

Beware the Brave New World of Social Media and Divorce

Facebook. Instagram. Twitter. Linked In. All these terms were unknown years ago, but now have become the standard by which we communicate on an instantaneous basis. Sharing posts containing very personal information – often accompanied by illustrative photos – has become common-place in the public realm of social media. Accepting “friend” requests from people we do not know – and then opening our lives to them – is done on a daily basis without thought. Spending hours-on-end socializing in this virtual world is the new norm, with people staring intently down into their phones even when in the presence of others – including their own spouses.

It may not be surprising, therefore, that studies have shown a correlation between the increased use of social media and an increase in divorce. It makes sense: jealousy forms when one spouse spends too much time meeting and socializing with people on-line at the expense of the other.

Sharing all of life’s most significant personal and career moments with large groups of people – sometimes even before sharing them with your own spouse – can create a tense environment at home.

For example, one study found those who use

Facebook more than once an hour are prone to “experience Facebook-related conflict with their romantic partners.” Facebook allows users to reconnect with people from their past – including their former flames. This, in turn, may lead to heightened insecurities, suspicious minds and frequent arguments that destabilize the relationship.



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Further, once the relationship begins to teeter, social media may provide an easily-accessible forum for the parties to find other potential partners, rather than to invest the time and effort needed to rebuild and repair their marriage.

Notably, not only has social media caused rifts in relationships that may lead to divorce, once the parties have filed for divorce, evidence gathered from the parties’ social media sites may then

be used against them during that proceeding. A 2010 survey by the American Academy of Matrimonial Lawyers (AAML) found that four out of five family law attorneys use postings on Facebook, Twitter, Instagram and similar sites to find evidence regarding hidden assets, financial lifestyle, and new relationships. Often, a party’s spending habits are revealed (*i.e.*, lavish vacations, new purchases) and questionable behavior may be uncovered (*i.e.* photos showing excessive partying and drinking). This evidence, in turn, can significantly impact a judge’s decisions regarding the division of assets, the award of maintenance and child support, and the allocation of parental responsibilities. In short, be prepared to have whatever information you post online used against you, and be aware that it can tip the scales when the judge is considering these matters.

Finally, this caveat also applies to what you include in emails and text messages. These communications may be subpoenaed and analyzed to uncover the same type of negative information discussed above.

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38 Attorneys Named to 2016 Leading Lawyers

Schiller DuCanto & Fleck congratulates our 38 lawyers named to Leading Lawyers 2016. Leading Lawyers Magazine recognizes lawyers who “are most recommended by their peers in a statewide survey.”

The attorneys named Leading Lawyers include: Erika N. Chen-Walsh, Jay P. Dahlin, Timothy M. Daw, Charles J. Fleck, Meighan A. Harmon, Burton S. Hochberg, David H. Hopkins, Jessica Bank Interlandi, Joshua M. Jackson, Michele M. Jochner, Jennifer Dillon Kotz, Michelle A. Lawless, Benjamin S. Mackoff, Gregory C. Maksimuk, Carlton R. Marcyan, Claire R. McKenzie, Andrea K. Muchin, Karen Pinkert-Lieb, Patrick T. Ryan, Donald C. Schiller, Brian A. Schroeder, Eric L. Schulman, Jason N. Sposeep, Tanya J. Stanish, Arnold B. Stein, Anita M. Ventrelli and Jane D. Waller.

The attorneys named Emerging Lawyers include: Leslie S. Arenson, Jacqueline Stephens Breisch, Kimberly A. Cook, Brittany Heitz Goodlett, Patrick M. Kalscheur, Natalie A. Momoh, Eric R. Pfanestiel, Karen M. Schetz, Jennifer Wintroub Stoller, Thomas F. Villanti and Evan D. Whitfield.

