



THE LAW

Exchange



Good Neighbors. Great Lawyers.

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JOHNS, FLAHERTY
& COLLINS, SC

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Great lawyers.

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Facebook policies that click with the workplace



Ellen Frantz

Once Facebook membership opened beyond college students, legal questions arose concerning how social media would be used in workplaces.

“It is as important as having Internet policies,” said attorney Ellen Frantz. “Employers need to decide if employees can use social media at work for either work or personal reasons and what the restrictions are on its use.”

Facebook, MySpace and Twitter can eat up a lot of time, a reason that businesses may forbid their use at work. But increasingly businesses use social media to share messages about the company.

“If social media is part of the marketing plan, then a decision has to be made about who will make updates and what can be posted,” Frantz said. That may be one set of policies.

Another set of policies applies to whether or not employees can access social media at work. Frantz strongly recommends business owners create a policy outlining whether or not such access is allowed, and if so, what the rules for use are. At a minimum, the policy should tell employees:

- If and when they can log on to these sites on company-owned equipment, such as before or after work or during their lunch hour.
- If they use company equipment, they must use their own name and not hide behind a screen name.
- To identify their opinions as their own and not representing the company.
- To be respectful and considerate to the business and co-workers.
- To comply with harassment and other company policies and all laws.
- To respect company confidentiality and trade secrets.

- To not use the company trademark and logos.
- To use good judgment because privacy is not possible on the Internet.

Even if employees only use Facebook on their own computers and on their own time, they should keep in mind that what they write about their workplace may lead to discipline at work.

“Employees don’t have free speech when it comes to bad mouthing an employer,” Frantz said. “It’s like standing on the corner and saying bad things about your boss. You can do that or you can write those things on a Facebook page, but there may be consequences at work as serious as termination.”

Plan Now to Attend Annual employment seminar returns Oct. 19

You can learn more about handling social media in the workplace — along with a host of other emerging employment law topics — at Johns, Flaherty & Collins’ annual fall employment seminar.

Designed for human resources professionals and business owners and presented by employment lawyers, this year’s seminar will be held Tuesday, Oct. 19, from 7:30 to 9 a.m. at the Lunda Center at Western Technical College, 319 7th Street North. It includes a complimentary continental breakfast, and parking is available.

The seminar is free and open to all employers. Advanced registration is requested by Wednesday, Oct. 13. For more information or to register, please call 608-784-5678 or visit www.johnsflaherty.com/employmentseminar.





LEGAL DILEMMA



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Question:

I've been applying for jobs recently and a lot of employers want to conduct a background check. I'm curious what they will find. How can I conduct my own background check and what should I look for?

Answer:

It is true that more employers conduct background checks today than in years past, according to attorney Joe Veenstra.

"A lot of employers do background checks now, especially in large corporations. They put a lot of money into hiring and training. They want to know the person is reliable," he said.

Some do so to avoid future liability. A trucking business, for example, could be found negligent if it hired a driver with multiple citations for drunken driving and he or she later got into an accident with the company truck while intoxicated.

In some industries, such as childcare, home health care and others, the law requires background examinations. While ordinarily only adult criminal records are checked, juvenile records are opened for prospective childcare workers.

What can employers do with this information? "Employers cannot discriminate on the basis

of conviction records unless the conviction substantially relates to that particular job," Veenstra said.

Not hiring someone as a cashier who had recent convictions for bad checks likely would be reasonable. A conviction for battery on the other hand probably would not be related to a line position in a recycling plant and therefore a refusal to hire based on the conviction might be considered discriminatory.

Employers also may conduct credit checks on prospective staff members and they often look at social media like Facebook to see what they have posted.

"It is a good idea to perform your own background check before you send out your résumé to check to see if there are any problems or errors," said Veenstra. "If you find problems, take the time to clean them up if you can."



Joe Veenstra



Where do you go?

- Check adult court records at <http://wcca.wicourts.gov/index.xsl>
- Check the Federal Trade Commission for credit reports at <http://ftc.gov/freereports>
- Check the Wisconsin Department of Justice, <http://wi-recordcheck.org/>; fees are charged. You do not have access to juvenile records.
- Review what you have posted on social media and remove embarrassing materials.



When a divorced parent decides to move ...

How to collect child support when a parent lives out of state

When a divorced parent decides to move out-of-state, child support payments rank along with custody and visitation at the top of concerns — especially for the parent receiving the child support payment.

Moving out of state does not relieve a parent of making his or her child support payments. “The payer has an obligation to keep paying,” said attorney Maureen Kinney.

In Wisconsin, employers collect 98 percent of child support payments from employees’ wages, sending the money directly to the Wisconsin Support Collections Trust Fund. Payments are then transferred electronically each month to the custodial parent’s account or debit card.

The trust fund, designed to ensure noncustodial parents pay their court-ordered support, was created as a part of the national welfare reform law in the Clinton Administration.

States that receive federal money for programs like food stamps were required to adopt the Uniform Reciprocal Enforcement Of Support Act, which requires states to enforce each other’s court orders.

