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Labor and Employment Attorney

Butzel Long



POTENTIAL ISSUES

Employee productivity

Harassment and discrimination

"Too much information"

Legal issues

POTENTIAL BENEFITS

- Marketing/business development
- Recruiting
- Knowledge gathering
- Internal communications

USE OF SOCIAL MEDIA IN THE HIRING PROCESS

- Useful but also be a minefield of potential problems
- Primary risk exposure to potentially protected information
 - Medical and health information
 - Disability status
 - Genetic information
 - Religion
 - Other lifestyle information

USE OF SOCIAL MEDIA IN THE HIRING PROCESS

- Traditional hiring practices are designed to avoid coming into possession of potentially protected information
- Once the employer starts reviewing social media sites, many of those protections can be lost
- Isolate decision-makers from raw data

USE OF SOCIAL MEDIA IN THE HIRING PROCESS

- Investigation of online activity may be a "consumer credit report" under the Fair Credit Reporting Act
- The FCRA Requires That Employers:
 - provide applicants with written notification that a consumer credit report may be used; and
 - obtain the applicant's written authorization before requesting a report.

SOCIAL MEDIA AT WORK

- Monitoring internet use at work
 - Employers have right to control and monitor employee internet use in the workplace
 - Company policy should make clear there is mo expectation of privacy
- > There still are potential issues
 - Employer could be exposed to information regarding protected status
 - Information gathered could be misused

SOCIAL MEDIA AT WORK

- Privacy Issues
 - Electronic Communications Privacy Act of 1986, 18 U.S.C. 2511 et seq.
 - Permits monitoring of oral and electronic communications as long as you can show legitimate business purposes.
 - The Stored Communication Act, 18 U.S.C. 2701 et seq.
 - Requires authorization from authorized user who has personal access to the site
 - This means you cannot access password protected information without permission

- National Labor Relations Act (NLRA) protects the right to join a union and collectively bargain.
- ➤ It also protects the right of all employees (union or nonunion) to "engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection." (§7).
- Section 8 of the NLRA makes it an unfair labor practice for an employer "to interfere with, restrain, or coerce employees in the exercise of 'their Section 7 rights.'"

- Social media or internet posts may be considered "concerted activities" under the NLRA.
- Discipline for postings which complain about the company, supervisors or workplace issues may violate the NLRA.
- The mere act of monitoring employees' "concerted" activities may be enough to give rise to a Section 8 or NLRB charge.

- ➤ Employers, whether union or non union, may not maintain policies or engage in actions that "chill" §7 rights.
- Your existing social media policy may violate the NLRA.
- How you deal with an employee in response to social media postings may violate the NLRA.

- Policy terms which may violate the NLRA
 - Disparage or defame
 - Requiring permission for any post naming the Company
 - Prohibiting "inappropriate" discussion of terms and conditions of employment
 - Prohibiting "inappropriate conversation"
 - Prohibitions on using social media to engage in unprofessional communication that can negatively impact the Employer's reputation.

- Responses to social media activities which may violate the NLRA:
 - Disciplining employees for postings critical of supervisors
 - Disciplining employees for complaints about the company, particularly regarding working conditions
 - Some monitoring of employees' social media activities may violate the NLRA

SOCIAL MEDIA AT WORK

- Off-duty conduct
 - Generally, off-duty conduct is not protected
 - Legal exceptions:
 - Protected activities or associations
 - Public employees' constitutional rights
 - Some states protect off-duty conduct
 - Practical limits
 - Nexus with the employee's job duties
 - Employee's place in the organization

SOCIAL MEDIA AT WORK

- Other Issues
 - Company spokesman appearance
 - FTC regulation of endorsements and testimonial in advertising
 - Supervisors "recommending" employees or otherwise saying nice things you may regret later
 - Posting of confidential company information
 - Not always intentional or even obvious
 - Competitive intelligence

- Invasion of Privacy
 - Most states, including Michigan, recognize a right to privacy protecting a person's seclusion, solitude, or private affairs.
- The employee must show that:
 - there is an intrusion into a matter about which he or she had a right of privacy
 - by a means or method that is objectionable to a reasonable person.

