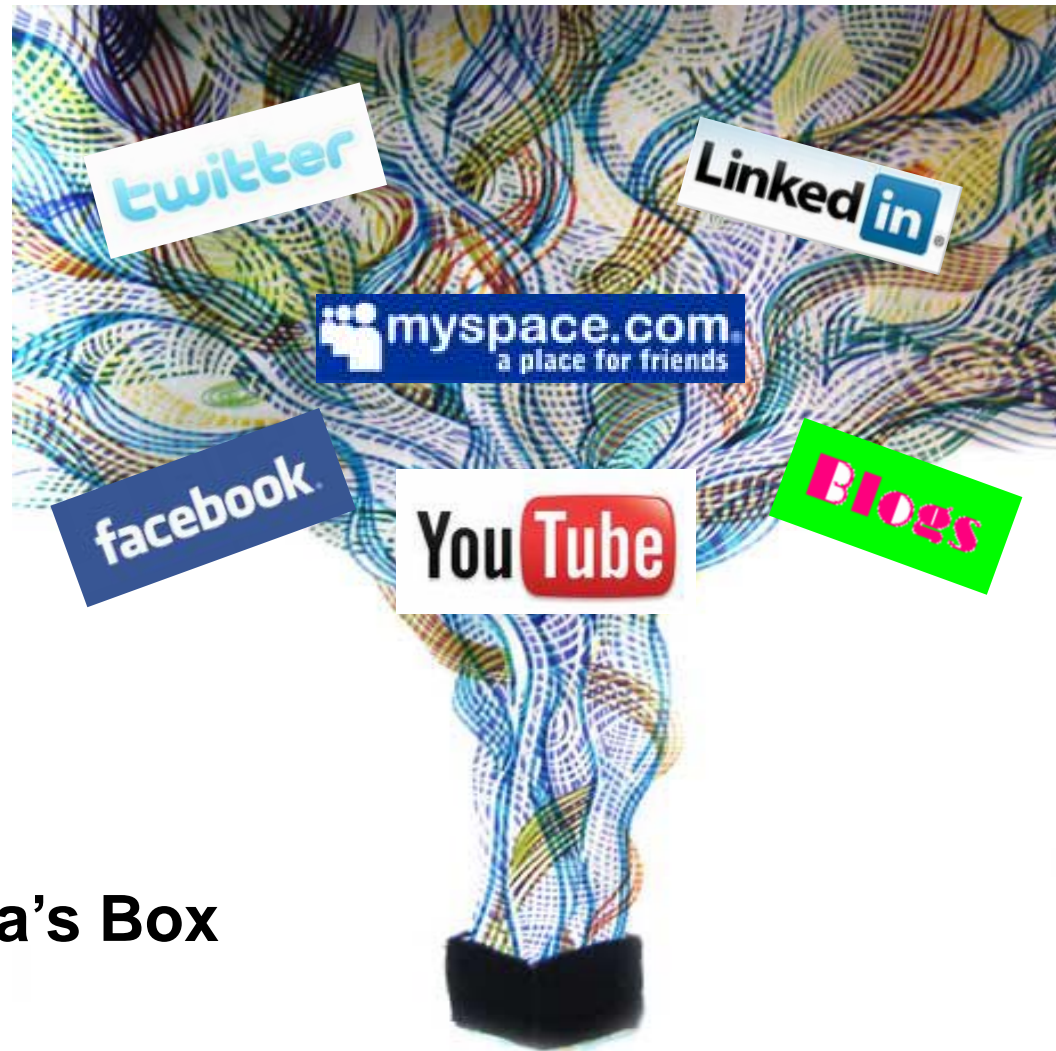


TOP TEN SOCIAL MEDIA TIPS FOR THE WORKPLACE

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I . ACKNOWLEDGE THE IMPACT OF SOCIAL MEDIA



