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# Remember when ...

If you went on vacation you had to call into the office for your messages?

The fastest, and sometimes only,  
way to reach someone was by  
phone.

If you wanted to work, you went  
to the office.

If you needed information, you  
looked in a book!

# Consider This ...

<http://www.youtube.com/watch?v=NhPgUcjGQAw>



# Statistics

- 96% of Generation Y's will have joined a network by the end of this year.
- Facebook added one hundred million users in less than 9 months.
- If Facebook were a country, it would be the 4<sup>th</sup> largest country in the world.
- 80% of Twitter is on mobile devices.

# More statistics

- The three major TV networks get 10 million unique viewers per month.
- MySpace, YouTube and Facebook get 250 million unique viewers per month.
- The average teen sends 2,272 texts per month.

# Popular Social Networking Sites

The Facebook logo, consisting of the word "facebook" in a white, lowercase, sans-serif font with a registered trademark symbol, set against a dark blue rectangular background.

- Started in 2004 as a social networking site for Harvard alum
- Today:
  - Over 400 million active users
  - 70% outside U.S.
  - 200 million users log in on any given day
  - Users spend over 500 billion minutes per month on Facebook
  - Average user has 130 friends

**Dickie** **McCamey**

ATTORNEYS AT LAW



- Professional network
- Mission: “to connect the world’s professionals to make them more productive and successful”
- 65 million users in over 200 countries
- 50% outside of U.S.
- New member joins every second

# twitter

- What's happening?
- Over 105 million users
- 300,000 new users sign up each day
- 60% outside U.S.
- 600 million searches on Twitter each day
- Last year Twitter posted a 1,382% growth



What's happening?

140

Tweet

### Home



### What to do now:

1. Tell us what **you're** doing in the box above
2. Find some **friends** and follow what **they're** doing
3. Turn on your **mobile phone** to update your friends on the go

#### Hype-Machine

*n.* a way to discover the most popular songs on Twitter.

#### Home

Search



#### Lists

Lists are timelines you build yourself, consisting of friends, family, co-workers, sports teams, you name it.

[New list](#)

Trending: Worldwide

[Change](#)

[#nowplaying](#)

//twitter.com/

avorites Tools Help

ter / Home

twitter

Home Profile Fin

What's happening?

140

**I am listening to a fascinating presentation on social networking.**

Tweet

Home



//twitter.com/

avorites Tools Help

ter / Home

twitter

Home Profile Fin

What's happening?

140

**I am at this boring presentation about social networking.  
Yawn! At least there's food.**

Tweet

Home



What's happening?

140

**I am giving this presentation about social networking, and I think the audience loves it!**

Tweet

Home

# Other sites

- MySpace.com
  - Social site – find friends and classmates
  - Post picture
  - Seems to be trending downward
- Yammer.com
  - Interoffice communications
  - What are you working on?
- Socialtext.com
  - Interoffice communications
  - Company blogging

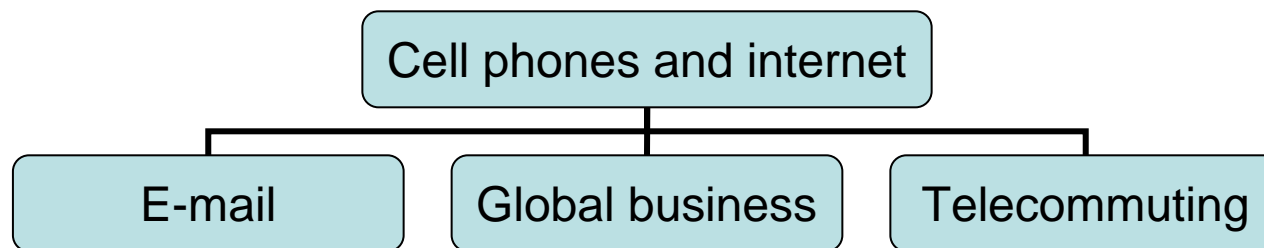


# Useful Adages

- Think before you speak.
- Look before you leap.
- Pause before you tweet.

Consequences  
Consequences  
Consequences

# Changing landscape of technology in the workplace



# What this means for employers

## Pros:

- Infinite business opportunities
- Work days don't end when you leave the office
- Employees are more accessible and possibly more productive

## Cons:

- Wage and hour issues
- Work days don't end when you leave the office
- Less personal contact
- Wasted time on internet

# Social Networks and Hiring

To look or not to look ...  
and when.



# Ways employers are using social networks when hiring

- To recruit
- To research applicants
- Background checks

# Recruiting

- LinkedIn
- Facebook
- MySpace
- Monster.com
  - E Harmony for employers.
  - Uses profiles to match applicants with employers.



# Researching Applicants

Employers need to balance need to know information against negative consequences of learning personal information during the pre-employment screening phase.