“When the payer changes employment, the old employer stops withholding money,” she said. “It is the payer’s responsibility to notify a new employer and to begin withholding even when moving out of state. If the new employer does not know about the wage assignment, he or she will not know to send the money to the fund. But that doesn’t mean the paying parent no longer owes it.”



The local child support agency pursues collection from parents delinquent on their child support obligations whether in Wisconsin or another state. The states are supposed to cooperate and most do so, knowing that they will have the same need to track down money from parents who have moved elsewhere.

Some states are more cooperative than others in working with another state. But in even the most helpful state, “It takes time to get that money from parents in other states,” Kinney said.

Interest is charged for delinquent payments at 1 percent a month or 12 percent a year. “Still, accumulating interest charges don’t help the kids,” she said.



Maureen Kinney

Moving out of state does not relieve a parent of making his or her child support payments. “The payer has an obligation to keep paying.”

~Maureen Kinney



Legal Statistic

American DataBank, an employment screening and background check company, reports that 5 percent of those seeking a position in manufacturing have a “criminal hit record,” compared with 6 percent in health services, 8 percent in food services and stores, 5 percent in transportation and 7 percent in retail.





focus on

Collections from former spouses in other states

Because he was held in contempt of court for failure to comply with a court order, he was also responsible for all court and legal costs.

In her divorce decree, a woman in another state was awarded a percentage of her husband's military retirement fund. Not only did he fail to pay as the court ordered, he left the state.

After his former wife searched for and found him in Wisconsin, she hired attorney Maureen Kinney, whose practice includes family law.

Ideally, the military distributes the funds to the former wife automatically, but its policy is to do that only when couples were married for at least ten years. This couple had not been together that long.

Kinney arranged for the court judgment to be transferred to Wisconsin. The husband was then ordered into court, where he was directed to pay what he owed plus interest. Because he was held in contempt of court for failure to comply with a



court order, he was also responsible for all court and legal costs.

The man did not learn the lesson instantly, however. It was only after he fell behind again and faced additional charges that he became consistent in his payments.



Stay Informed

Whether you're into Facebook, LinkedIn, Twitter or blogging, we're there. Stay informed of the latest legal news that affects you and receive top tips for everything from business and estate planning to divorce and traffic law. So choose the vehicle that's best for you and stay up-to-date between newsletters.





News

B R I E F S

Attorneys **Peder Arneson** and **Emily Hynek** attended the summer meeting of the Tri-County Bar Association in August. Both are associate members of the Tri-County Bar as they regularly practice in Trempealeau, Jackson, Buffalo/Pepin counties.



Peder Arneson

Peder Arneson and **Cheryl Gill** again sponsored and attended the Kickapoo Valley Acoustic Music Association's LarryFest, which was held in August in La Farge, Wis. The organization's mission is to expose rural Wisconsin residents to bluegrass, folk and old-time music through live performances.



Cheryl Gill

For the fourth consecutive year, **Cheryl Gill, Peder Arneson, Joe Veenstra, Brian Weber** and **Michael Stoker** sponsored the Brice Prairie Time Trials in June. More than 200 cyclists participated in this 40-kilometer bike race. The event benefits the Brice Prairie First Responders and the Brice Prairie Conservation and Scholarship Fund.



Brian Weber



Emily Hynek



Joe Veenstra

Attorney **Joe Veenstra** was elected president of the Coulee Region Business Center board of directors, also known as the North Side Business Incubator. The center supports new businesses with a variety of services.



Michael Stoker



Saving Tip:

You've decided you need a lawyer but worry about the costs. How can you save money? Get organized.

Before your first appointment, gather information about your case and write down questions you want to ask. The more organized you are, the less time your lawyer will need to investigate your problem.





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Attorney

PROFILE **Brent Smith**



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- Emily E. Hynek
- Brandon J. Prinsen

PARALEGALS:

- Lisa L. Felt
- Bridget Mullen
- Teresa Nielsen



Brent Smith

“Those communication skills are important when you’re trying to discern the best course of action for community organizations.”

He also pointed to parallels such as encouraging collaboration, advocating for others and analyzing all the factors that go into making good decisions.

When Brent Smith began practicing law in 1978, he quickly realized his skills as a lawyer could be put to good use in a number of additional ways. One of the most rewarding ways, he said, was — and is — community service.

“Effective lawyers must be good communicators, both listening and advising at appropriate times,” said Smith.

Smith knows whereof he speaks. He currently serves as president of the La Crosse Center board of directors and as a member of the Gundersen Lutheran Health Plan board of directors, the University of Wisconsin-La Crosse chancellor’s community council, the La Crosse Loggers executive board, the Great Rivers United Way board of directors, the Seven Rivers Alliance board of directors and the Wisconsin Technical College Board. He also serves as a University of Wisconsin regent.

He volunteers for the intrinsic rewards. “When you volunteer, you feel like you’re making some difference,” he said. “You have to understand you won’t necessarily change the world, but you can make some small difference, especially in a community this size and over time.”

For Smith, it’s 32 years of solid community service and counting.