Pandora's Box

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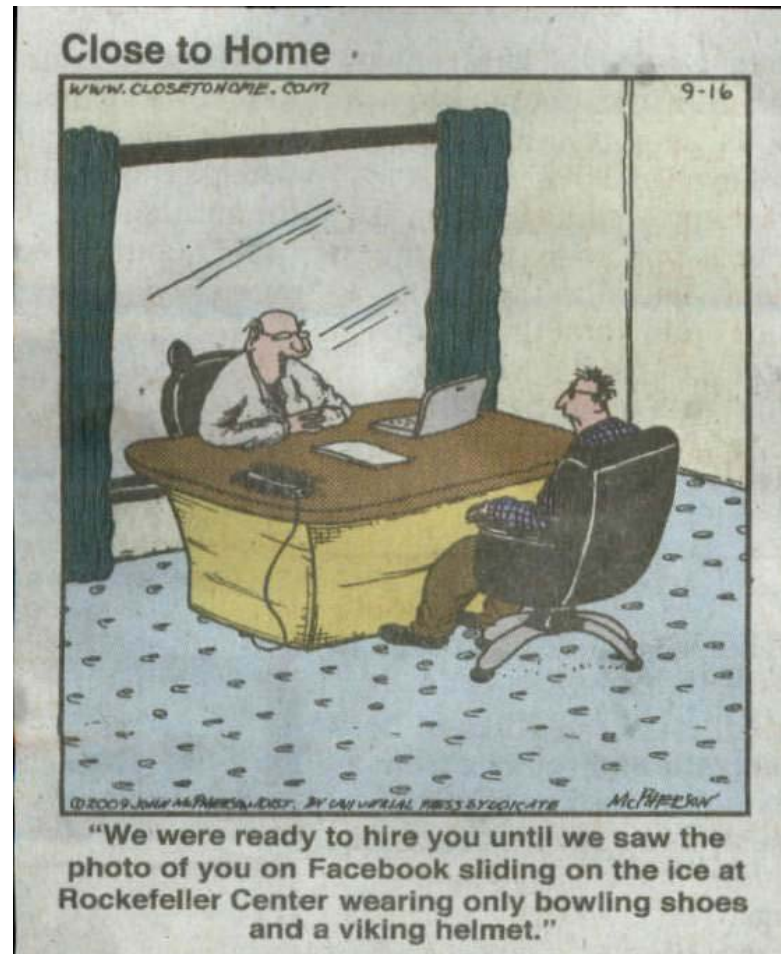
**“If a tree falls in the forest, but you don’t
hear about it on Facebook, MySpace,
YouTube or Twitter, did it really happen?”**

2. KNOW YOUR ENEMY (OR YOUR FRIEND)

POPULAR NETWORKING SITES

| | | |
|--------------|------------------------|--------------------------------------|
| MySpace.com | | Social Network |
| | Over 110 million users | |
| Facebook.com | | Social Network |
| | Over 600 million users | |
| LinkedIn.com | | Professional Network |
| | Over 100 million users | |
| Twitter.com | | 140 Character Updates |
| | Over 200 million users | |
| Blogs | | Chit-Chat about Whatever You Want |

3. USE IT TO YOUR ADVANTAGE: SCREENING AND MONITORING APPLICANTS AND EMPLOYEES



SCREENING AND MONITORING APPLICANTS AND EMPLOYEES

- Recent survey – 45% of 2600 hiring managers research applicants through social media:
 - 35% found “eyebrow raising” content
 - 53% cited inappropriate photos or info as reason not to hire
 - 44% drinking/drugs was reason not to hire
 - 35% bad-mouthing previous employer was reason not to hire

SCREENING AND MONITORING APPLICANTS AND EMPLOYEES

Stored Communications Act,

18 U.S.C. § 2701-11

- Prohibits intentionally accessing stored communications without authorization or in excess of authorization

4. PROTECT YOUR CONFIDENTIAL INFORMATION



MICHELLE WILLIAMS/Birmingham News

Georgia defensive lineman **Jeff Owens** is the object of attention at SEC Media Days in Birmingham in July as he records members of the media taping him. Owens has continued to be an attention-getter during the season, too, but not necessarily for what he's done on the field — he has posted nearly 1,500 times on his Twitter account.

TRICK OR TWEET?

Coaches, players deal with emerging media

CONFIDENTIALITY:

WHAT HAPPENS IN VEGAS . . .

