

Social Networking Sites in Litigation, or the Status Message of a Lawsuit

Facebook, YouTube and a whole list of other social networking sites are used every second of every day. People are Twittering their lives away online from their BlackBerries like there is no tomorrow. There is no shortage of growing case law with online conduct leading to civil or criminal litigation. Here are several recent examples:

Sentence Enhancement of Criminal Defendant for MySpace Photos & YouTube Video

A criminal defendant had his sentence enhanced for photos found on his MySpace page and a YouTube video. The Defendant was photographed holding an AK-47 with a loaded clip after he had been convicted of a felony crime of violence. *United States v. Villanueva*, 2009 U.S. App. LEXIS 3852 (11th Cir. Fla. Feb. 25, 2009).

Police Officer Accused of Misconduct over MySpace Profile

A police officer was accused of misconduct after he posted information on his MySpace profile regarding the arrest of John Michael Montgomery. *Cromer v. Lexington-Fayette Urban County Gov't*, 2008 U.S. Dist. LEXIS 65374 (E.D. Ky. Aug. 25, 2008).

Students Suspended from Private Religious School for Online Statements

Two female students were suspended from a private Lutheran school for posted statements on their MySpace pages about their sexual orientations and a relationship between the youth. *Doe v. California Lutheran High School Assn.*, 170 Cal. App. 4th 828, 833 (Cal. App. 4th Dist. 2009).

School Administrator Sued for Discrimination

A middle school administrator was sued for multiple discrimination claims. Some of the evidence included Facebook groups entitled "Everyone Hates [WW]" and "I Love Watching Fights at School." Threats were made on the groups and the youth was assaulted shortly after the online threats. *Wolfe v. Fayetteville*, 2009 U.S. Dist. LEXIS 15182 (W.D. Ark. Feb. 26, 2009).

There are many positive attributes from social networking, building business and sharing information. However, there are those who take actions online that can lead to litigation, cause pain or unintended humiliation.

A lawyer's duty of competency may require them to ask their clients about any social networking profiles the client maintains. Whether or not there is anything relevant about those profiles would completely depend on the case.

There are situations where a party seeking social networking sites in discovery would be harassment and oppressive. For example, it is hard to imagine in a breach of contract case where a social networking profile would be relevant. Conversely, a disability case may be justified to seek photos from a social profile regarding a Plaintiff's activities.

Whether something from a social networking site is relevant will depend on the case. Needless to say, there is no shortage of examples from case law with Facebook, MySpace, YouTube and other social networking services being offered as evidence.