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EDUCATION

BA, University at Buffalo

AFFILIATIONS

Association of Certified Fraud
Examiners

AWARDS

Recognized in Who's Who Legal 2019
Investigations Guide

Recognized in Who's Who Legal 2018
Investigations Guide

Recognized in 2017 by Who's Who
Legal as an Expert – Forensics &
Litigation Consulting – Digital

STEPHEN O'MALLEY

Managing Partner

Stephen O'Malley is a Managing Partner with over 25 years of experience consulting on technical issues. He has engaged on some of the largest multinational investigations and is a testifying expert in the areas of analysis and restoration of electronic data, electronic discovery best practices, and testing of related computer software. He is an expert eDiscovery practitioner and data analyst. Prior to founding Delevan Digital Services, Mr. O'Malley was a Senior Managing Director and the Global Digital Investigations & Discovery Practice Leader at J.S. Held. He is based in New York.

Stephen's professional experience includes:

- *Record Keeping Compliance Advisor to Independent Compliance Consultant ("ICC") appointed by the SEC – Large US-based broker dealer 2023 – 2025 – Consult with ICC in response to a settlement agreement between the SEC and the client on Off Channel Communications related violations. Reviewed policy and testing documentation relevant to the matter and designed testing protocols to ensure the ICC had the relevant information to include in his report to the SEC. Additional scope of the engagement included development of recommendations to remediate compliance gaps and subsequent testing to ensure the client has enacted remediations communicated to the SEC.*
- *Financial Consultant to Receiver – EminiFX - 2022 – 2025 – Consultant to court appointed Receiver of EminiFX. Forensically preserved documents and data associated with the fraudulent investment operations; Reviewed and analyzed account activity of system users or "members"; Prepared a financial condition report of the operations showing that the reported "returns" to investors were not tied to actual investment activities of the entity. Assisted the receiver with the administration of the claims process. Filed Financial Condition Report*
- *Investigations advisor to National Brand Fulfillment Company - 2022 – Consultant to company counsel investigating the circumstances of employee theft through the company's payroll system. Performed analysis of payroll records lacking appropriate approvals. Prepared a report of findings that was submitted to the company's insurance carrier in support of a fidelity claim.*

- *Off Channel Communications Investigations - 2022 – 2025 – Assisted numerous regulated entities with an examination of employee communications on mobile devices outside of the standard company regulated communication methods. Performed mobile device collections and related forensics to facilitate the review and production of mobile chat communications.*
- *Insider trading investigation and response to multiple SEC subpoena's related to Gamestop short sale price spike 2021 – present – Forensically preserved evidence from mobile devices, cloud based ESI, and other electronic systems. Provided forensic analysis devices and emerging messaging systems (signal, telegram, etc.); Hosted collected and search responsive documents for review and production to the SEC.*
- *Civil litigation and internal corporate investigation for a regional real estate management firm 2021 – present - Forensically preserved evidence from electronic devices, cloud based ESI, and other electronic systems. Provided forensic analysis devices; Hosted collected and search responsive documents for review and production to opposing parties.*
- *Internal corporate investigation of a well-known media company 2021 – present – Acquired digital assets from international locations (through remote means due to the pandemic) and performed forensic analysis on key personnel. Prepared expert reports at the direction of counsel.*
- *Federal trade secret litigation of a large financial services organization 2018 - present - Led the digital forensic investigation team responsible for the collection of relevant case evidence, analysis of structured communications and unstructured transactional records and source code that were subject to the trade secret case.*
- *DOJ investigation of a large multinational medical system (2018 – 2019) - Led the electronic discovery efforts in support of the investigation.*
- *DOJ investigation into a household name auto manufacturer (2017 – 2019) - Provided expert analysis and written reports associated with the availability of previously deleted electronic evidence, corporate practices associated with data retention, and an analysis of multiple possible electronic storage devices in a search for corroborating electronic evidence to address mounting DOJ inquiries.*
- *Cyber incident response / DOJ investigation of international hacking effort of a political consulting organization with ties to key US political figures (2017 – 2019) - Led the forensic investigation team responsible for collection of communication devices, analysis of communication patterns in an effort to identify intrusion methods including phishing attempts and embedded message malware. Assessment of potential communication exposure to aid counsel with media management associated with hacked messages that were being published piecemeal.*
- *SEC investigation into insider trading activity of a well-known federal politician (2017 – 2018) - Led the forensic investigation team responsible for collection of communication devices, analysis of communication patterns, and assessment of insider trading risk associated with the subject of the investigation as well as the corporate entity involved.*
- *Investigation of bank fraud and preparation of board presentation on findings (2017 – 2018) - Led the electronic discovery efforts in support of a large and complex internal bank investigation. Participation in custodian interviews and development of case briefs in preparation for a board presentation on the subject of the investigation.*
- *BLMIS (Bernard L. Madoff Investment Securities) liquidation (2008 – Present) - Led the forensic investigation team responsible for investigating components of the fraud for the trustee. Inclusive of communications analysis, transactional pattern recognition of trading activity, documentation of findings and assistance with crafting complaints on behalf of the trustee.*

