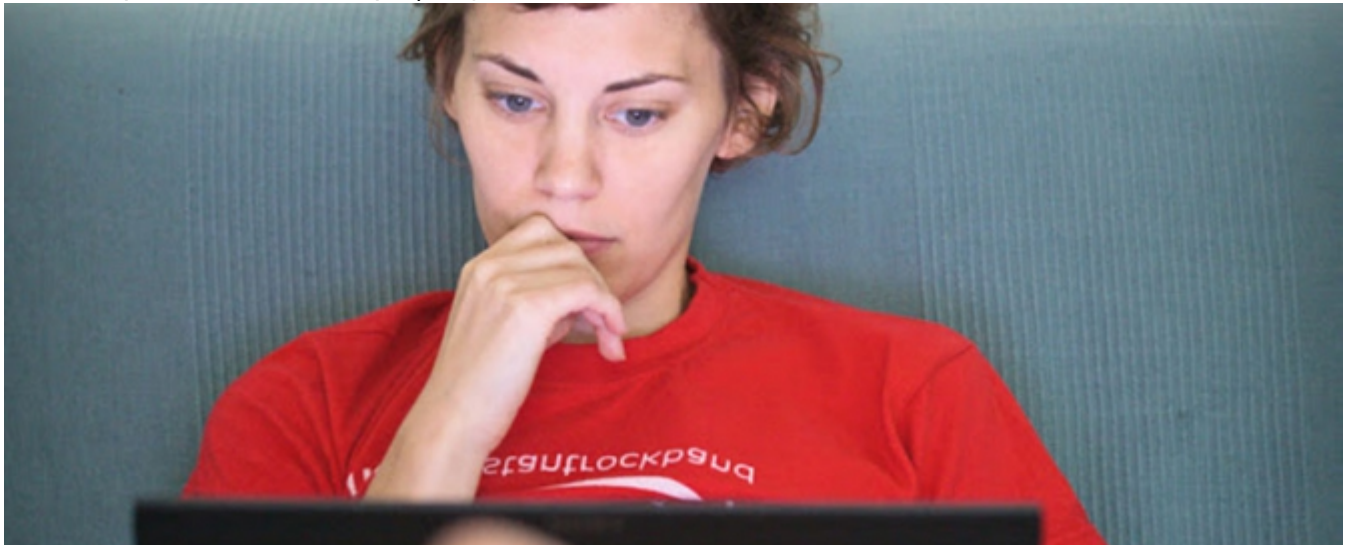


EMPLOYERS, EMPLOYEES AND SOCIAL MEDIA: WHEN IT COMES TO EMPLOYEES WHO OWNS WHAT?

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In modern day society, most companies make use of social media platforms to market themselves and to grow the company's brand. Such companies therefore have administrators for the use of the company's social media activities. The social media administrator is therefore trained and will have knowledge of the proper use of the social media accounts.

In instances where social media activities form part of the job description of an employee, it can be said to be obvious as to who the social media accounts belongs to, as well as its fans or followers. For instance if the company has a twitter or a facebook account, the followers belong to the company. Where the employee leaves the company, the fans or followers should vest with the employer. It is imperative for a company to have a social media policy with clear guidelines in place dealing with issues such as the above.

Where it is part of the job description of an employee to deal with a company's social media activities, it should be stated in the employment agreement that the social media accounts vest with the employer and not the employee in order to avoid confusion when the relationship terminates.

Such a clause may be referred to as a social media pre-nup as referred to by Sara Delpopolo and may contain clauses such as:

- the employee will use the account for work related purposes with authorisation and will only post content with authorisation;
- the social media followers or connections that are brought in by the employee during the course and scope of employment will vest with the company / employer if they were generated in relation to work related activities;
- the employee will abide by the companies social media policies with respect to what content can and cannot be posted, as well as all the other guidelines in place that govern the use of social media; and
- all information pertaining to the social media accounts such as login details, passwords will be handed over to the employer once the relationship terminates.

It is therefore imperative to outline the roles and responsibilities of each person so that there is no

confusion between the parties during the existence of the relationship of employment, as well as the termination.