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Divorce and Social Media

by Monica Rossi Baylis

It's certainly fair to say that social media is an unavoidable part of our modern lives. Even if we don't live on social media, we hear about memes, posts, tweets, and re-tweets regarding politicians and celebrities on the news and from our friends and colleagues. For many people, it is their primary way to share and communicate with family and friends, meet new people, and stay connected to the world. Many use social media to expand and advertise their business enterprises and to stay in touch with current trends. While most of the time, engaging in social media is harmless, there are hidden dangers especially when you are contemplating or going through a divorce. Some things you should keep in mind before using social media when you are thinking about divorce or are in the midst of a divorce proceeding are as follows:

Use social media sparingly and take extra care to protect your privacy.

You should strongly consider suspending all social media during a divorce. Even things you might consider innocent and not detrimental to your case may be dredged up and used against you in trial. If you can't afford to suspend all social media use, think very carefully about everything you post and make sure you don't post anything that can be used against you. Think about who your "friends" and "followers" are and how they might be connected to your spouse, your children, or friends you have in common, and monitor their social media as well. Keep physical control of your devices at all times. **Don't share any information you have discussed with your attorney on social media.** Change your password on your phone and your computer often.

Keep your posts light and unrelated to your divorce.

It's easy to want to vent when you have an audience online that

is willing to offer you support and commiserate with your situation. Don't fall into the trap of airing your grievances on social media even in an unassuming way. Posting complaints or negative statements about your spouse or children can come back to paint you in a bad light in a divorce trial. Referencing drugs or alcohol, even if you think you are just being funny, will only support your spouse's allegations that you are not a responsible parent. Never complain about the way that the court ruled on an issue or complain about the judge you have. Remember that this same judge will still be the hearing officer for your trial, and may still be the one to rule on post-divorce motions you bring before him or her as well. If you post, make the posts generic and never personal to you, your spouse, children, or anything related to your divorce. Keep it positive.

Think twice about “liking” or commenting on someone else’s post or re-tweeting someone’s tweet, or sharing someone else’s post. Always consider what that might reveal about your views and if doing so may detrimentally affect a contested issue in your case. **When in doubt-don’t post, like, re-tweet, or share another’s post at all.**

A picture is worth a thousand words.

We have all heard that expression time and time again, and it will always be true. The best thing to do when you are going through a divorce, or on the precipice of going through a divorce, is not to post any pictures of anything on your social media accounts. Even the background of a picture may reveal a location and time that may prove inconsistent with where you said you were on a particular day and time and work against your credibility. Pictures taken in your home, car, or office may have confidential paperwork visible in the background. Spouses often feud


about posting pictures of the children and the privacy issues that may be involved. Pictures of drinks will make you look like you are partying all the time. **And never post a picture of a girlfriend or boyfriend!** Even when you think you have “privately” sent provocative (and sometimes pornographic) pictures of yourself to a romantic interest through your phone, or accepted one from them, your spouse may find a way to find these pictures on your phone when you are unaware and use them against you. Immediately delete any provocative pictures that may have been sent to you. (See above about always keeping your devices in your control.)

Be wary of the websites you search. Researching someone’s browsing history is not that difficult, anyone can do it, even your 8 year old child. Do not visit sites that you would be embarrassed for the judge to know about. Stay off of all pornographic websites, dating websites, gambling websites, etc. Search the web with the expectation that all will be seen

by the opposing party, because it usually is!

Our digital age has made life so much easier in some respects and so much more complicated in other respects. Social media, the internet, and all digital communication, opens us up to liability and accountability that we could never have imagined in the past before our digital age. Litigators in divorce matters know that by following an opposing party on social media, they are likely to pick up some good material to use against them in their divorce case. Being proactive and smart about how you behave on social media and the internet will protect you from these surprise attacks.◊

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