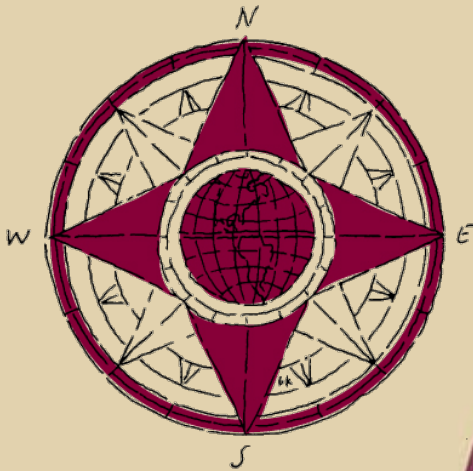




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# ***Navigating the Information Superhighway: Understanding the Impact of Social Networking***

*Presented by*

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# Popular Social Networking Sites

- Facebook
  - Over 250 million active accounts
  - Most popular social networking site
- MySpace
  - 125 million users
- Twitter
  - Fastest-growing social networking site
  - 54 million hits per day



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***Can I be sued for  
information posted on  
social networking sites?***

# Risks of Social Networking

- May impact several areas of the law:
  - Employment;
  - Privacy; and
  - Copyrights.

# Employment

- Background Searches;
- Employee Postings; and
- Employee Complaints.

# Background Searches

- Anti-Discrimination
  - Pictures that reveal protected classification; and
  - Searches that uncover membership in organizations based on protected classification.
- Fair Credit Reporting Act
  - Applies to background checks conducted by a third party (not the employer).
- Participation in Lawful Conduct
  - Minnesota: protects only the use of food, beverages (alcoholic and nonalcoholic), and tobacco away from the employer's premises and outside of work hours

## Takeaways

- If you conduct an Internet search for one job applicant, do so for all.
- Hiring policies must be applied consistently with regard to all applicants.
- Verify information obtained through Internet searches.
- Document the reasons for any employment decision.

# Employee Internet Postings

- Discriminatory/Derogatory Postings;
- Threats of Violence;
- Disclosure of Confidential Information/Trade Secrets;
- Defamation;
- Illegal Content;
- Participation in Lawful Conduct; and
- Employee Complaints.

# Employee Complaints

- Look for:
  - Complaints of discrimination or harassment;
  - Complaints of unpaid overtime or other wage and hour violations;
  - Any concerted activities that may be protected under the National Labor Relations Act; or
  - Complaints of unlawful activities that may be protected by whistleblower laws.

# Employee Complaints

- Be mindful of applicable federal, state, and local laws that might prohibit such retaliatory action.

## Takeaways

- Consider implementing a policy that specifically addresses Internet postings in addition to any already-existing e-mail and Internet policies.
- Train personnel to understand the policy.
- Implement security procedures to monitor Internet use, including blocks on certain web sites and technology audits.

# Privacy

- Invasion of privacy
- Stored Communications Act
- Child Online Privacy Protection Act (COPPA)

# Invasion of Privacy

- Does the individual have a reasonable expectation of privacy?

Consider:

- Do any privacy controls limit access?
- Does the website promote itself as private?
- Has any information been falsified in an attempt to gain access to personal information?

## Stored Communications Act

- Protects the privacy of stored Internet communications from unauthorized access or interception:
  - Websites;
  - Email inboxes;
  - Instant messaging;
  - Weblogs;
  - Message boards; and
  - Social networking sites.
- Site must not be “readily accessible to the general public.”

- Requires that commercial web site operators post privacy policies, provide parental notice, and get verifiable consent from a parent or guardian before collecting personal information from children under the age of 13.

- Also applies to general audience web sites and online services with actual knowledge that they are collecting information from children under the age of 13.
  - Actual knowledge of a user's age exists if the site asks for and receives information from the user from which age can be determined:
    - Birth date; and
    - Indirect questions:
      - What grade are you in?
      - Highest level of education completed?

- Non-Profit Exception:
  - A non-profit organization is generally exempt from most of the requirements of COPPA **unless it operates for the benefit of its members' commercial activities.**

# Takeaways

- Consider implementing policies. Publish the policies to all who are affected.
- Consider limiting access to your site by the general public.
- Consider questions asked to children under the age of 13, if any.

- Fair Use Doctrine
- Four factors to consider:
  - Purpose/character of use;
  - Nature of copyrighted work;
  - Substantiality of portion used in relation to copyrighted work as a whole; and
  - Effect of use upon potential market for, or value of, the copyrighted work.

# Copyright Laws

- ***Can I be sued for using someone else's work?***

## Copyright Laws

- Yes, if you use a copyrighted work without authorization.
- Under some circumstances, use of quotes or samples may be permissible.
- Downloading copyrighted material from the Internet is considered infringement.

# Takeaways

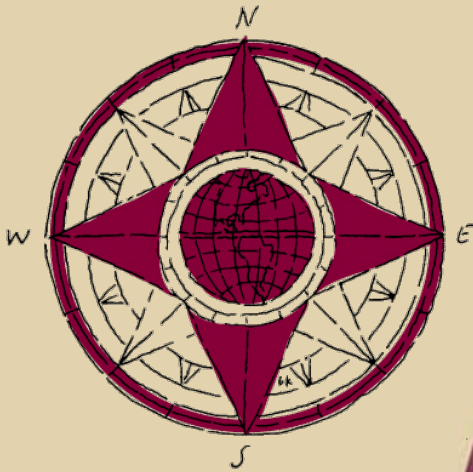
- Consider whether use constitutes “fair use.”
- If you must include copyrighted material on your web site, get permission!



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**THANK YOU!**

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