

Social Media

by Kim Magyar

Here is our list of the Top 10 employment law issues to keep in mind when using social networking sites or advising clients about them.

- 10.** Social media and networking sites blur the line between an individual's professional and private life. Use caution when posting social or personal information online and limit access to this information when possible. Remember that information posted, even if deleted later, often remains accessible.
- 9.** Quit pretending that social networking is not occurring in your workplace. It is. One recent study found that 55% of employees admitted visiting a social networking site at least once a week. Twenty-one percent admitted doing so during work hours.
- 8.** Rather than fearing social media and networking, use it to your company's or your client's advantage. Social media is a new frontier for marketing and business development. Another recent study found that 34% of individuals believe that companies should have a presence in the social media environment.
- 7.** Consider using social networking sites to vet job applicants. Be wary of what you learn, however, as it is impossible to "unlearn" such information. For example, knowledge of an applicant's race, age or marital status may come back to haunt you later in a claim alleging discrimination in hiring.
- 6.** Be aware of state "lifestyle" discrimination statutes that may prohibit discrimination based upon lawful, off-duty conduct.
- 5.** If an hourly, non-exempt employee's job duties require him or her to Tweet® or post updates on blogs or other social media sites, ensure that the employee is being paid for all time worked in compliance with both federal and state law.
- 4.** Confidential and proprietary information, including trade secrets, can be easily and quickly disseminated through social media. Police social media sites regularly and ensure that your employment policies and agreements adequately protect your company's most valuable intellectual property.
- 3.** Be mindful of the National Labor Relations Act, regardless of whether your workforce is unionized. A broad confidentiality policy, for example, may be found to unlawfully restrict an employee's lawful discussion of wages and other terms and conditions of employment.
- 2.** Employees may have common law or statutory privacy rights to the information sent, accessed or stored within his or her computer. Ensure that your company's policies clearly remove any reasonable expectation of privacy.
- 1.** Contact a labor and employment attorney and implement a comprehensive social networking policy to address social networking use by employees. And remember, even once implemented, a policy is only as good as its enforcement.



Kim Magyar is an attorney with Farhang & Medcoff P.L.L.C. Her practice is concentrated in alternative dispute resolution, labor and employment litigation and product liability defense. Kim received her B.S. in Political Science and Behavioral Science and Law from the University of Wisconsin. She then went on to earn her juris doctor from Marquette University Law School, where she graduated on the Dean's list.

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