

# Social media in the workplace

## Dear Diary

September 29, 2016

## Introduction

Over the centuries, people have come to recognise and accept the various benefits associated with journaling. Documenting one's thoughts is seen to be helpful and is even considered to be a habit of the successful. While this may be true when the material utilised is a simple pen and paper, the same cannot be said for a social media site and the internet. Many people have come to think of forums such as Facebook and Twitter as their personal journals where all forms of censorship are abandoned. This mindset has potential dire consequences for both employees and employers.

Unlike a traditional journal, which can be kept in a wooden box with the key around your neck and easily thrown into a burning flame, the content of a social media site is available to the world and can never be destroyed. In this article, we provide an overview of some points to bear in mind regarding social media and the workplace.

An employee's social media postings can cause damage to the employer's brand. In addition content shared by employees that is unrelated to the employer may be viewed in a negative light and could cause the company to distance itself from or sever relations with the relevant employee. By way of example, Standard Bank recently disassociated itself from one of its employees by tweeting "we do not endorse comments made by @chrishartZA yesterday bit.ly/SBGvalues" shortly after that employee tweeted a racist comment.

## Dismissals due to conduct on social media

In *Sedick & another v Krisray (Pty) Ltd* [2011] JOL 27445 (CCMA), two employees posted derogatory comments relating to their employer on social media. The employer dismissed the employees as a result of these comments. When the employees challenged the company's decision to dismiss them, they were unsuccessful and the arbitrator held that both dismissals were fair.

## Employer's liability for employees' conduct on social media

In *Otomewo v The Carphone Warehouse Ltd* [2012] EqLR 724 (ET/2330554/11, 8 May 2012), a couple of employees harassed a colleague on social media, during office hours, regarding the colleague's sexual orientation. The court held the employer liable for this harassment.

# Breach of confidentiality obligations on social media

While not strictly containing any words, it has always been said that “a picture paints a thousand words” and the majority of social media addicts couldn’t agree more. Begging for sympathy at the end of a long day with an office selfie near a mountain of paper has become something of a norm. The exhausted employee, however, neglects to realise that the mountain of paper adding to the perfect selfie contains highly confidential information and, in posting that selfie, the employee is breaching its confidentiality obligations. This breach of confidentiality can have grave consequences when a listed company is involved as the disclosure of confidential information may affect the share prices of the company and will also be recognised as a breach of fiduciary duties as well a duty of good faith.

## Conclusion

Despite the fact that it may be satisfying to finally unscrew the cap and let it all spill out, employers should explain to their employees that social media may not be the wisest forum for their venting. Employers should implement social media policies and educate their employees on the risks associated with social media. Perhaps employers should even consider making a leather bound journal and quill a standard feature in the stationery pack?

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