I TWEET WHAT I LIKE: EMPLOYEE DISCLAIMERS ON SOCIAL MEDIA

Category: Commercial Law,Media and OTT
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I am employed at a law firm and I have a twitter account on which I tweet in my "personal capacity". My biography explicitly states that "the views tweeted here are explicitly my own". Does this give me carte blanche to tweet what I like?

The views expressed on social media, in as much as they are tweeted in one's "personal capacity" can have an impact on one's professional life particularly when the employee's affiliation to the employer is identified, known or presumed.

Unfortunately a blanket disclaimer such as the one in a biography cannot cure tweets or status where it infringes upon an employer's dignity, privacy and reputation no matter the assertion of one's own right to freedom of expression. It is incorrect to assume that just because I state that I am tweeting in my personal capacity, I will be safe from any backlash that may occur as a result of a tweet that might not have been appropriate or upsets my employer because of something I may have said online.

This has been demonstrated in the South African context where, despite the fact that there is no specific law governing social media in particular, looking at others laws for guidance institutions such as the Commission of Conciliation, Mediation and Arbitration ("CCMA") have asserted that despite a defence of disclaiming that you tweet in your own private capacity, if there is an affiliation with your particular employer whether stated or not, if you can be associated with your employer, there is potential to bring their reputation into disrepute. In this regard, the CCMA has been consistent in its approach towards social media. Where you bring your employer into disrepute, it is justifiable for an employer to fire you.

It needs to be remembered that as much as you are posting comments in your personal capacity, forums such as Twitter or Facebook are very public, not personal. Each matter however should be looked at on its own merits; however, one needs to be careful how they tweet. Ultimately employers also have a responsibility to develop social media policies that will govern principles for their employees using social media for private purposes in the instance that the employee's affiliation to the employer is identified or known in order to manage their reputation and brand. It will also save

you as the employee to simply think before you tweet.