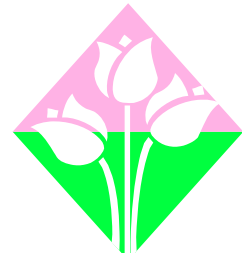




*Happy Spring!*

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# “Tip of the Month”

## Caution: Social Media

Social media has changed the world. Facebook, Twitter, LinkedIn, My Space, email, texting, and countless other internet outlets now allow us to blog and blab all day long. We have plenty to say and when we say it, plenty of people have a chance to see what we said. It is all in writing and it never goes away. This is when we should remember what mama said, “Think before speaking.” Quite often, people speak first, think later. Oops, shouldn’t have said that.

People think that what they say on Facebook is private, but it’s not. Even if the message is shared with only a few friends, any of them can share it with others. Next thing you know, the message has gone viral. People everywhere feel the need to comment, even if they do not know the facts. Commenting seems easier when people can speculate about the facts. When they speculate, people usually go negative. Now we have a long chain of negative comments posted in response to an off-hand message. This can lead to a lawsuit for defamation. Oops.

Lots of unexpected people might look at your Facebook page: employers or prospective employers, political opponents, ex-es, private investigators, creditors, lawyers, police. Not everyone friending you is your friend. Nothing you say is entirely private. Your email, your phone texts, your anonymous blogs, and your tweets might also be the subject of prying eyes that want to scrutinize. Not meaning to scare anyone – just a note of caution here.

Social media has opened a whole new world of litigation. Electronic discovery in litigation has added a dimension so big that a whole new industry of consultants has sprung up to find and manage mountains of electronic information that can be obtained from litigation opponents. Almost everything on the computer is fair game. If you try to delete it, chances are it can be found. If it cannot be found, experts can tell you removed it. The judge calls that “spoliation.” This means, like shredded documents, the court will construe the missing information against you.

Recently, a lady was surprised to learn she lost her attorney-client privilege of confidential communications because of what she said on Facebook. She was simply sharing a few tidbits of a discussion with her lawyer about the case with a couple of friends. The judge ruled that her disclosure was not confidential and therefore destroyed the attorney-client privilege. As a result, the lawsuit opponent could find out the rest of her discussion with her lawyer. Darn.

Social media is here to stay because it is easy, fun and powerful. As with anything that powerful, Handle With Care. Social means public and posting is forever. If you do not want something you post to possibly appear on the front page of the newspaper (either the print or electronic version), you might reconsider before posting. Choose your words carefully.

If you have questions about social media and its implications, please contact the attorneys at Mesmer & Deleault, PLLC at 668-1971, or contact us by email at [mailbox@biz-patlaw.com](mailto:mailbox@biz-patlaw.com).

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