Think Before You Post

The title of this article contains wise words, but unfortunately, not all of us follow them. This applies especially to our social media accounts. You should always think about what you post, especially if you are going through a divorce: it can feel like your life is under a microscope, and that's because it often is. Your finances, parenting skills, and relationships all get scrutinized, and that is only the beginning of a long list. Knowing this, it would follow that people would want to be on their best behavior at all times, but, with the stress of a divorce added on top of the usual stress of today's frenetic-paced world, being on our best behavior can sometimes prove elusive.

So, instead of thinking before you post, perhaps the best advice is: don't post at all. That's right: stay off of social media altogether while your case is pending. Despite the fact that it may seem a somewhat draconian measure, stepping back from social media can insure that you don't post anything that may jeopardize your case. While it may sometimes feel like your case is moving slowly or taking a long time, in reality, your time away from social media, in the greater context of life, is really not that great. It is certainly worthwhile to at least consider, but alas, it proves to be just too much for some people.

If you are not the type who can forego the need to post and update to Facebook, Instagram and Twitter, then you can at least take heed of a few wise tips. Consider this:

"Don't ever say anything you don't want played back to you one day."

This is a quote attributed to John Gotti, after government surveillance - including wiretaps worn by his closest confidants - proved to be his undoing, and ultimately resulted in his conviction and subsequent prison sentence. Of course, this is an extreme example of what to post and what not to post to social media during your divorce case, but the point should be well-taken.

Think of it another way - litigants in divorce cases should not post anything that they ultimately would not be comfortable addressing under oath or in front of a judge. It sounds simple and straight forward, but you would be amazed at how often these issues can come up.

A few things to consider:

Social media is not your friend or your therapist

Emotions can run high in a divorce, especially negative feelings like sadness, anger and frustration. Airing your grievances on social media is generally just a bad idea. Frustrated with the judge's rulings? You wouldn't want it coming back on how you really feel about them while your case is still ongoing. Seeking to have equal input into decision making as it relates to your kids? You should think twice about going on a rant about your spouse, as people who are able to co-parent must first be able to respectfully communicate with each other. Finally, going too far - like

posting something that is knowingly false - could result in a civil case for libel, depending on how much you say and to what size of an audience.

Even your "friends" might not be your friends

While removing your soon-to-be-ex as a friend or follower can be a good first step in limiting their direct access, it really isn't enough. Often times divorcing couples share friends, and if one of those "friends" favors your spouse, then they could be feeding your soon-to-be-ex all of the updated details from your account.

Contradicting statements

While we know everyone is supposed to tell the truth in court, we also know that isn't always the case. Keep in mind that the position you take in court could be undermined - or even outright contradicted - by what you post online. If you are pushing for custody, pictures of you out partying and drinking late at night are not going to help. If you are pleading a lack of funds to pay support, pay fees, or contribute to expenses, you don't want to be posing with your "new" car, or at the latest resort you visited. If you are seeking more funds in child support, showing off your lavish lifestyle that doesn't include the kids is certainly not going to help.

Creating issues

The more we put out there for the world to consume, the more we offer up ourselves for criticism or questioning. Even if the things you are posting about are socially acceptable and totally legal, why open yourself up to more questioning? You and your spouse may be separated for a year, but why post pictures of you and your new significant other taking vacations, dining out or attending events? This can create emotional drama, and also lead your "private" life (after all, you're making it more public than necessary) to become fodder for the other side. Why (potentially) create more issues?

Still planning on posting?

(These are written from the viewpoint of a Facebook profile, but can be applied to other accounts as well)

By going under "Privacy" (top right corner of your page, the lock icon) and then "More Settings" (at the bottom of the drop-down menu), you can at least do the following:

Limit who can see your timeline

You can limit who can view your profile and posts, from the very broad "Everyone" (bad idea) to "Friends" (are they really your friends?) to "Only Me." You can also customize settings to options like "Friends of Friends" but that is risky as well.

Who can post to my timeline?

You can also manage who is able to post things to your timeline. Rather than eliminate this capability for your friends, you can set it so that you are able to first review what others wish to post to your timeline, and decide whether or not you are comfortable allowing that post and letting others view it as well. You could also prevent your



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friends from seeing what others post altogether, if you wanted to take that step.

