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Social Media in the Workplace: Managing Employee Expression

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Social Media in the Workplace: Managing Employee Expression

Presentation
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Social Media Landscape



Social Media:

Holding employees accountable

- Discipline/Discharge
- Damage to Reputation
- Defamation/Slander
- Breach of Confidentiality

Social Media:

Discipline for Off-Duty Conduct

Discipline may be warranted where conduct is sufficiently injurious to the legitimate interests of the employer

Social Media:

Considerations in Imposing Discipline

- Content of the employee's post/message
 - Harassing comments or threats of violence?
 - If so, consider the Employer's Bill 168 and *Human Rights Code* obligations
- Size and make-up of the intended audience
 - Consider the Employee's online privacy settings

Social Media: Former Employees

- Contractual Breach
- Common Law

Social Media: Defamation

- Elements of Defamation:
 - Published
 - Defamatory comment
 - Reference to individual/corporation

Social Media: Privacy?

- No expectation of privacy re: online posts
- Breach of privacy now an actionable wrong at common law

Social Media:

Employee screening

Can employers use the content of social media sites in respect of potential employees?

Social Media:

Screening Potential Employees

- Be aware of Human Rights legislation
- The duty to accommodate may be triggered by any information gathered

Social Media: Taking a Proactive Approach

Develop , implement AND enforce policies on employee use of social media and technology in the workplace.

Social Media:

Employee Policy Guidelines

- Application to off-duty/at-home use
- Outline legal responsibilities (to employer and others)
- Prohibit speaking on behalf of the employer
- Advise that usage may be monitored
- Advise of consequences of breach, including possible termination

Conclusion



Thank you for coming!

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