

Face To Face...

Joe Hassinger and IALDA colleagues present seminar on employers' legal exposure in connection with the use of social networking sites.

IALDA recently presented a seminar titled *Face to Face with Your Employees – Facebook and Beyond* at the 2010 World Waterpark Association Annual Convention & Tradeshow in San Antonio. This dynamic and evolving technology presents emerging legal risks about which employers must be informed.

45% of employers reported that they use social networking sites to screen potential employees. 29 % use Facebook, 26% use LinkedIn and 21% use MySpace. 11% search blogs while 7% follow candidates on Twitter.

35% of employers reported they have found content on social networking sites that caused them not to hire the candidate, including:

- 24% Candidate lied about qualifications
- 20% Candidate shared confidential information from previous employer
- 35% of employers reported they have found content on social networking sites that caused them not to hire the candidate, including:
- 44% Candidate posted content about them drinking or using drugs

Risks of legal exposure include:

While doing your due diligence you may inadvertently become aware of an applicant's protected characteristics, arrest history, workers' compensation claims, bankruptcy or other information protected by law.

Risk that rejected applicants will allege that your hiring decision was due to a protected characteristic that was revealed in his or her profile.

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Private messages sent using Facebook and MySpace fall under the protections of the Stored Communications Act ("SCA"), so accessing these pages without authorization may violate the SCA.

Hostile Work Environment and Discrimination Claims against employer may be based on unwelcomed email and voicemail messages and improper use of social networking sites.

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