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## Social Media and the Technology of the Modern Workplace



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Twenty-five years ago, the leading office communications technology consisted of the telephone and fax machine. Neither of these “technological advances” had a dramatic impact on the relationship between the employer and the employee. Today however, through the simple use of a smart phone or company computer, an employee can simultaneously copy and post critical corporate documents for the whole world to see on the Internet, while listening to music and looking at pictures on the same device.

In this techno-savvy world, there are several real threats that companies now face in light of social media technology. “Fishing” is the phenomenon whereby employers use social networking sites to screen job candidates. Employers engaged in fishing should be mindful that the company may be subjected to a discrimination claim if rejected applicants disclose the existence of a protected class status or other types of activity on a social media site. Employers should also be careful about the use of background checks as a screening tool of job candidates. Proper recordkeeping is critical here.

The good news for employers is that in spite of the technological advances, the workplace is still for working. While the technological advances of the internet age have implicated possible productivity and privacy issues for employees, there are other potential hazards that employers must be on the lookout for. Companies should ensure that its customer list and other proprietary information is protected from casual access by its employees. Although it is more difficult to control, companies must also monitor statements made by its employees that may implicate unfair competition and false advertising issues. This is especially so with reference to employees that blog.

Additionally, because of the ability of employees to “interact” with one another, employers must be on the lookout for evidence of hostile environment issues and/or discrimination issues that may arise within the context of social media or technology in general.



In response to these rapidly growing technological advances, the question becomes — what’s an employer to do? Each company must assess the benefit allowing its employees to access social media sites in the workplace, while evaluating the risk. After consulting with competent counsel regarding this risk benefits analysis, a company may decide to adopt a social media policy. The policy should be comprehensive and clearly communicated to the company’s employees and specify the types of activities that are prohibited, as well as detail the scope of monitoring.

As with any type of employment-based policy, it should be consistently and fairly enforced. Companies may want to consider requiring employees to use the company name or products in blogs only after receiving permission from the company to do so. The policy should also address the protection of proprietary company information, including any trade secrets, customer lists or copyrights. The company image should generally be protected and should require advance approval before it is used by employees.

Twenty-five years of technological expansion certainly does make a difference to companies grappling with social media technology in the modern workplace. That being said, with proper planning, prudent policy adoption and implementation, employers can be prepared for the 21st century workplace where employees are often active users of social media technologies while they are at work. **AT**