confidential business information (e.g., financials, source code)
- Such information may need to be redacted in public-facing filings

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#### Why redact?

It's your ethical duty.

- · ABA R1.1 / Tex. R1.01 Duty of Competence
  - Comment 8 ". . . a lawyer should keep abreast of changes in the law and its practice, <u>including the benefits and risks</u> <u>associated with relevant technology</u> . . . "
- · ABA R1.6 Confidentiality of Information
  - 1.6(c) "A lawyers shall make reasonable efforts to prevent inadvertent or unauthorized disclosure of . . . information relating to the representation of a client."
  - Tex. R.1.05 "... shall not knowingly reveal confidential information ..."

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# What happens if I don't know how to redact?

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