NFL BANS PLAYERS FROM TWITTER ON GAME DAYS

- Confidential Information
- Trade Secrets
- Proprietary Information
- Info Your Competitors Would Love To Know
- Protected Information: HIPAA, Attorney/Client, CPA Privilege
- Info Regarding Customers, Clients, Managers

5. AVOID HARASSMENT CLAIMS

The image shows a screenshot of a Facebook profile page for Christopher Cox. The page layout includes a top navigation bar with the Facebook logo, links for Home, Profile, Friends, and an Inbox with 46 notifications. The user's name, Christopher Cox, and links for Settings and Logout are also present, along with a search bar. Below the navigation bar, a welcome message reads "Welcome, Christopher. You have 1 friend request and 3 other requests." The main content area features a "What's on your mind?" post creation box with a "Share" button and options for "Post Link", "Add Photos", "Add Video", and "Write Note". Below this, a post from Ezra Callahan is visible, stating "Ezra Callahan is stuffed" with a timestamp of 7:15pm and options to "Comment" or "Like". Another post from Augustin Bralley to Mary Beth Cox says "Hello, Mary Beth! Just sendin the loove!!" with a timestamp of 9:17pm and a "See Wall-to-Wall" link. A section for "The New York Times" features three images of a crowd, with the caption "U.S.: Obama's Speech to Congress". On the left sidebar, there are navigation options for News Feed, Family, Closest Friends, Facebook, San Francisco, Stanford, Product, and Applications (Photos, Video, Notes, Links). The right sidebar contains a "TODAY" section with a birthday notification for Brett Erlich, a "HIGHLIGHTS" section with a photo of Reynolds, a sponsored "Connect With More Friends" advertisement, a "Mobile Uploads" photo, a "Internationalization" video, and a "free crap" note.

HARASSMENT

- Unwelcome comments, messages, etc. by co-workers
- Cyber-bullying by co-workers

Blakely v. Continental Airlines – N.J.

- Derogatory comments about employee posted on company's on-line bulletin board can expose company to harassment claim

Nackelprong v. Fidelity National

- Employer attempt to subpoena harassment plaintiff's MySpace postings to show she was willing participant in alleged offensive conduct

6. BEWARE OF INVASION OF PRIVACY CLAIMS

1. Wrongful intrusion upon the plaintiff's physical solitude or seclusion
2. Publicity which violates ordinary decencies
3. Putting the plaintiff in a false but not necessarily defamatory position
4. Appropriation of some element of plaintiff's personality for commercial use

7. DON'T LET THE FEDS COME KNOCKING

NATIONAL LABOR RELATIONS ACT

Section 7

Employees shall have the right to...Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Section 8

It shall be an unfair labor practice for an employer to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 7.

NATIONAL LABOR RELATIONS ACT

- Violation: Criticizing supervisor, complaining about wages, complaining about work load and staffing.
- Not Violation: Criticizing community and competition