- "Public" postings are generally not considered private
- But, what is public?
 - Not everything on the internet is "public"
 - Some courts have held that if an internet posting has some access limit it may be considered private.

> Examples:

- Surreptitiously "friending" an employee to gain access to their site
- Using monitoring software to capture login information

WHAT'S HAPPENING OUT THERE?

- Misuses of social media by employees
 - Wasting time at work
 - Sexual harassment
 - Interfacing with employees, customers or clients in an inappropriate manner
 - Posting internal confidential information

WHAT'S HAPPENING OUT THERE?

- Uses of social media by employers
 - Increasing number of employers looking at the online presence of applicants
 - Not many claims or issues (yet)
 - Increasing adoption of social media policies
 - Problem areas
 - Supervisors being too friendly with subordinates
 - Sexual harassment by supervisors and co-workers
 - > The NLRB is very aggressive
 - Increasing view of Social Media as a valuable tool rather than just a curse

DEVELOPING SOCIAL MEDIA POLICIES

- Goals need to be identified
 - Control use during work hours
 - Incorporate social media into company marketing plans
- Even if you ban use at work, social media will inevitably come into the workplace so you still need a policy

DEVELOPING SOCIAL MEDIA POLICIES

- ➤ No "one size fits all" policy
 - Every business is different
 - There may be different needs within the organization
 - You need to identify what you need and want

REVIEW CURRENT POLICIES

- If you have a policy, review and update it regularly
- A large percentage of current policies violate the NLRA
- Many policies do not address ownership of social media accounts and contacts.

YOUR SOCIAL MEDIA GUIDELINES

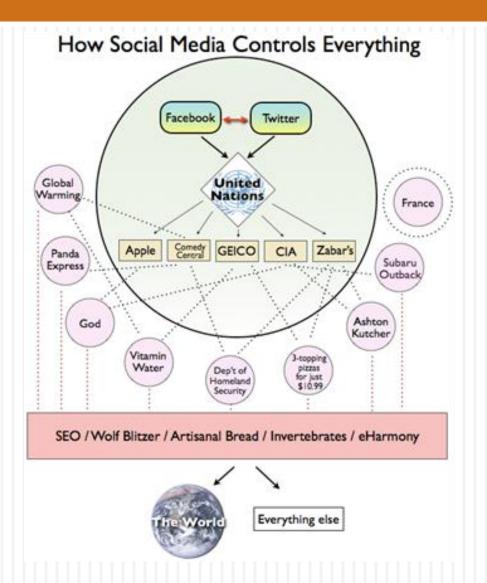
- Communicate to employees what use at work is acceptable.
- Reminder that all the other company rules still apply.
- Guidelines on appropriate use of social media when interacting with fellow employees.
- Guidelines for interactions with third parties.
- Warning about harassment, discrimination and other inappropriate behavior on social media sites.
- Guidelines for use of social media to advance company business interests (if applicable).
- Warning regarding inadvertent or intentional disclosure of confidential business information.
- Who owns your social media?

SOCIAL MEDIA IN THE WORKPLACE

- > Be aware of the risks
- > But, don't miss out on benefits



How Social Media Controls Everything



Social Media is changing...everything!

- The way people get and use information
 - □ Broadcast → Website Banner Ads → Internet Search → Google Ads → Finding people where they spend time online (Facebook, Twitter, Google+, etc.)
- How people form their association loyalties
 - It's all about engagement, baby!

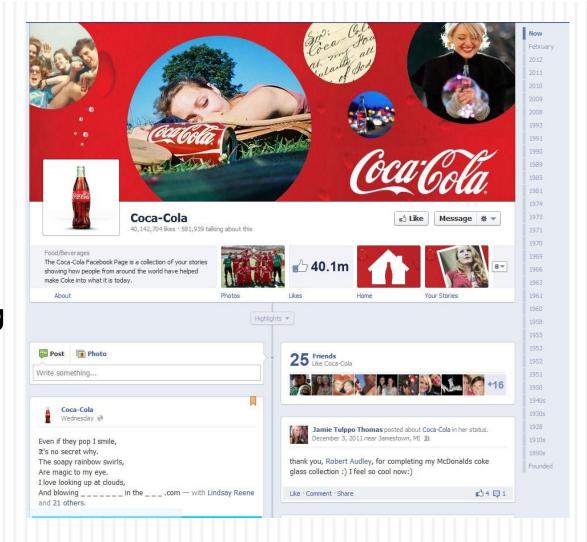
Why does Facebook Marketing Work?

