



Protecting Company Interests When Employees Use Social Media

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"It takes many good deeds to build a good reputation, and only one bad one to lose it." - Ben Franklin

Social media platforms such as Facebook and Twitter can be great ways to promote a business, inform the public about services offered and connect with your community. These online tools help a business build its reputation in a progressive and cost effective way. Additionally, many employees now have their own Facebook or Twitter account, providing employers with a means to search for job applicants using social media or monitoring employee activities by reviewing their personal web sites.

Employers may legally review social media sites. Employers who wish to review social media or employees' personal web sites should have a policy in place informing employees that the company has a right to monitor employee use of the systems. Upon implementation of the policy, employees may not then claim they had a reasonable expectation of privacy precluding the employer from viewing or monitoring their on-line activities. Such a policy should also advise employees that unauthorized use of the company's systems will result in discipline up to and including termination, which would permit disciplinary action by the employer based on the employee's use of social media. For example, the employer could reprimand an employee for posting on Facebook a statement that he is off to another boring meeting. Care must be taken, however, to refrain from taking disciplinary action against employees based on information that is posted on the internet that is protected under federal or state law. One example to such protection would be an employee criticizing company policies concerning wages, benefits or working conditions, which even if placing the company in a negative light may constitute protected, concerted activity under the National Labor Relations Act.

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Entities and/or individuals should not be sharing information about the Company's proprietary information or ongoing legal matters through social media outlets. An employee's statements on social media sites may be admissible in Court as non-hearsay. It is imperative to keep confidential information out of the hands of the internet viewing public. Proprietary information should be broadly defined to include, among other things: customer information, pricing, internal communications, and financial data. It is advisable that your company's internet policies specifically prohibit dissemination of the company's confidential information or trade secrets to any outside source, except as necessary for company business.

Ultimately, employers and employees alike must think about what image is desired before participating in a social networking site. Employee interests in social activities on the web site should not be unduly restricted, but such activity should not undermine or interfere with the company's legitimate business interests. See one of our practice group members for assistance with developing an effective internet use policy for your business.
