

EMPLOYMENT LAW PRACTICE GROUP Alert

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The Risks and Risk Management of Online Social Networking

Whether or not your company is engaged in blogging or participating in social networks like Facebook, Twitter, or LinkedIn, you can rest assured that employees are. The number of users on these networks and the amount of traffic has increased rapidly in recent years. The impact on employers can be sudden and surprising to companies that are not directly addressing this phenomenon.

A few thoughtful steps can help clients address and take advantage of the opportunities provided by online social media, while managing the risks. Such steps are a good investment of time and attention.

Blog postings and other online messages have required companies to go to court to defend against claims of defamation, sexual discrimination, and wrongful termination. A message that takes a few seconds to type can leave months of clean-up to be done. Clients and valued employees can be lost due to careless online conversations.

Even the very tech-tolerant Google fired an employee for blog posts that included confidential employee benefits information for Google and for Microsoft. A Delta Airlines stewardess was fired after pictures of her in uniform appeared on her Queen of Sky blog. She then sued the airline for sexual discrimination.

The popular messaging platform Twitter has also helped many employees, executives, and potential hires put their feet in their mouths or their careers into a backward slide. An executive visiting his agency's big client got himself unceremoniously dumped from the account when he posted his critique of the client's hometown on Twitter.

Social media participation by job applicants is a rich source of information for interviewers and human resources departments. Facebook and Twitter posts, blog

Steps toward effective use and risk management for social media

- Social media participation policy
 - Employee training in that policy
 - Effective use of social media in connection with staffing decisions
 - Monitoring of messages from and about your company, using either Google or other services
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entries, and other online participation can reveal a side of job applicants not revealed in resumes and interviews. These extra bits of insight can help with staffing decisions.

Many companies do not want to limit their employees' after-hours activities, and many even encourage online participation. After all, it increases visibility and networking opportunities for employees and the company. Social networking is a cost-effective form of marketing in many industries.

A clearly stated social media policy is a powerful tool for balancing of the risks and rewards of social media. Such a policy should be included with other employee policies such as vacation, sick leave, time cards, and other practices and procedures that are included in employee training.

The terms of a social media policy will typically emphasize that employees act at their own risk, that they must be mindful that all online interaction should be considered public (or can easily be made public), and that all non-public information about the company and its customers must not find its way online. Disclosures ("our company is owned by company X, which is discussed in this article") and disclaimers ("these opinions are mine and not my employer's") can also help with clarity and credibility, and should be part of a corporate policy for employees who are offering commentary related to their fields of work.

Other policy pieces to consider are a requirement that employees not authorized to speak on the company's behalf make it clear that their statements and opinions are theirs alone, and not that of the company. A good policy will also require that employees respect the privacy of others in what they choose to publish. The policy should also state that employees will be held responsible for their actions, and that they will be subject to disciplinary action and even termination for violations. Beyond that, many regulated industries have heightened requirements for confidentiality.

The world of online social networking is dynamic and full of opportunities for business development, reputation management, and customer engagement. It also comes with risks that are not new, but can be exaggerated by the speed and ease of communication on these networks. A solid employee policy, together with training and awareness of that policy, will go a long way toward managing these risks. Please contact one of our employment law attorneys for further information or for assistance with an appropriate social media policy for your business.



Should you have any questions about the above, please contact Christopher E. Gatewood, Esquire at 804.771.9595 or cgatewood@hf-law.com. Chris focuses his practice on intellectual property, employment law and entertainment matters.