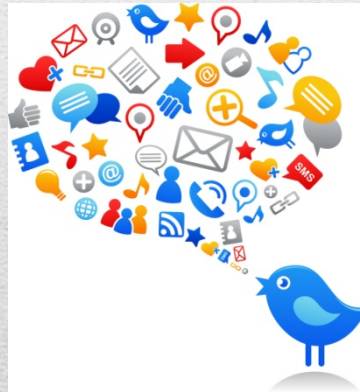


Workplace Social Media Traps



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- Definition: Online forums for people to connect, discuss, and share information.
- Examples of Social Media platforms: YouTube, Flickr, Facebook, LinkedIn, Twitter, Pinterest, personal or professional Blogs.
- Why do people join? To make friends, to network socially or professionally, to establish their expertise, to publish commentary, and to market their products or services.

What Is Social Media?

- ❑ Social media comments are available to current and future employers, to co-workers, to customers and clients, and the courts.
- ✓ Social media gaffes can spread like wildfire and can be reported back to the employer.
- ✓ Too easy to get caught in a lie about worker's compensation problems and claimed personal injuries.
- ✓ Too easy to violate professional licensing standards and ethical requirements.
- ✓ Too easy to disclose private information about co-workers and employers.
- ✓ Social media postings are not private – profiles and posts can be introduced into litigation.

Problems For Employees

☐ Examples of social media problems for employees:



Laura Thalacker @Fired4Facebook

27 Jul

Teacher compares student to 'orangutan' on Facebook, could lose license - Digital Life digitallife.today.msnbc.msn.com/_news/2012/07/... via @stickyShareVia

Expand



Laura Thalacker @Fired4Facebook

15 Mar

Who didn't see this coming? American Airlines flight attendant fired after posting YouTube videos mocking his employer: blogs.browardpalmbeach.com/pulp/2012/03/g...

Expand



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20 Mar

Interesting discussion of legal questions raised by job seekers getting asked for Facebook passwords- columbian.com/news/2012/mar/... via @thecolumbian



Laura Thalacker @Fired4Facebook

17 Oct

13 Controversial Facebook Firings: Palace Guards, Doctors, Teachers And More huff.to/qdJmQU via @huffingtonpost

- The Secret Service investigated a picture that was posted on an Arizona police officer's Facebook page in which an image of President Barack Obama appears to have been used for target practice. <http://tinyurl.com/737f36b>

Employee Problems Highlighted

- ❑ Employers can face problems in workplace productivity, violation of workplace policies, public relations headaches, and government or employee initiated litigation.
- ✓ Risk exposure of confidential, trade secret, or sensitive business information.
- ✓ Risk of bad publicity with customers and potential employees from botched social media campaigns or employee complaints.
- ✓ Risk violating anti-discrimination or other employee rights laws, may face lawsuits when using social media to screen potential job applicants, or when employees take discriminatory/harassing actions on social media.
- ✓ Risk exposure to copyright infringement litigation if employees are posting copyrighted materials via employer networks.
- ✓ Risk employee taking the company's account and social media contacts.
- ✓ Risk exposing computer networks to viruses spread through social media.

Problems For Employers

I find it ironic that Detroit is known as the #motorcity and yet no one here knows how to ~~forain~~ drive



ChryslerAutos
Chrysler Autos

I'm sorry, are people mad at us for drilling in the ocean?!? Maybe God shouldn't have put oil there in the first place. DUH. #bpcares



BPGlobalPR
BP Public Relations

A U.S. District Court in California was faced with a dispute over the ownership of a Twitter account, but the employer and employee did not have any agreements about who owned the account or the content. This forced the employer to litigate various legal theories to try to regain control.

In a California case, co-workers started two blogs, where they posted critical and spiteful comments about a co-worker with a disability. The employer did not sponsor or endorse the blog or participate in it in any official way. The plaintiff complained repeatedly to management of the blog posts, as well allegedly harassing conduct that occurred in the workplace. The plaintiff filed suit for disability-based harassment. Following a trial, the jury awarded the plaintiff nearly a million dollars in damages. (Courtesy of the Delaware Employment Law Blog).

Employer Problems Highlighted

- ❑ Employment is at-will and employees can be fired for any reason not prohibited by law.
 - Employers can't use social media to gather or utilize information that's protected by anti-discrimination laws. Hiring managers should not take race, age, disability, religion, marital status, veteran status, etc. into account.
 - Employers cannot interfere with employees right to engage in concerted activities for mutual aid and protection.
- ❑ The National Labor Relations Board is aggressively investigating complaints of overbroad social media policies that stifle employees' ability to discuss the terms and conditions of the workplace.
- ❑ Some states (but not Wisconsin) have passed legislation prohibiting employers from demanding access to employees' social media accounts. Federal legislation is pending.
- ❑ Harassing, discriminatory, and retaliatory behavior is still illegal in the social media context. Employers may be liable for employees' online conduct.
- ❑ Companies may have to comply with the Fair Credit Reporting Act if using social media to conduct background checks.

Legal Issues

- ❑ Social media not going away and planning for potential problems is better than simply reacting.
- ❑ Employers need a comprehensive policy covering ownership rights, employment law obligations, internal and external copyright protections, network security, workplace norms, and employee productivity.
- ❑ Policies have to be written in a way that does not have a chilling effect on employees' right to discuss terms and conditions of the workplace.
- ❑ Employees and managers need to be trained on how to use and work with social media in a way that protects the organization.
- ❑ Develop a response plan before a social media posting by an employee or by the company causes a controversy.

Dealing With Social Media