

Does Your Firm Have a Social Networking Policy?

By *Diana L. Martin and Christopher B. Hopkins*

Without a doubt, there is someone at every firm that uses a social networking site, like Facebook or MySpace, or a professional networking site, like LinkedIn or Legal OnRamp. In fact, the majority of a firm's employees probably use several of these sites. And that number is only going to grow. So it makes sense that every firm should have a policy regarding the use of social and professional networking sites.

Blocking the access of networking sites from the office is not an effective firm policy. Not only is limiting employees' internet access likely to be unreliable at preventing use of these sites during the workday (they can be easily accessed on most cell phones), but it fails to deal with the reality that employees are using these sites outside of the office and associating themselves with their firms when doing so. Furthermore, a firm that blocks these sites is placing a limitation on the ability of their employees to communicate with their networks of contacts. Keeping these lines of communication open may be critical to developing a strong legal practice. The use of social networking by attorneys can amount to free publicity for law firms (Facebook is growing by 600,000 users a day—imagine the possibilities) as well as collaboration and the exchange of ideas with colleagues. Thus, rather than trying to prevent the inevitable use of social and professional networking sites at the office, firms should develop policies that create standards for the use of social networking and establish guidelines for use both within and outside the office.

Jaffe Associates includes two provisions in its social media policy to deal with internal and external use of social networking sites. The internal use clause reads:

You are responsible for what you post. You are personally responsible for any of your online activity conducted with a firm e-mail address, and/or which can be traced back to the firm's domain, and/or which uses firm assets. The (FIRM DOMAIN).com address attached to your name implies that you are acting on the firm's behalf. When using a firm e-mail address or firm assets to engage in any social media or professional social networking activity (for example LinkedIn and Legal OnRamp), all actions are public, and attorneys (and staff) will be held fully responsible for any and all said activities.

View online,

<http://www.jaffeassociates.com/uploads/userfiles/file/int0509.pdf>, at 4. The external use clause reads:

Outside the workplace, your rights to privacy and free speech protect online activity conducted on your personal social networks with your personal e-mail address. However, what you publish on such personal online sites should never be attributed to the firm and should not appear to be endorsed by or originated from the firm. If you choose to list your work affiliation on a social network, then you should regard all communication on that network as you would in a professional network. Online lives are ultimately linked, whether or not you choose to mention the firm in your personal online networking activity.

Id. at 4-5. These policies make employees aware that the use of social networking can have an impact on the firm and their employment with the firm.

Lawyers need to be particularly conscientious when using social networking in order to avoid breaching client confidentiality,



violating state bar rules regarding solicitation, or unintentionally creating an attorney-client relationship. Every firm's policy should at least remind lawyers of these potential pitfalls. In addition, firms may want to guard against these pitfalls by prohibiting their attorneys from answering legal questions on social networking sites or making recommendations for legal services. A firm may also decide to require each of its lawyers to post a disclaimer notifying those in the lawyer's social network that the views expressed belong to the lawyer alone and do not represent views of the firm.

Firms should also warn against, and maybe even restrict, the anonymous posting of material on the internet. Using the shield of anonymity often fosters the posting of inappropriate or ill-advised content. And very rarely is anything truly anonymous. Just asked the CEO of Whole Foods whose anonymous postings about his company caused an investigation, and his outing, by the SEC.

Social networking is here to stay and has enormous potential to benefit legal practitioners if used responsibly. Each law firm needs a policy to guide its employees in the acceptable and appropriate use of social networking sites. By setting a policy and encouraging social networking, firms can get some control over the inevitable use of these sites by their employees, in turn getting free publicity in a potentially unlimited market.

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