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Family Law Update

Think Before You Type

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You would have to be living on a desert island in the middle of the Pacific to be unaware of the growing phenomenon of social networking sites such as Facebook, MySpace, Twitter, and LinkedIn.

These sites are terrific for connecting and reconnecting with old acquaintances, and for making new ones. Members often use these venues to update friends and family with news and photos documenting their various life adventures, and for posting opinions about everything and everyone. But this is where the danger lies, because the information posted on these sites is suddenly out there in the public domain for anyone to view, including estranged spouses and their divorce lawyers.

Like social networking, it is difficult these days to find someone who is unfamiliar with text messaging, which has fast become an easy way to instantly communicate, especially among younger cell phone users.

Most of us, however, consider text messages to be fleeting, never contemplating that a text message may linger in the memory of a cell phone, or even on a service provider's computer, waiting to be mined by a spouse or lawyer. The problem is that, just like with postings on social web sites, one cannot retract a text message from potential public exposure once the send button is pushed.

Consider the use a divorce lawyer might make of a picture posted by his client's spouse on Facebook, proudly displaying a just-purchased expensive sports car after testifying that he has no money to pay support. Or the happy lawyer representing mom in a heated custody dispute who now has a photo of dad smoking what appears to be marijuana while on vacation in Mexico. Or the use that can be made of the writings of a raging spouse who feels compelled to share her deepest feelings about her ex. The latter is becoming so popular that there are now Facebook groups called "I Hate My Ex-Wife" and "I Hate My Ex-Husband," filled with ranting about former marriage partners. Any of this evidence may find its way into a domestic relations case.

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One New York Times article dubbed this type of evidence “Digital Lipstick on the Collar.” Bar associations are beginning to sponsor continuing education classes for divorce lawyers on how to find and use electronic evidence to build a case. An industry of electronic forensics experts is springing up to lend litigation support. If you still doubt the danger, look at the hot water Tiger Woods found himself in recently when flirtations text messages to a waitress suddenly surfaced. What happened to him could happen to anyone. The job of collecting evidence to build a case is becoming easier for divorce lawyers, thanks to growing carelessness in publicly posting damaging information. The message is clear, think before you type.

The information contained in Family Law Update is not meant to provide opinions or advice on specific legal matters. If you would like to consult with me on a specific issue, please call or email.

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