"Tagging"

Even if you don't post to Facebook, others can do it for you. When your friend "tags" you on Facebook they are essentially creating a link to your profile. So, for example, even if you don't post that picture of you out on Saturday night, or on vacation with your new significant other, if somebody else posts that picture online, they can "tag" you in it, and it can appear on your profile, even though you did not take any action. Fortunately, you can set it up so you are able to review when others "tag" you, and decide whether or not others will get to view the fact that you were tagged in a photo or at an event.

"Checking In"

Even without a picture, someone can tag you when they "check in." This means they post the exact location that you are at, along with the time and date, whether it's on vacation in the tropics, or at a bar. In other words, your friend can essentially post your whereabouts. Fortunately, this can also be managed in your settings.

Search Yourself

You can also limit what can be found using non-Facebook search engines, like Google (you can choose whether or not your profile page comes up in a search) and even Facebook's own internal search engine. At a minimum, you should probably not allow search engines outside of Facebook to search for your profile.

Linked accounts

You can link your Facebook account to other social media apps, like Twitter, Instagram and even Yelp, so things that are posted in those apps automatically appear in your Facebook profile. Do yourself a favor, and unlink those accounts.

All in all, if you have to stay on social media, think before you post. If you don't want to have your post read back to you one day, then best not to post it in the first place.

Beware the Brave New World of Social Media and Divorce (Continued from cover)

Never include anything you do not want a judge to read. Also, be aware that if the financial information you share electronically is at odds with what is conveyed in other legal documents, you are not only greatly undermining your own credibility, but also potentially committing a crime.

In sum, while social media can be of great benefit, it also may be the catalyst for a host of family-related problems. Carefully consider the time spent in virtual relationships and the strain it can place on your partner. If, however, the relationship moves beyond repair, focus that same consideration on being highly selective in what is shared with others ... and which may come back to haunt you.

Co-Parenting Tools for the Modern Family

Most divorced spouses do not look forward to communicating with their former husband or wife after the entry of their divorce decree. Yet, for many divorced couples who have children, ongoing communication with a former spouse is a necessary part of their post-divorce lives. Even in the best of situations, co-parenting can be challenging and stressful for the spouses as well as the children. Managing one family's work, school and social schedules can be an arduous task for even the most organized individual; imagine, then, the heightened challenge in trying to coordinate with a former spouse the schedules for two families in two homes. Until recently, parents were forced to resort to countless texts and email exchanges to coordinate parenting schedules. Technology, however, has presented new and more effective ways for parents to maintain civility and cooperation in establishing schedules and exchanging information.

In today's world, there are several helpful programs which allow families to take a modern approach to traditional co-parenting communication methods in order to not only reduce conflict and increase peace, but also automatically document the shared and exchanged information should any post-decree litigation become necessary. With the help of modern technology, former spouses are able to efficiently and effectively communicate about scheduling issues, provide medical information, and track payments for child-related expenses. In high-conflict cases, several of these programs offer the ability for the court or court-appointed professionals to monitor the communications between the parties.

The ability to share information about a child, whether school photos or medical reports, is an important aspect of managing and enhancing a co-parent relationship. One of the most established programs for divorced parents, Our Family Wizard (www.ourfamilywizard.com), offers an array of tools to schedule and track

parenting time, share important family information and upload child-related expenses. Our Family Wizard, which has an annual fee, has capabilities for co-parents to use the program in conjunction with family law professionals (*i.e.* courts, lawyers, mediators, therapists) involved in the case, whether before or after the entry of the parenting judgment. This provides an additional level of protection for children against the conflict inherent in a divorce.

Similarly, programs such as 2Houses (www.2Houses.com) and SquareHub (www.SquareHub.com) are designed to help families create a central place for providing pertinent child-related information (*i.e.* medical professional contact information, insurance information, dietary restrictions), sharing



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photos, updating addresses and organizing schedules. For co-parents primarily interested in coordinating schedules, Google Calendar (www.google.com/calendar) allows parents to create a shared calendar where each parent can post events, activities and alerts which are personalized by the use of a color-coding system. All of these programs, while in varying formats, offer a central location for sharing information and coordinating schedules which may help reduce miscommunication between parents, thereby mitigating conflict.

