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# Tweeting and Friending and Following... Oh, My!

(and Other Scary Things on the World Wide Web)

by Rob Tyson

The Law Firm Management Committee seeks to provide meaningful input to law firms across South Carolina. In today's society, law firms have been challenged with a variety of issues, ranging from personnel issues to technology. This article addresses potential issues raised by a firm's or a firm's employees' use of social media.

Have you ever walked down the hall and seen your fellow employees on Facebook? What about LinkedIn or some other form of social media? Obviously, in today's world, not only are our fellow workers participating in social media, but also our clients, friends, and opposing counsel are communicating via alternative media modes. Has your firm thought about the implications of an employee spending too much time on one of these social media sites? What about the potential for an employee to discuss confidential information via Facebook? If the firm has not, then the time is ripe to think about implementing a policy or guidelines concerning social media.

As we all know, with today's technology, any and all things written on the Web can be traced back to the writer very easily. Given that, our firms should educate by providing information on the perils of the Internet. Furthermore, the line between our work life and personal life seems to be more blurred today. Given the code of ethics with which lawyers must comply, there must be an attempt to distinguish these two lives such that a potential breach of an ethics rule is minimized.

As a firm considers a social media policy, these following items should be analyzed. First and foremost is to include language in the policy not to post any confidential or proprietary information concerning the law firm or its clients. Also, the policy should prohibit any statements or materials that are defamatory, mean-spirited, detrimental to the firm, or inappropriate. Given the potential to copy other sources of information, the policy should state that any post referencing an online site should include a link to the original story or post. Also, the policy should warn a lawyer or employee about over-promoting his or her self. Recommendations or testimonials should not be allowed because they could potentially violate the ethics rules. Furthermore, this policy should prohibit lawyers or employees from appearing to offer legal advice.

Addressing related concerns, the law firm should include a provision stating that the Internet is not necessarily anonymous nor does it allow an author to "take back" the material he just posted. A policy should be clear about setting parameters; however, it should be flexible such that one can make decisions about whether certain uses of social media stay between the two goal posts.

Since confidentiality is paramount in an attorney/client relationship, it is essential for firms to educate attorneys and employees about the pitfalls of



releasing confidential or proprietary information. Since Tweeting, updating one's status or writing on one's wall has become so commonplace, there is the potential for someone unintentionally to write or disclose confidential information. Clearly, this poses potential hazards for the law firm. Further, the informality and casual nature of Facebook and Twitter should raise a red flag. Since it is easy for us to think of these posts as only going to a few friends or acquaintances, we lose sight of the high ethical standards by which we must abide. As you can see, a law firm should think about implementing policies to potentially prevent these mishaps. Having a policy will ensure that your firm comprehends the potential risks of social media. For additional information, interestingly enough, the Web, along with law firm consultants have a wealth of information concerning these policies.