8. USE CAUTION IN DISCIPLINING EMPLOYEE MISUSE OF SOCIAL MEDIA

LEGAL TRAPS

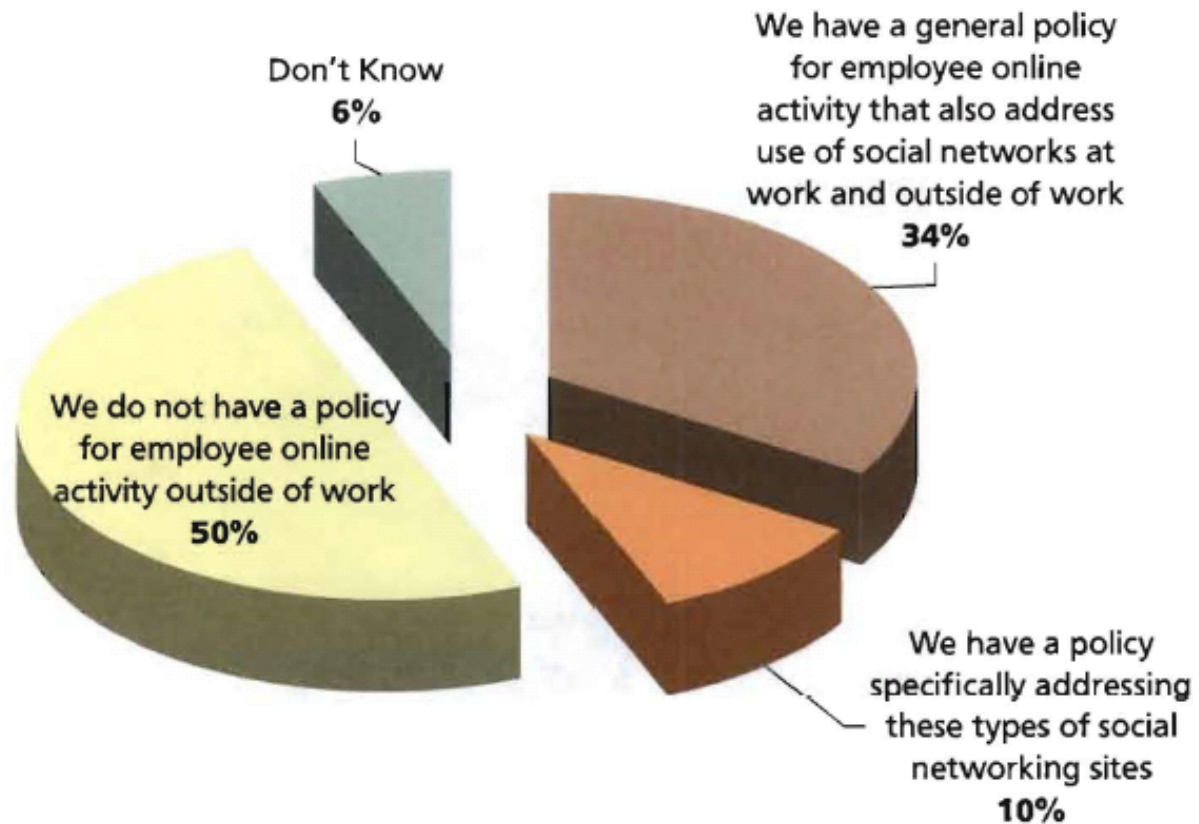
- Discrimination claims for inconsistent treatment
- Retaliation claims if posting involved complaints about violations of employment laws
- NLRA claim for interference with concerted activity for mutual aid and protection in communications regarding wages, hours and working conditions
- First amendment claim if ER is a public employer
- Beware of State Statutory Off-Duty Protection (Not Alabama)

DISCIPLINE

- SAFE AREAS
 - BREACH OF CONFIDENTIALITY
 - HARASSING CONDUCT
- DANGER AREA
 - CRITICAL BUT NOT DEFAMATORY COMMENTS

9. PROTECT YOUR BUSINESS WITH A GOOD POLICY

Does your company have policies specifically addressing employee use of Facebook, Twitter, LinkedIn and other social networking sites?



SOCIAL MEDIA POLICIES

- Tailor policy to your business and corporate culture
- Balance business/marketing need for access to social media against lost productivity and legal liability
- Options
 - Totally prohibit accessing social media at work
 - Limit access to those who have a business need i.e., H.R. or marketing
 - Allow access upon request if legitimate business reason

SOCIAL MEDIA POLICIES

- Other Considerations:
 - Prohibit disclosure of trade secrets and company confidential information
 - Prohibit disclosure of client, customer, and co-employee names without express permission
 - Prohibit use of employer logos or trademarks without express permission
 - Prohibit offensive or harassing communications
 - Prohibit libel and disparagement of company

I O. KNOW HOW TO USE IT PRACTICE WHAT YOU PREACH

Be careful what you post

Fisher v. Dept. of Veterans Affairs – Mich.

- Supervisor’s comment that he was happy to see younger workers because “they know Facebook” offered as evidence of age harassment

Derrick v. Metro Gov’t of Nashville

- Plaintiff offers supervisor’s comments on blog-site “what is wrong with women”, etc. as evidence of retaliatory animus

Kelly Service, Inc. v. Margullo – Mich.

- Company discovered former employee in violation of non-compete agreement through his linked-in profile detailing his current employment and duties

THE TWITTER TYPO THAT EXPOSED ANTHONY WEINER

NEW YORK POST

Updated:
wed., Jun. 1, 2011,
4:58 PM



First posted: 06/07/11 02:49 PM ET Updated: 6/8/11 11:38 AM ET

**Rep. Anthony Weiner says he 'can't say with certitude'
whether Twitter pic was of his crotch.**

Last Updated: 4:58 PM, June 1, 2011

Posted: 2:25 PM, June 1, 2011

U.S. Rep. Weiner's Twitter Exposure Shows Risk of Risque'
Social Networking

BEHAVE

What happens today
is on Facebook
tomorrow!