

Why Julia Allison, Blogging and Social Networking Will Change e-Discovery

It started with JenniCam when I was in college: People crying for attention and utilizing technology to express themselves with a cultish following.¹ Julia Allison has taken this to a new level of Internet self-promotion that highlights a strange effect on litigation.

For those not familiar with her, Julia Allison is one of those self-created “famous” people from the blogosphere. Ms. Allison’s claim to fame is maintaining several websites and documenting her life for all to see. Posting photos of herself with people such as Henry Kissinger, Richard Branson and publicity stunts only keeps people checking in for more.²

While Julia has not done anything causing civil or criminal liability, people seeking attention to become “famous” or expressing themselves online may end up in legal trouble.

There are many cases out there highlighting how online activity is landing people in litigation. One such instance was a mother finding herself in a copyright infringement and Anti-SLAPP suit after posting a video of her toddler dancing to the song “Let’s Go Crazy.”³

People blogging about their jobs and social lives has also ended careers. In one case, a flight attendant posted photos of herself on her blog in suggestive poses on a company plane. The airline fired her for inappropriate conduct.⁴

There is a growing area of case law of student expulsions for YouTube videos and blogging. In one case, a high school senior was suspended for a YouTube video. The student shot the video footage shot in class when the teacher was not looking. The postproduction work of the footage included a musical score and other effects. After a local TV station found the video on YouTube, the school was contacted. The student’s conduct fell within the school’s sexual harassment policy for secretly recording the teacher and he was suspended for the YouTube video.⁵

Whether it is Julia Allison documenting what party she went to, artists posting their work for self-marketing or people seeking attention on social networking sites, they may cross the line and document activity that constitutes some legal jeopardy. At a minimum, it might show just plain bad judgment.

Blogs, Social Networking sites and YouTube are not a passing fad. The impact of Web 2.0 is something all practicing attorneys must now contemplate in litigation. Lawyers must consider whether their clients or opponents are a “Julia Allison” when it comes to discovery strategy. Interrogatories should include a request for a party to identify all their blogs. Requests for production could include all drafts of a blog prior to posting. Depositions could find court reporters questioning how to mark YouTube or Facebook exhibits. These issues cannot be ignored by any attorneys in the competent representation of their clients.

¹ <http://en.wikipedia.org/wiki/JenniCam>

² See, Jason Tanz, “Julia Allison and the Secrets of Self- Promotion,” Wired, August 2008 or Julia Allison’s websites, www.xojulia.com or www.juliaallison.com

³ *Lenz v. Universal Music Corp*, 2008 U.S. Dist. LEXIS 44549

⁴ The Issue: A Blog, a Flight Attendant, and a Firing,
http://www.businessweek.com/managing/content/jul2008/ca20080715_178680.htm
Last Visited on August 1, 2008

⁵ *Requa v. Kent Sch.* Dist. No. 415, 492 F. Supp. 2d 1272