1. What means are available in your State to obtain social media evidence, including but not limited to, discovery requests and subpoenas? Can you give some examples of your typical discovery requests for social media?

The Idaho Rules of Civil Procedure provides that:

"Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows: (1) Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter."

I.R.C.P. 26(b)(1). Thus, the rules permit access to electronic data through discovery requests, but no specific statute or case has addressed the permissibility or impermissibility of social media evidence.

2. Which, if any, limitations do your State’s laws impose on a party on obtaining social media evidence from an opposing party?

None, as of yet.

3. What, if any, spoliation standards has your state’s Bar or courts set forth on social media for party litigants?

None, as of yet.

4. What standards have your state’s courts set for getting various types of social media into evidence (relevance, authenticity, exclusionary rules, etc.)?

None. There is no real case law on point.
5. **How have your State’s courts addressed an employer’s right to monitor employees' social media use?**

No. However, contractual restrictions can apply to employees and be upheld by employers. Any employer/employee social media use restrictions fall under contract law. No case law addresses an employer’s right to “monitor” use, in a strict sense. But where an employee engages in breach of contract provisions restricting the use of social media, such breach could likely result in termination based on the principles of contract law.

Employers acknowledge that limits to liability can be implemented through employee handbook policies addressing employee access to social media sites and regulating posts on those sites. See N. Hillen, *Social Distortion: Social Networking and the Idaho Workplace*, 15 No. 4 Idaho. Emp. L. Letter 1 (2010).

6. **How have your State’s state or federal courts addressed limitations on employment terminations relating to social media?**

No case law on point exists. The basic tenants of contract law, and the regulations set out in employment contracts and handbooks regulate Idaho law on this topic. See also Hillen, *supra*. 