# Positive Aspects of On-line Screening

- Limits surprises later
- Helps narrow playing field

*Applicants are becoming savvy and creating private pages for friends and separate pages for business.*

# Negative consequences of using social networks to research applicants

## Paper/On line application

- If properly drafted, discloses little or no personal information that is extraneous to the hiring process

## Social Networks

- At a glance, reveals wide range of extraneous personal information through text and photos

# Social Networks can disclose ...

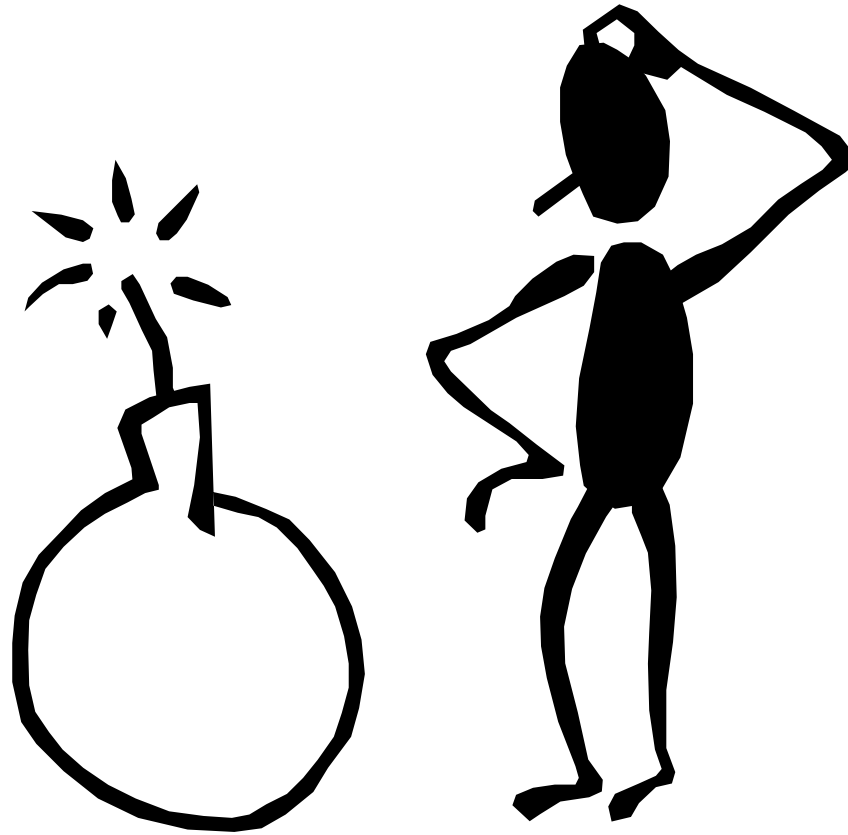
- Race/Color
- Gender
- Religion/Other affiliations
- National Origin
- Age (over 40)
- Disability
- Family profile

# What do you do with the information you learn?

It depends ...

- If it is personal information that should not be considered in the hiring process, then you must disregard it.
- If it is information about the applicant's character, credibility, job qualifications, you may consider it.
  - If in doubt, discuss it with the applicant.

# What's the big deal?





# Potential Lawsuit

- Employer checks out applicant on social networks
- Applicant is not hired and learns about research
- Files a discrimination charge alleging failure to hire because of protected category

# Unnecessary costs and time

- Employer needs to defend decision
- Success depends in large part upon who was hired
- Needs to expend time and money to defend a legitimate decision

# Making an informed decision to conduct screening using social networks

- Have a neutral third party conduct the screening and report only non-discriminatory findings that are related to the job.
- Have a disclaimer on the application.
- Do not pose questions during interview about non-work-related personal information learned from a social network.

# Social networking in the workplace

# How much is too much?

- Restricting use
- Monitoring use
  - During working hours?
  - After hours?

# The Truths

- An employer has the right to restrict or even prohibit the use of company equipment for personal use (this includes computers, phones, blackberries, etc.)
- Employees have no expectation of privacy when using company equipment.
- An employer has the right to protect its legitimate business interests.

# Workplace Survey

- 60% of business executives said employer has the right to know what employees say on-line
- 74% of employees said they understand that their posts can damage employer's reputation
- 63% disagreed with employer monitoring

# Practical Pointers for Policies

1. Consider your goal  
Restriction v. Prohibition (Zero Tolerance)
2. Consider the effect  
Employee morale. Protecting Business.
3. Decide if you will monitor and how  
In-house v. Outside Contractor  
Periodically v. Daily



# Restriction v. Prohibition

- In many cases a policy of zero tolerance is impractical and difficult to implement
  - Especially if employees have access to the internet at their workstations.
  - If you decided to go with zero tolerance, block the sites and remove the temptation.

# Important Clauses

- Affirmative statement concerning use of company equipment
  - This should clearly state that employees should have no expectation of privacy with regard to company owned and/or issued equipment.

# Important Clauses

- A statement incorporating other policies
  - State that employees are expected to abide by company policies and procedures such as the harassment policies, confidentiality policies, etc. when using social networks both at work and at home.

