

# When the personal becomes professional

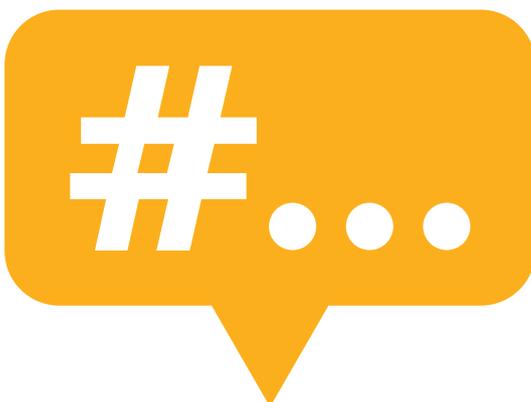
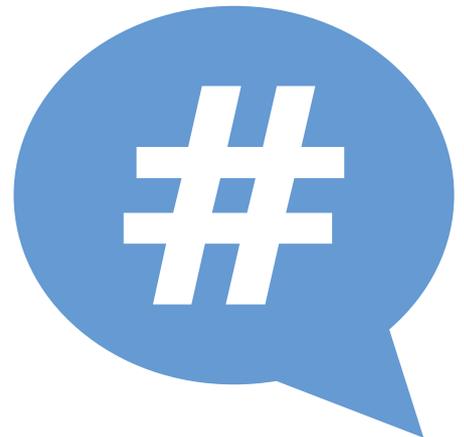
Our digital presence, on platforms such as Facebook and Twitter, has all but erased the line between professional and private life. For proof of this, consider the case of the Hydro One employee who was publicly shamed and ultimately fired for conduct — defending lewd comments toward a TV reporter — that occurred on his personal time, after he was identified via social media.

We asked employment lawyers: What is one precaution employees should take to protect themselves from professional repercussions in this new era of online visibility?

## **Understand obligation not to damage employer's brand**

The only response employers can easily take to ensure that they avoid being buffeted by the adverse publicity and damage to their brand from miscreant employees making fools of themselves on social media is to adopt a social media policy and concomitant Code of Ethics. These twin policies will regulate the conduct of employees outside of the workplace and make it cause for discharge to conduct themselves in a fashion, both inside and outside of work, which would result in their organization being placed into potential disrepute. Employees have to understand their obligation to not damage their employer's brand and that they, as employees, are always extensions of their employers. If they do that, and require employees to actually sign those policies, they will not only reduce the risk of employees misconducting themselves but will make such misconduct cause for discharge without severance.

*Howard Levitt, senior partner, Levitt & Grosman*



## **Be mindful of online presence**

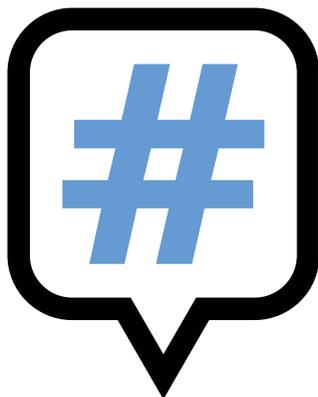
Employees must be mindful of how they portray themselves online. If an employee's online presence conflicts with his or her employer's interests, the employment contract and/or social media policies, it can be relied upon to justify discipline, up to and including termination. For example, employees have been terminated for posting harassing comments, discriminatory remarks, and referencing illegal activities. In fact, improper online conduct may justify termination without severance. Even post-termination severance negotiations and settlements have been jeopardized by improper social media posts. Employees must therefore beware that their activities online can be accessed by employers and have serious workplace repercussions.

*Paul Macchione, lawyer, Whitten & Lublin &  
Ozlem Yucel, lawyer, Whitten & Lublin*

**Privacy settings may not protect you**

Tweets are considered public comments that can harm an employer’s reputation even if you mistakenly believe the tweets are private. And while you can block access to your tweets, you cannot stop your followers from reporting your twitter posts. I repeat: privacy settings will not necessarily protect you from legal repercussions. If you identify your employer in your twitter profile or in your tweets, then you can be disciplined if one of your tweets harms the reputation of your employer. What’s more, you can be disciplined for an inappropriate tweet even if no one complains about it. If it comes to the attention of the public through a newspaper or radio or TV report, then your employer could discipline you for it.

*Doug MacLeod, managing partner,  
MacLeod Law Firm*



**Consider all stakeholders in your life before you post or tweet**

Assume that your words and conduct are permanent and entirely public when in public (online or otherwise), whether or not you think you are acting anonymously. If you are okay with all stakeholders in your life (employer, client, board members, mother, etc.) seeing your tweet or post, then don’t hesitate — jump in and participate. But do not assume only the intended target audience will read or see your post on some backwater blog. The online world is a collective world — no one person controls which messages will attract a life of their own and land on your employer’s desk.

*Lisa Stam, employment lawyer,  
Koldorf Stam LLP*



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