- *Multinational electronics manufacturing business FCPA investigation (2009 – Present)* - Led the electronic discovery efforts in support of the investigation. Briefed the SEC and the DOJ as to findings.
- *Michael Kenwood Group Receivership (2011 – 2014)* - Led the forensic investigation team responsible for the data analysis of unstructured transactional records that were part of a Ponzi scheme that led to more than \$345 million in approved claims to be paid to investors. The receiver recouped 92% of investor losses.
- *Multinational private equity firm (2006 – 2015)* - Led the electronic discovery efforts in support of a large and complex DOJ investigation.
- *REFCO (2005 – 2006)* - Led the forensic investigations team responsible for investigating a large executive embezzlement fraud for the company's audit committee. Shortly after presenting the findings to the audit committee, REFCO released a public statement and our role transitioned to aiding the firm's bankruptcy proceedings.
- *NYSE Specialist investigations (2003 – 2005)* - Led the forensic investigation team responsible for investigating trading activity by NYSE specialists. Developed sophisticated trading algorithms to identify DOT Inferior and interpositioning trading activity. Presented investigation findings to NYSE enforcement.
- *Large regional staffing firm (2003 – 2004)* - Led a portion of the forensic investigation team responsible for investigating accounting irregularities for the firm's audit committee. The effort involved analyzing payroll records from (what we understood at the time to be) the largest PeopleSoft database implementation in the world.

Expert Testimony:

Stephen has presented written and oral expert witness testimony in legal proceedings related to the following subject matter: digital investigations, computer analytics, data analysis, analysis and restoration of electronic data, electronic discovery best practices, and the testing of related computer software. Mr. O'Malley has also been involved in the deposition process (including deposition testimony) as a professional consultant and has also provided expert testimony at trial.

- United States of America v. Adarsh Gupta Crim. No. 2:20-cr-00773 (United States District Court – District of New Jersey).

- April 2024. Courtroom expert testimony regarding digital investigations, computer analytics, and data analysis.

TR Investors, LLC, et al. v. Arie Genger CIVIL ACTION NO. 3994-VCS (Court of Chancery of the State of Delaware).

- *September 2009*. Courtroom expert testimony regarding analysis and restoration of electronic data, electronic discovery best practices, and the testing of related computer software. Judgment 12/09/2009 in favor of TRI.
- *September 2009*. Oral testimony in deposition related to submitted expert reports.
- *November 2008 – September 2009*. Authored four expert reports in support of plaintiffs.

Publication:

- "Rise of Fidelity Crimes: Tackling Fraud in the Heightened Digital Age" (2024, March 12) Complex Discovery Newsletter Quoted – [Link](#)
- "Fidelity Investigations: A Guide to Successful Claims Outcomes" (2024, March 4) Claims Journal [Link](#)

- “Investigations & Computer Forensics; Inside an Internal Accounting Investigation” (2007, May 29). The New York Law Journal, pp. S4.

Example Presentations:

- ACI FCPA Conference – Best practices for Ephemeral Messaging, including: Risk Assessment, BYOD-Related Policies, Training, Monitoring and Enforcement – National Harbor, MD December 2023
- FDCC Conference – Use of Generative AI in professional legal environments – Philadelphia, PA – November 2023
- NAFER Receivers Huddle – Decrypting Crypto: What Receivers Need to know – New York, NY - February 16, 2023
- AIRA: 21 st Annual Advanced Restructuring & Plan of Reorganization Conference – Digital Assets and Investors in Distress – New York, NY – November 14, 2022
- NAFER Regional Meeting NYC – Decrypting Crypto: What Receivers Need to know – New York, NY - November 10, 2022
- Masters Conference – Harnessing the power of modern Data – New York, NY October 2022
- Fordham University School of Law – Electronic Discovery and Information Governance – Presentation to students – New York, NY February 7, 2022
- Masters Conference - Best practices when responding to government investigations and inquiries - Washington, DC 10/28/2019
- Mid-Atlantic Retreat - Practical Applications of AI and Analytics: Gain Insights to Augment Your Review or End it Early, Washington, DC 6/24/2019
- South Central Information Governance Retreat - Zen and the art of multilanguage discovery - Middleburg, VA 5/22/2017
- Association of Corporate Counsel – Data Theft Do’s and Don’ts – New York, NY 7/24/2013