

SOCIAL MEDIA ISSUES IN FAMILY LAW CASES

Social media is a pervasive aspect of our daily lives. On a normal day the majority of people use multiple social applications. People check Facebook to get updates about family and friends, log onto LinkedIn to connect with other professionals, browse pictures from an enviable location that are posted on a celebrity's Instagram account, or post a link to this article on the Twitter feed. All social media applications convey information, and the value attributable to the conveyance of that information cannot be overstated. So much so that Microsoft is purchasing LinkedIn for \$26 billion in cash and Facebook is more valuable (\$328 billion to \$315 billion).¹

In the context of a family law case, the information provided through social media can have a significant impact. Numerous pictures of alcoholic drinks in hand can corroborate allegations of substance abuse, and the perception on social media can be more damaging than the reality. If you are involved in a contentious parenting time dispute, damaging information on social media can result in less time with your children. Always remember: what happens online, stays online - forever. And what happens online may well be an exhibit in a courtroom. Moreover, virtually every person walking down your average American street has a camera and social media app at their ready disposal. Even when you don't intend to have your actions transmitted on the internet, they may be. If you have a family matter on the horizon, this awareness should be amplified.

The natural inclination of those with potentially damaging information on social media may be to run to the computer and delete the evidence. However, the removal of information or the deletion of a social media account may amount to the intentional destruction of evidence and result in sanctions imposed by the Court that would be more damaging to a case than the deleted information. Further, the deleted information may not be damaging, depending upon the circumstances of your case. And, even if damaging, the damage may be mild or fleeting, as courts tend to recognize that people are human, people do make mistakes and people often learn from them.

Many people take the approach that they just won't mention potentially damaging social media evidence to their lawyer in the hope that it won't come up. But it's important to inform your attorney of all your social media accounts and discuss any potential issues that may be a concern. A frank and truthful discussion with your counsel concerning social media issues will go a long way towards navigating the potential pitfalls that may arise with respect to social media during the pendency of a family law matter.

¹ Facebook Is Now More Valuable Than Exxon, by Claire Zillman, February 1, 2016, www.fortune.com.