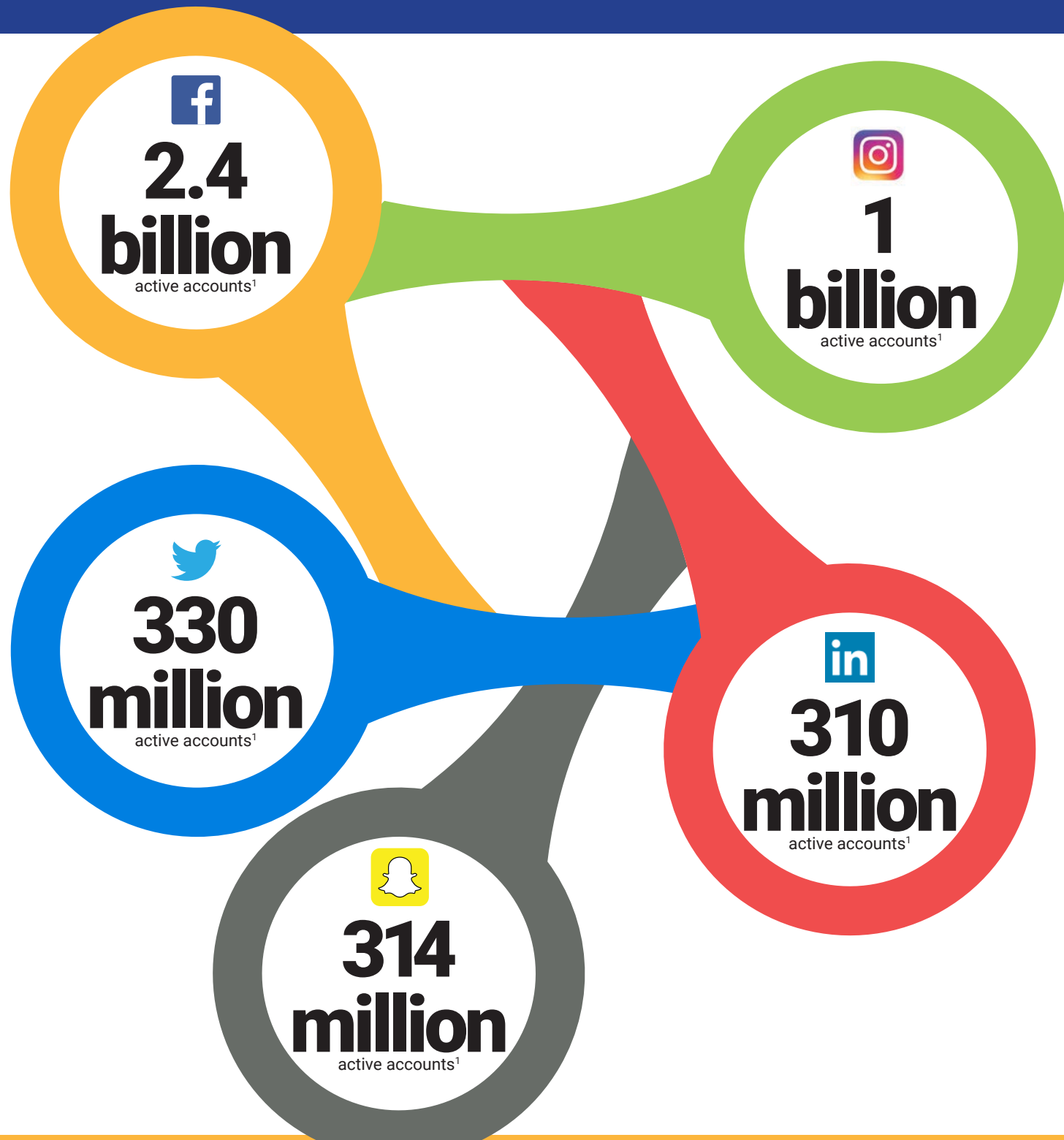


Using Social Media In Litigation



52%

of lawyers have reported an increase over the last two years in lawsuits related to postings, images and data found on social media and mobile devices.ⁱⁱ

What's Discoverable?

"...Social media evidence must pass the same barriers as other types of trial evidence: relevance, authentication, and Rule 403, among others."ⁱⁱⁱ



BIA's Social Media Investigations: How It Works

Collection:

- Data is collected and indexed from social media streams, linked content and websites
- Sophisticated tools aggregate data through APIs, webmail connectors and direct web navigation
- Real-time, highly scalable and case-centric

Authentication:

- MD5 hash values of individual items are calculated upon capture and maintained through export
- Automatically logs and generates reports
- Key metadata unique to social media and web streams are captured through deep integration with APIs

Search:

- Broad, unified searches are conducted across multiple accounts, social media streams and websites
- Linked content is automatically indexed and searched
- Results are aggregated for sorting, tagging and export
- Consistent with standard eDiscovery or investigative workflow

Production:

- Data maintained in a searchable native format from collection through production
- Ability to address social media in the same manner as devices, email and electronic documents

Cases In Which Social Media Collection Has Played An Important Role



"The Achilles Tendon Girl"

Workers' compensation claim

According to plaintiff: Pain & suffering after on-the-job Achilles tendon injury, unable to enjoy life or move around

According to social media: Taking exotic vacations to Bali & Australia, climbing waterfalls



"The Shut-In Guy"

Workers' compensation claim

According to plaintiff: Previous job so stressful it gave him PTSD so he cannot work or leave the house

According to social media: Member of a Facebook group for local Uber drivers where he frequently gave advice to other drivers regarding the best areas and times to work



"The Birth Injury Claim"

Medical malpractice claim

According to plaintiff: Parents claimed their 3rd grade child hadn't ever been mobile or athletic

According to social media: Child could run the 100-yard dash as fast as an 8th grader, attended football and soccer camps

Sources

ⁱMost popular social networks worldwide as of October 2019, ranked by number of active users (in millions)

ⁱⁱSurvey: Lawyers Report Surge In Litigation Related To Social Media And Mobile Devices

ⁱⁱⁱSocial Media Evidence in Civil Litigation, Maria Goetz, American Bar Association, 2013



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