- 845 million users can't be wrong!
- More than 50% of those users log in daily
- The average user is connected to 80 community pages, events, or groups
- More than 250 million photos are uploaded per day
- When this content is shared, it has a VIRAL EFFECT! The average user has 130 friends, who have an average of 130 friends, who have an average of 130 friends....
- More than 20 million apps are installed by users every day
- 38% of users are accessing Facebook through their mobile device



Cover Photo

- Use Images to attract people IMMEDIATELY
- Incorporate your brand in an exciting and visually appealing way.



Custom Tab Contact Capture Form

- Users are in a branded, visually appealing environment to learn more about your business.
- Lead capture forms can integrate directly with email management systems such as MailChimp for future marketing.



Custom Tab Continued...

Show off your best services as well as multiple location information

Our physical therapy team wants to be your first choice when pain slows you down!

about us

As trained "movement specialists" we are qualified to evaluate and treat your painful condition often without the expense and hassle of a visit to your doctor!*

The team at APTC wants to help you by providing personalized care as you recuperate from an orthopedic surgery, a painful injury, or a chronic joint or muscle disorder.

We want to empower you by providing education, genuine support, and skillfully crafted treatment plans that meet your needs in a timely manner.

You will gain an improved understanding of your condition within the first visit to our

about us

services zumba

faq

location

web



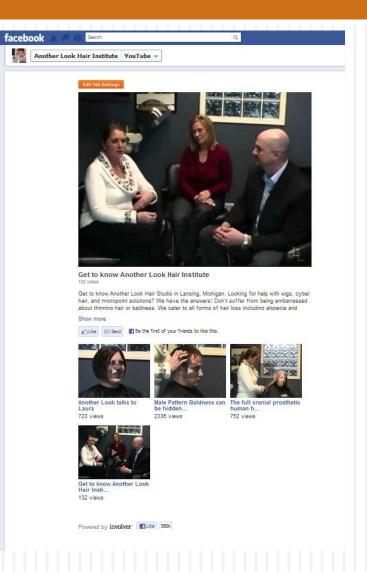
YouTube

- Exceeds 4 BILLION views a day
- Over 800 million unique users visit YouTube each month
- More video is uploaded to YouTube in 30 days than all 3 major networks created in 60 YEARS
- 500 years of YouTube video are watched every day on Facebook, and over 700 YouTube videos are shared on Twitter each minute

You Tube

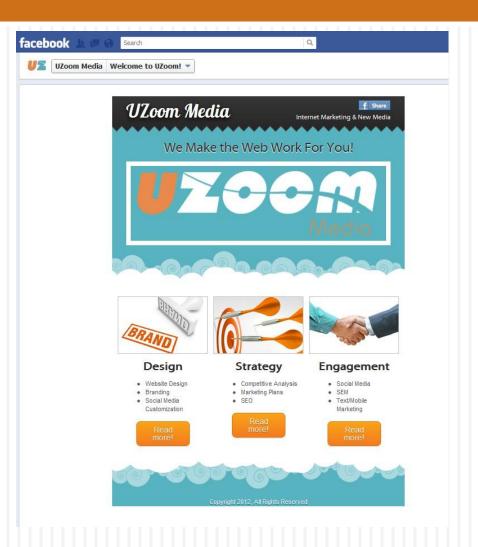
YouTube Channel

- Visitors can watch your videos without leaving Facebook
- Shows your most recent videos posted on one screen



Branding Tab

Ensures that
 you build
 interest in your
 business when
 visitors access
 information



Facebook Advertising

- Targets specifically by age, sex, location, interests, relationship status, and keywords
- Track impressions and click-throughs
- Affordable

Are You a Nurse? ems-expo.info



Need Nursing Contact Hours? Get them at the Michigan EMS Expo 4/28-5/1! Click here and sign up today!

