

Facebook Legal Issue: Employer Or Employees Account?

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Social network LinkedIn is geared to business professionals, but if a subscriber uses it — or any social networking site — for... [View Enlarged Image](#)

In the "Mad Men" era, leaving a company was straightforward — take the family photos and personal knickknacks; leave the business cards and Rolodex.

These days, leaving a job is more complicated, as the rise of social networks blurs the line between professional and personal activity. As businesses wrestle with new forms of media, employees might be surprised to learn that the **Facebook (FB)**, Twitter or **LinkedIn (LNKD)** account they used on the job might not be theirs to keep.

Or ... it might be. Fact is, social media's legal landscape remains muddled.

"There's a lot of confusion out there," said Daliah Saper, a Chicago attorney who specializes in intellectual property and social media cases. "You've got a situation where everyone is a minor celebrity and nobody thinks about ownership issues."

Court cases, however, are starting to sort out the confusion.

One of these is Eagle vs. Edcomm, which is winding through a U.S. District Court in Pennsylvania.

Linda Eagle, who had co-founded Edcomm, was fired shortly after selling the business in 2011. The new owners took over Eagle's LinkedIn account, getting her password from Eagle's ex-assistant.

While Eagle used the LinkedIn account to promote the banking education business, it also contained what she says are personal contacts. In court filings, she said a search on LinkedIn for Eagle returned a page featuring her replacement. She sued to regain ownership of the account.

Eagle failed to immediately convince the court that Edcomm's move amounted to computer fraud. But some of her claims, along with counterclaims by Edcomm, are pending.

In a similar case involving Twitter, mobile-phone news website PhoneDog.com sued former employee Noah Kravitz for \$340,000 for keeping his account — and 17,000 followers — after leaving the company. Kravitz's account, "@PhoneDog_Noah," incorporated both the company name and his own. Kravitz has since changed the account name to "@noahkravitz."

Saper advises employers and employees alike to draw clear distinctions between personal and company accounts. "You can't steal relationships," she said. "And social media is all about relationships."

For workers, never tweet on behalf of an employer through a personal account, she says. Don't use your employer's name in your social-media nickname. And never post things confidential or untrue.

Businesses, meanwhile, should always maintain control of business accounts, including passwords.

At the same time, hands off workers' personal accounts. Avoid dictating what workers communicate through their personal accounts, especially complaints about hours, wages or working conditions.

Costco Vs. NLRB

In September, the National Labor Relations Board struck down several rules in **Costco's (COST)** employee handbook, including those instructing workers not to post information about sick leave or pay on social media sites.

Charles Krugel, a Chicago attorney who advises companies in labor law and human-resources matters, says the NLRB is looking to extend its social-media policy to non-unionized companies as well.

Apart from the NLRB decision, Krugel said he's received more questions from clients asking how to get a handle on social-media issues before they become problems.

"You have all these new outlets for communication, and companies just don't know how to treat them," he said.

Usually, social media accounts created at the behest of the employer and used to promote the company are deemed property of the company, Krugel says, especially if the accounts incorporate the company's trademark or copyrights.

Yet, setting clear parameters from the start is key, Krugel says. That means spelling out who owns what in employment agreements and enforcing the company's social media guidelines consistently.

Also important is understanding the nuances of the various social media websites. LinkedIn is used mostly by professionals, but Facebook has more of a consumer bent. Knowing the differences can help a company determine how best to use them and avoid problems later.

A challenge for companies using social media sites is when businesses require that business accounts be tied to personal accounts. That tie-in complicates lines of ownership, says Joseph Few, who operates e-tailer ArtTownGifts.com.

"This is really tough, since we would prefer to keep our business and personal life separate," he said.

Besides the usual Twitter, Facebook and LinkedIn, Few's company uses a bevy of other social-media sites, including Google's (GOOG) Google+, Pinterest and even a blog. Several of the company's accounts are tied to the personal accounts of his mother, who is one of the company's directors.

Chances are the elder Few won't be fired or quit in a huff. But Few's mom doesn't like the blurry lines.

"She doesn't feel that can really communicate with her friends and doesn't think she can ever really post an opinion on anything because it might damage the business," Few said. "We are always struggling to define the persona we need for our blog and other social marketing efforts. It may be totally different from that of the owners."

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