

Social Media Policy

Planning for Success

Panelists



- Julia Montgomery, Technology Projects Manager, Arent Fox LLP
- Karen M. Sheehan, Head of PLC Law Department at Practical Law Company, Inc.
- V. Mary Abraham, Counsel, Debevoise & Plimpton LLP (Moderator)

Agenda

- The basics of preparing a social media policy
- Fitting policy to people
- Key issues you should consider
- How to create an outline of a policy for your firm
- Focus on education

Disclaimer

This session isn't intended to provide legal advice. Please consult with lawyer familiar with these issues before taking action.

The Ingredients of a Good Policy

- Involve a Cross-Disciplinary drafting team
 - Ethics and Professional Responsibility
 - IT
 - HR
 - Marketing
 - Someone experienced with social media
- Focus on the right people
- Address the critical issues
- Provide lots of education

Who Are the Right People?

- The Experienced Lawyer
- The Junior Lawyer
- The Marketing Maven
- The Grandmotherly Secretary

The Experienced Lawyer

- Judy has been practicing law for 30+ years
- She works primarily in Outlook and Word, and doesn't have much time for other tools
- She is an expert in her practice area and has been asked to create a legal blog.
- Judy is dubious.



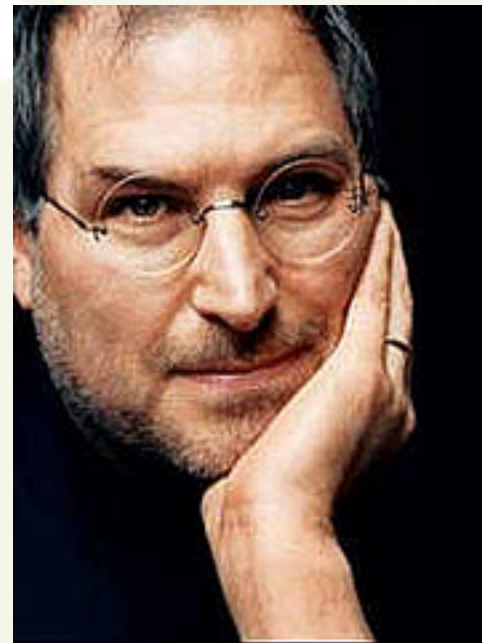
The Junior Lawyer

- Chris has been out of law school for two years
- Because of his long work hours, he finds ways to stay in touch with his friends all day
- He doesn't go anywhere without his iPhone
- Chris has few expectations of privacy



The Marketing Maven

- Steve totally gets social media
- His has a flair for marketing
- He'd like his firm to do more cutting edge things
- He's been tweeting for the firm



The Legal Secretary

- Phyllis isn't sure she understands social media
- She thinks texting is a little anti-social. What's wrong with the phone?
- She loves to use Facebook to stay in touch with friends and family



General Guidelines

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- "With great power comes great responsibility"
- These are new ways to break old rules (well, maybe there are a few new rules, too)
- Flickr and YouTube and Facebook...oh my!
- "Nobody leaves this place without singin' the blues"
- The cheese does not stand alone
- One policy to rule them all

Example: Harvard University

"As a general matter, you may post content freely to your blog and to those of others, so long as the content is not illegal, obscene, defamatory, threatening, infringing of intellectual property rights, invasive of privacy or otherwise injurious or objectionable."

Example: CNN

"UNLESS GIVEN PERMISSION BY CNN MANAGEMENT, CNN EMPLOYEES ARE TO AVOID TAKING PUBLIC POSITIONS ON THE ISSUES AND PEOPLE AND ORGANIZATIONS ON WHICH WE REPORT."

The best rule of thumb is, keep in mind whether what you are doing or saying is 'in public.' In most cases, what you write online is public or can be made public .

"We appreciate that everyone has a life outside work and we encourage all of our employees to get involved with the issues that are important within their communities. That said, you need to avoid any appearance of bias or partiality. It's just one of the responsibilities associated with working for a news organization."