While sharing information and coordinating schedules may be the primary concern for many families, planning for and managing child-related expenses is often a contentious issue for co-parents which, in many cases, results in costly post-decree litigation. With modern technology allowing for the immediate transfer of funds, having a program which helps parents facilitate and track the payment of child-related expenses may be beneficial to maintaining civility between former spouses. SupportPay (www.Supportpay.com) is a program designed to automate the process of tracking expenses, providing receipts, calculating how much is owed and making payments. While most states have implemented their own programs to handle child support payments,

these state programs do not manage the payment or tracking of other miscellaneous expenses (*i.e.* extracurricular activities and uninsured medical payments). SupportPay also helps parents keep time-stamped records of payments, communications and documents, which are stored for future reference if post-decree mediation or litigation is required.

In sum, these modern co-parenting tools can be of great benefit to families looking for ways to clearly communicate schedules and share important information regarding children. Technology, however, can often be a double-edged sword: despite the best intentions of using technology to limit tension between former spouses, the unfortunate reality is that technology may also be used in harmful ways as a means to attempt to control or harass the other parent. Yet, despite the potential abuse of technology by a parent, research shows that parents who are trying to improve their co-parenting relationship can use technology to enhance their communication and parenting skills. The programs discussed can minimize the need for face-to-face interaction between the former spouses and, in some cases, that may be the best thing for a family. The true challenge for co-parents is not what form of technology to use, but to find a way to work together for the greatest benefit of their children.

IN THE NEWS

Donald C. Schiller was ranked the Number 1 Family Law Lawyer in Illinois and a Top Ten Consumer Lawyer in Illinois by Leading Lawyers Magazine.

Karen Pinkert-Lieb was named to the list of Top 10 Women Consumer Lawyers in Illinois and Top 100 Consumer Lawyers in Illinois by Leading Lawyers Magazine.

Arnold B. Stein and Carlton R. Marcyan were both named to the list of Top 10 Family Law Lawyers in Illinois and Top 100 Consumer Lawyers in Illinois by Leading Lawyers Magazine.

Meighan A. Harmon, Jennifer Dillon Kotz, Jessica Bank Interlandi, Michele M. Jochner, Michelle A. Lawless, Claire R. McKenzie, Andrea K. Muchin, Tanya J. Stanish and Anita M. Ventrelli were all named to the Top 100 Women Consumer Lawyers in Illinois by Leading Lawyers Magazine.

Michele M. Jochner was a panelist for "Planet 50-50 by 2030: Step It Up For Gender Equality" hosted by National Louis University in honor of International Women's Day, and also made a presentation to the Administrative Law Committee of the Chicago Bar Association on effective appellate advocacy. Michele's article "Disgorgement of fees ordered in In re Marriage of Squire" was published in the Illinois State Bar Association's Family Law Newsletter.

Jason N. Sposeep presented "Relocation Under the New IMDMA" at the Chicago Bar Association YLS Family Law Committee Meeting on April 6, 2016.

Evan D. Whitfield has been nominated to the 2016 National Soccer Hall of Fame.

Jennifer Dillon Kotz has been approved as a Circuit Court of Cook County Court-Certified Mediator.

Patrick M. Kalscheur was a moderator at "Making Non-Adversarial Proceedings a Reality: The Evolution and Impact of ADR in Child and Family Law Cases" at the Schiller DuCanto & Fleck Family Law Center First Annual Family Law Symposium.

Amy N. Schiller's article "NBA's thriving finances promise a lively offseason" was published in the Chicago Daily Law Bulletin.

Jessica Bank Interlandi's article "7 Tips for Agents Representing Divorcing Spouses" was published in Chicago Agent Magazine.



The materials contained in this Newsletter are intended for general informational purposes only and not to be construed as legal advice or opinion.

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