# Necessary Policies

- Electronic Media Policy
- Anti-Harassment Policy (including sexual harassment)
- Confidentiality Policy
- Social Media Policy
- Intellectual Property

# Important Clauses

- A statement regarding use of identifying information.
  - Company name
  - Company logo
  - Company uniform
  - Work email addresses
  - Clients and vendors

# Important Clauses

- Disclaimers
  - Employees should be required to post a disclaimer any time that they identify themselves as employees.
- Prohibition of disclosure of proprietary or confidential information
  - Trade secrets, customer lists, financial information, business plans, etc.

# Important Clauses

No tweeting, texting or engaging in other social media networking during company meetings.



# Important Clauses

- No working on Company sites “off the clock.”
  - Incorporate overtime policy
  - Prohibit non-exempt employees from working on company blog or site outside of workplace without express authorization from supervisor.
    - If they do work off site, they must keep and record accurate time records.



# Important Clauses

- Inform employees that you may be monitoring personal social networking sites
- Explain the consequences of violating policy
- Point person

# Important clauses

- “Friending” coworkers and supervisors
  - Will you allow it?
- “Friending” subordinates
  - No!

# Implementing your policy

- Hold training sessions
  - Explain policy and ramifications
  - Answer questions

# Monitoring social networks

# Monitoring

- An employer has a right to expect its employees to respect the company and not to make disparaging remarks about it in public.
- Certain policies apply outside of the workplace.
- Most states, including PA, are “at-will.”

# The First Amendment

- *“Congress shall make no law respecting an establishment of a religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”*

# First Amendment

- Protects individuals from governmental interference
- Does not prevent private companies from monitoring employee's comments on public sites
- Bottom line: Employees cannot hide behind First Amendment if their on-line behavior embarrasses the company or damages its reputation or offends or insults coworkers.

# Stored Communications Act - 1986

- Creates 4<sup>th</sup> Amendment-like privacy protection for email and other communications stored on the internet
- Limits the ability of the government to compel an ISP to turn over information regarding emails
- Limits the ability of ISP's to disclose content of emails to non-government entities



# How should I monitor?

1. Do you want to monitor your employee's social networks?

2. How?

- Constant monitoring is expensive and time-consuming.
- Targeted monitoring can be problematic.
- Periodic random monitoring is least intrusive.

3. Who?

In-house or contractor?

Facebook | Windows Internet Explorer

http://www.facebook.com

File Edit View Favorites Tools Help

Facebook

facebook 2 1 1 Search Home Profile Account

# Boredworker

Wall Info Photos Video Notes Links >>

Write something... Share

Attach: Image Video Photo Link Filter

RECENT ACTIVITY

 **Boredworker** I hate my boring job at MyJob Co. and my stupid boring boss Mike G. I am going to start looking for a new job next week. Posted Wednesday at 8:40 a.m. • [Comment](#) • [Like](#)

 **Girlfriend** Isn't your boss on your friends list? Posted Wednesday 8:45 a.m.

 **MikeG** Don't bothering waiting until next week to look for a job. I'll see you in my office in 5 minutes. Posted Wednesday 8:50 a.m.

Write a comment...

View Photos  
View Videos  
Send a Message

**Information**  
Birthday:  
Current City:

Chat (Offline)

Internet 100%

# facebook®



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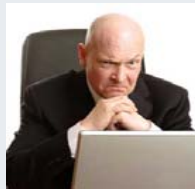
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Posted Wednesday 8:50 a.m.

Write a comment...

# What should I do if I see something inappropriate?

- It is appropriate to discipline an employee for information learned from social networks.
  - Fraudulent call-offs
  - Discrepancies on resumes
  - Falsehoods on applications
  - Arrests and convictions
  - Inappropriate conduct

# The Interview

- What do you do with the information you learned?
  - Not protected?
    - You can ask about it.
  - Protected?
    - Don't ask
    - Don't ask a person with a disability how many days he missed because of it.
    - Don't ask a mother how she plans to take care of her children while she is at work.

# Textual Harassment

## The New Workplace Law



Textual Harassment - Windows Internet Explorer

TH http://www.textualharassment.com/

File Edit View Favorites Tools Help

★ Favorites TH Textual Harassment

Welcome to [TextualHarassment.com](http://www.TextualHarassment.com)



# Textual Harassment is not a joke.

Textual Harassment is very real, it is a form of discrimination, and it is a growing concern in our new technology driven lifestyle.

## A Growing Concern...

In recent years many cell phone users have been sending text messages (officially Short Message Service or SMS for short) in order to easily contact and correspond with friends. As the popularization of text messaging grew rapidly in 2000, textual harassment has become epidemic in its growth and is harming cell phone users worldwide. Textual harassment has presented itself as such a problem because the laws have not been made clear.



Internet 100%

# Textual Harassment

- Sexual harassment via text messages.
- Often involves male supervisors texting female subordinates.
- People tend to be more casual and less cautious about texting.
- Text messages can be retrieved even if they are deleted.
- Can result in damaging evidence.

# Textual Harassment Cases

- Ohio Attorney General Scandal
  - Marc Dann
  - Two female staff members used text messages as evidence that the AG and his senior staff members were creating a hostile work environment.
  - Dann resigned as a result of the scandal.

If you have any questions on this presentation  
or other labor and employment issues,  
please contact:

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