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SOCIAL MEDIA

What you post can be used against you in court

“You have the right to remain silent. Anything you say can and will be used against you in a court of law.” While most Americans associate those statements with criminals being led away in handcuffs, that simple advice is just as applicable to social media users. Every day millions of people log on to social networking sites and post everything from what they had for breakfast to their innermost personal thoughts.



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What you may not realize is that these postings, and even private messages, can be used as evidence against you in a lawsuit – and there is likely very little you can do to stop it. The next time you decide to share a bit of your life through social media, here are some things you should consider:

1. Social media will be used against you in court – Traditionally lawyers have used private investigators to find out information that is helpful for their case. A company trying to avoid compensating an employee who claims to have hurt his back at work might hire a private investigator to follow the employee around and catch him playing basketball or mowing the grass. With the advent of social media, lawyers can often obtain helpful evidence simply by checking the photographs or postings on a person’s

social media account. Digging deep into a person’s Facebook, Twitter or Myspace page has become standard operating procedure for attorneys.

If you are involved in a lawsuit or think you might be in the future, it is safe to assume there will be a lawyer looking at every photo on your Facebook page and reading every word of your Twitter feed to try and use it against you in court.

2. Social media is not private – You may think that I am stating the obvious. Of course something is not private when you post it on your LinkedIn page or Tweet it from your phone.

What you may not know is that the “private” messages or chats on your favorite social media websites may not be as private as they seem. At least one major social media website allows users to download their entire history with that website – every private message, every user chat, every photograph you have commented on or been tagged in, in short: everything.

If the information in those private messages is relevant in a lawsuit, you may be required to disclose it, and those messages you thought were private may become a public record in a court’s file.

3. Social media is difficult to control – When you open a social media account, you are not only creating a place for your voice to be heard, you are creating a place for other people to post things about you.

While you may be cautious enough not to post unflattering photographs, your friends might not be, and some

social media websites will allow them to link the unflattering photographs directly to your account for the whole world to see. Most social media websites allow you some level of control over what others can post on your account, but you should be vigilant in monitoring your privacy settings so that you have as much control as possible over what information people see when they view your account.

4. “Cleaning up” your social media account may not be an option – If you have been or think you may be sued and realize your social media account contains damaging information, it is probably too late to do anything about it. When someone deletes – or tries to delete – information on a social media account during, or even in anticipation of litigation, courts can issue a variety of sanctions against you ranging from fines to limitations on the evidence you can present in your case. If you believe there may be harmful information on your social media account, you should tell your attorney about it immediately so he or she can determine the best way to handle the information.

In today’s world, it is not practical for many people or businesses to exercise their “right to remain silent” as to social media. You or your business may be left behind if you are not active online. But before you rush off to share every aspect of your life with the entire world, you should consider what effect your online activity may have, because anything you post can and will be used against you in a court of law.

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