Are You a Firefighter?

ems-expo,info



Get your continuing education credits at the Michigan EMS Expo 4/28-5/1! Click here and sign up today!

What's this Twitter thing anyway?

- Twitter is a micro-blog where you comment in 140 characters or less
- The object is to follow people in your service area and engage them so they will follow you back.
- It's like a cocktail party on the web (but without cocktails!) It's a relationship starter.
- Again, it's all about the engagement!



Why does Twitter work?

People like instant information that finds them. If they follow you, they will know what you represent.



Consumers like to be acknowledged. A fun interaction with a brand creates a loyalty for that brand.

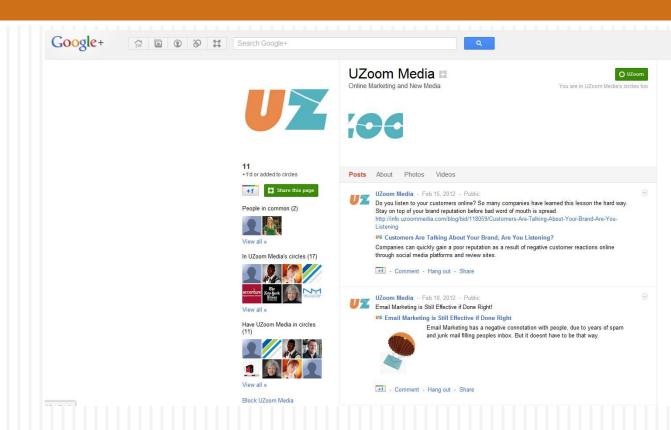
People care more about what their friends and network thinks than about what you say about yourself. The more you can get people to talk about you, the better!

Twitter Stream Example



Google+ Profile

- Your Google+
 profile will
 include your
 picture, key
 details about
 your business,
 your branding,
 and your tagline.
- This aids in your Google Search ranking success.

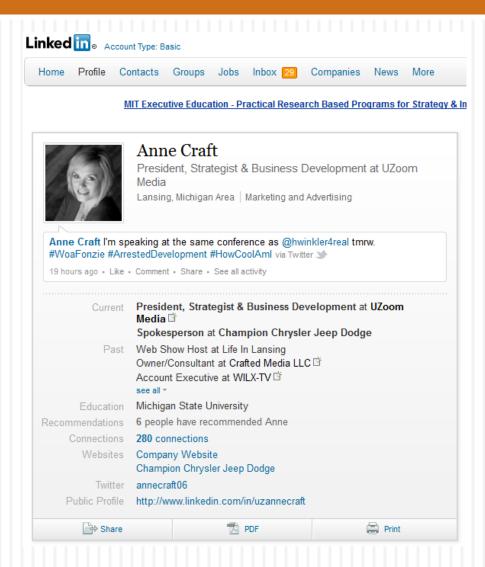


LinkedIn

- LinkedIn is a social network for professionals.
- Users can connect to alumni, industry, or other professional groups and organizations.
- LinkedIn groups can be a great way to connect to others in your industry, discuss latest trends, and gather leads.

Your LinkedIn Profile

 Your LinkedIn profile is the just the beginning of your LinkedIn presence.



Your LinkedIn Summary

- Your LinkedIn Summary is the fastest way to sell yourself. If your summary does not captivate the reader, the rest of your profile will never be read.
 This is the 30 second
- This is the 30 second sales pitch you give at a party.

Summary

My outlook on life is to "work your passion and live your dream." Because of this I have two "jobs" that I love for different reasons.

As a Social Media Consultant, Strategist, & Trainer, I help businesses define their business and marketing goals and implement strategies to reach those goals. Through UZoom Media I assist them in duplicating their company culture online through their websites and Social Media. I provide strategy, implementation, monitoring, and reputation management services in this arena as well. My company offers many web-related services, so please make sure you check them out on our website.

As the spokesperson for Champion Chrysler Jeep Dodge, I represent CCJD in their TV commercials as well as at special events such as Frontier Days and special sales events.

I also love to connect people with people or businesses with which they need to be connected. With that in mind, I want to be connected to as many people in Lansing as possible! I LOVE LOVE LOVE Lansing, and love promoting it!

How can I help you?

