

Facebook Meets Family Law

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The popularity of social networking sites is leading to a new avenue of information for divorce and custody lawyers. Facebook, Twitter, LinkedIn and MySpace are practically the norm in today's society, especially among people in their 20's and 30's. For anyone who has been living in a cave without wi-fi access for the last few years, Facebook and MySpace allow individuals and their friends to post pictures about themselves and give out personal information; Twitter allows people to make continuous short updates about anything to a network of friends; and LinkedIn is primarily there for business contacts.

The ubiquitous updating that occurs on many of these social networking sites can lead to a plethora of relevant information in a case for a savvy family law attorney. Typically, one of the first things I do on a case is check all of the social networking sites for information not only on the other side, but about my client. If the other's side has utilized some type of privacy setting I will often ask my client to see if a mutual friend can print off any quasi-public information. A few clients have asked me to monitor what is displayed on his/her page, which I have done. On some occasions I have advised clients to completely take down their social networking pages during a case. Amazingly, most clients now resist this request because social networking or tweeting is so much a part of a person's daily life that they cannot give it up.

Once you have obtained the information, pictures and/or videos from a social networking site, this information can be used against the other side in court. In a recent case, while discussing a mother's (Mom) propensity to "party" when she had the children in her care, Mom testified that she hardly ever went out to nightclubs or bars. At this point I had Mom identify herself in 57 pictures that were printed off from her Facebook page one by one. In each picture I also had Mom identify

the individuals in the picture ("Who is the man with his arm around your waist?").

In another case opposing counsel had presented the father (Dad) as a very conservative and religious person to the court.

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However, upon cross examination I was able to show that Dad had been posting nude and semi-nude pictures of himself on MySpace. At the hearing, when I attempted to admit this into evidence, opposing counsel objected arguing that you could

not tell who the person in the video was because it mainly showed "private parts." At this point, I asked the witness if he could identify the person in the time-stamped video and he sheepishly stated that he was in the video. Needless to say, opposing counsel failed to look into his client's MySpace and Facebook accounts, to which my client still had access because they were still "friends."

A litigant's Facebook or MySpace friends can also be a huge issue of contention. Since nearly everyone's cell phone now has the ability to capture pictures and many videos, this often leads to litigant's friends posting pictures from a "Vegas" trip, which are not the type of pictures many of us would want displayed during a custody case. In order to minimize the damage from potential friends, I would suggest telling your clients to inform their friends that they are going through a custody case and there is a chance anything posted about them could end up in court.

Overall, social networking sites have the potential to lead to valuable information or great harm to your client. An out of place picture could severely harm a case, and as cliché as it sounds, a picture is sometimes worth a thousand words.

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