Example: Ford

1. Be honest about who you are
2. Make it clear that the views expressed are yours
3. You speak for yourself, but your actions represent those of Ford Motor Company
4. Use common sense
5. Play nice
6. The Internet is a public space
7. The Internet remembers (i.e., "What happens in Vegas...stays on Google.")
8. An official response may be needed
9. Respect the privacy of offline conversations
10. Same rules and laws apply: new medium, no surprise
11. When in doubt, ask

Confidentiality, Privacy & Transparency

Confidentiality & Privacy

- Client confidentiality
- Employee privacy
- Use of the firm name, logo & brand
- “Associating” yourself with the firm
- Boilerplate disclaimer
- The end of “anonymous” and the death of “delete”

Example: LA Times



"Assume that your professional life and your personal life will merge online regardless of your care in separating them. Be aware of inadvertent disclosures or the perception of disclosures. For example, consider that "friending" a professional contact may publicly identify that person as one of your sources.

Using social media sites means that you (and the content you exchange) are subject to their terms of service. This can have legal implications, including the possibility that your interactions could be subject to a third-party subpoena. The social media network has access to and control over everything you have disclosed to or on that site. For instance, any information might be turned over to law enforcement without your consent or even your knowledge."

Example: Microsoft



"As a general rule, Microsoft does not review, edit, censor, or, obviously, endorse individual posts. You should “be smart” and, as an employee of the company, you should not only think about how your blog reflects on you as an individual, but also about how your blog affects Microsoft as a whole. How would it look on Slashdot or on the front page of the New York Times? What would your manager or VP think? If you’re posting about another team’s product, what would they and their management think? Could a customer or partner make a wrong decision based on your posting? What would a competitor do with your posting? Using your public blog to gratuitously trash Microsoft, our products, partners or competitors reflects poorly on all of us."

Obey the Law

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- a. Harassment / Defamation
- b. Invasion of Privacy
- c. Discrimination
- d. Infringement of Intellectual Property Rights
- e. Breach of Contract
- f. Breach of Terms of Use / Terms of Service
- g. Securities Laws Violations
- h. Other Regulated Industries

Example:

"Social Media must never be used in a way that violates any local, state or federal law or regulation. Activity that would be unlawful in any other forum may also be unlawful when conducted online."

Attorneys have (SM) Issues

Legal Ethics & SM

- Is it attorney advertising?
 - Client testimonials & recommendations on sites like AVVO or LinkedIn
 - Specialist issue on LinkedIn profiles
- Third-party interactions & ex parte communications
 - Witnesses
 - Judges

Legal Ethics & SM

- Trying your case in the press
 - Patent Tracker Blog
 - Wikipedia
- Professionalism & Character Issues
- Criticizing the Judiciary

Human Resources Concerns

HR Concerns

- Harassment
- Discrimination
- Privacy
- Breach of Confidentiality Obligations
- Referrals / Recommendations
- Transparency

Education is Essential

- A policy that isn't accompanied by education will be hard to enforce.
- Be sure the employees of your firm understand the opportunities and dangers of social media.

Additional Resources



On your thumb drive and on the Conference web site, you'll find:

- Sample Law Firm Policies
- Materials from the PLC Social Media Toolkit
- A List of Online Resources

Credits:

- Judy by Susan Roberts
<http://www.flickr.com/photos/artarama/859569298/>
- Junior Lawyer by Kate Gardiner
[http://farm4.static.flickr.com/3525/3929554499_b8740e95af.j
pg](http://farm4.static.flickr.com/3525/3929554499_b8740e95af.jpg)
- Fake Steve Jobs by insidetwit
<http://www.flickr.com/photos/insidetwit/2026190200/>
- Secretary by Anne Bowerman
<http://www.flickr.com/photos/anniebee/92853447/>