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From Our Blog....

Social Media and Divorce Interview

Posted on April 21, 2011 by [Michelle O'Neil](#)



I was fortunate to be interviewed yesterday by [Doug Currin of KCEN-TV](#) out of Waco, Texas. We discussed the growing trend of using social media in divorce litigation. I told him of several instances where we've used social media.

One involved a man who tried to misrepresent his income for child support purposes. We used his Linked-In profile to show his employment history.

Another situation involved a "dad" who tried to sue for custody but had not been active in the child's life before the suit. We used his MySpace profile to show the absence of entries or information about his child to show his lack of interest. Instead, his MySpace profile focused on getting dates

with women. Priorities!

I told Doug of another situation where we used a computer forensic expert to find hidden documents in the family computer showing undisclosed bank accounts of the marriage.

Text messaging is becoming the way people communicate these days. In divorce litigation, sometimes getting text messages in a useable format for a court hearing can be challenging. I told Doug of using the iPhone's screen shot capabilities for capturing images of text messages off the screen. We also discussed sending a cell phone to a computer forensic expert for analysis.

In giving advice to people regarding social media, I reminded Doug that people should be careful of what you post in the public media. The picture of you partying today may be the evidence in your custody case tomorrow.

Also people need to be aware of the legal restrictions on accessing a computer that you don't have permission to access. For example, a Wife suspects foul play by Husband, so she gets up in the middle of the night and gets on Husband's business computer. She doesn't know the password, so she guesses at possible passwords until she lucks on to the right one. On his computer, she discovers emails talking about an affair with a co-worker and documents showing a hidden bank account where he pays for his tryst. She is computer savvy so she installs spyware on his computer that will send her emails about what he's doing on the computer. Big Billboard -- None of this is legal. There is [a guy in Austin](#) who is being prosecuted for doing this type of thing. It is a violation of the law to access a computer that you don't have permission to be on. It is a violation of the law to access a person's email that you don't have permission to be on. It is a violation of the law to install spyware on a person's computer that intercepts electronic transmissions that you don't have permission to see.



The best plan is to have an expert in computer forensics help do an investigation. Don't try to be your own investigator!

The interview should air in mid-May. Thanks Doug!

How Can You Control Your Legal Costs?

By Kathleen Aldridge and Nancy Jane Bullis, LL.B.

Accept that you may not have the control you would like to have over the legal costs. If your spouse is unwilling to negotiate a settlement and wants to drag matters over a period of time or through to trial, the legal costs will escalate. Sometimes one or both spouses start out not fully comprehending the stress and high costs that are involved in fighting it out in the litigation process. Months later they may come to the realization that it is better to work out a settlement to end the "emotional and financial bleed" and get on with their lives. Sometimes one or both spouses are so angry that they will do everything possible to drag matters out just to have their "day in court." Then they realize only too late that putting their lives in the hands of the court is anything but empowering. The court may make decisions that neither of them desires. Taking the things that you cannot control into account, you can do some things to make your time with your lawyer more cost effective and control your legal costs to some extent.

- Gather, photocopy, and organize all of your personal and family financial documents and records. This includes your personal income tax returns and any and every document you can find that relates to your family finances, such as cancelled checks, records of investments, loan agreements, bank account statements, insurance policies, real estate documents, RRSPs, and the like. If

you have a marriage agreement, a domestic contract, or any other agreement, your lawyer will also require these documents.

- Calculate all of your current overheads. If you haven't been keeping records of your expenses before, start writing down everything that you spend money on—groceries, gas, utilities, child care, your children's haircuts, your children's extra-curricular activities, your children's medications. Keep a record of everything that you spend to support yourself and your children on a daily, weekly, and monthly basis.
- If you have friends who have been through this process and can give you practical advice, listen and consider their input. Although each situation is unique, learning from the experiences of others can help you focus on the specific matters that you will need to discuss with your lawyer.
- Plan your telephone and face to face meetings with your lawyer. Write down your questions before you talk or meet. When your lawyer gives you advice, take notes so that you have the information you need to make the best decisions for you and your children.
- If your lawyer calls you but your children are in the room, or for some other reason you do not feel you can concentrate on the matters at hand, ask for a time that would be convenient for you to return the call. Call back when you are feeling calm and prepared and assured of privacy.
- Do not use your lawyer's billable time to talk about your emotional situation.
- Do not have your lawyer do all the legwork if there are matters you can handle.

Make the calls, pick up the documents, and do whatever you can to gather any information or documents that your lawyer requires. But of course you also need to consider the trade-off of the cost of your time versus the cost of your lawyer or his or her assistants doing this work.

- Ask your lawyer directly if there is anything that you can personally do to keep the costs down.

DO NOT LOOK TO YOUR LAWYER FOR EMOTIONAL SUPPORT. HE OR SHE IS THERE TO REPRESENT YOU IN LEGAL MATTERS. IT'S SIMPLY TOO EXPENSIVE TO INVOLVE YOUR LAWYER IN THE EMOTIONAL ASPECTS OF YOUR MARRIAGE BREAKDOWN.

In matters of property division, you may have to provide records to determine any worth that is separate from the family property or you may have had prior to the marriage. If you had a marriage contract, these matters may be dealt with there. If not, you will need to provide the appropriate documentation. If you owned property or

had investments such as an RRSP prior to your marriage, do you have valuations as at the date of the marriage? If you do not have the records to substantiate property or investments you believe should not be considered in the division of the matrimonial property, can your financial advisor, present or former employer or banker provide information that would substantiate your claim? There are professionals who do forensic valuations of property but these services will add costs to the bottom line of your separation or divorce.

This article has been edited and excerpted from the Book [To Have and To Hold](#) with permission by McGraw-Hill Ryerson, Copyright ©2010 by Kathleen Aldridge and Nancy Jane Bullis.

Testimonials

"Michelle is a lethal combination of sweet-and-salty. When the situation calls for it, she is genuinely warm and kind, the epitome of the Southern Belle. But when her hackles are up, there is no stopping her! She cannot be out-gunned, out-briefed, or out-lawyered. I have never seen Michelle - all 5 foot 1 of her - be intimidated by anyone, whether they're 30 years her senior, a more prominent lawyer, or, even, sitting in the judge's seat. In short, Michelle is a top-notch litigator - definitely someone I would want on my side if I needed a family lawyer."

~M.M.

Testimonials

"I cannot thank you enough for the outstanding way in which you represented me throughout litigation. You are, without a doubt, one of the finest attorneys I know. I'm so grateful to have had the opportunity to hire you. Thanks again for all that you did for me." G.D. "Thank you, thank you, and more thank you."

~L.D.

O'Neil Attorneys

5420 LBJ Freeway, Suite 500
Dallas, TX 75240
Tel: 972.852.8000
Fax: 972.852.8001

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O'Neil Attorneys | 5420 LBJ Freeway, Suite 500 | Dallas | TX | 75240