Specialties

Social Media Specialist, Website Development, Marketing for small to medium sized businesses.

Your LinkedIn Resume

- Your LinkedIn Resume is just as important as your paper resume.
- Put ALL your work experience in your LinkedIn Resume.
- This is the place on your profile to show where you have been.

Experience

President, Strategist & Business Development

UZoom Media 🖺

Marketing and Advertising industry

May 2010 - Present (1 year 5 months)

UZoom Media focuses solely on Social Media Strategy and Implementation for small and medium sized businesses.

Anne has 6 recommendations (1 co-worker, 3 clients, 2 partners) including:



1st Craig Tucker

Spokesperson

Champion Chrysler Jeep Dodge

Automotive industry

September 2008 - Present (3 years 1 month)

I act as an on-air spokesperson in Television commercials for CCJD. I also appear at events as a CCJD representative.

Web Show Host

Life In Lansing

nternet industry

January 2007 - August 2010 (3 years 8 months)

Actual dates are Sept. 2009, but I didn't want this to show up as my primary job! :)

Owner/Consultant

Crafted Media LLC

Privately Held; Marketing and Advertising industry

September 2008 - May 2010 (1 year 9 months)

Account Executive

WILX-TV 🖆

Public Company; GTN; Broadcast Media industry

March 2005 - July 2007 (2 years 5 months)

Wrote TV marketing plans for clients, wrote and produced TV commercials, general marketing consulting.

Account Executive

TDS Metrocom

Public Company; 10,001+ employees; TDS; Telecommunications industry

2004 - 2005 (1 year)

Account Executive

Citadel Broadcasting F

Public Company; 1001-5000 employees; CTDB.OB; Broadcast Media industry

2004 - 2005 (1 year)

Teacher

Charlotte Public Schools

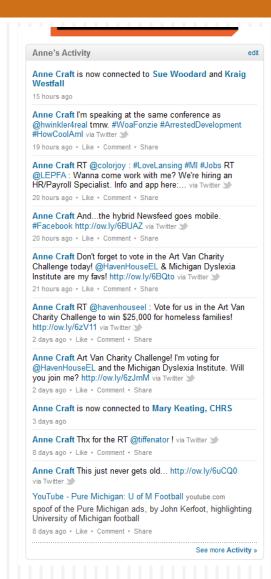
Education Management industry

September 1994 – February 2000 (5 years 6 months) | Charlotte, Michigan

Taught English, History, Geography, and Civil Rights to High School Students in both the Alternative Education facility and the High School. Taught many Honors classes.

Your LinkedIn Activity

- Your activity block shows who you have connected with, an article you found interesting, or something new you are working on, and can incorporate your twitter stream.
- This can add value to your profile.



Your LinkedIn Recommendations

- Recommendations are like the references section on your resume.
- The best way to get recommendations is to ask.
- Giving recommendations for people in businesses who have done a great job for you is another effective tool.

Recommendations For Anne

President, Strategist & Business Development

UZoom Media 🖺

"We've found Anne to offer us wonderful promtional suggestions and then be willing to assist us to their fruition. She's easy to work with and has a dynamic energy that shows a genuine interest in her client's business!!! Thanks, Anne!" December 18, 2010

Top qualities: Personable, Expert, Creative

1st Kent Lederer,

hired Anne as a Spiritual Organization in 2009, and hired Anne more than once

"I can't recommend Anne enough. Her professionalism, vision, and creativity is overwhelming; she simply gets the job done. Anne has a innate ability to find perfect solutions for clients, gaining her wide-spread admiration and respect.

With the years of experience that Anne has, you'd be a fool to try using someone else. I look forward to working with her in the future." December 21, 2010

Top qualities: Great Results, Personable, Creative

1st Craig Tucker,

hired Anne as a Business Consultant in 2010, and hired Anne more than once

"Anne Craft makes things happen. She can see big vision, but then be able to see the steps necessary to get to the end with big results.

She is comfortable in social settings and is a facilitator of positivity! Highly recommended to assist you in your business needs." December 21, 2010

1st Mark Stiles, Co-host of "The Mark and Anne Show", Life in Lansing.com worked directly with Anne at UZoom Media

"I have had the opportunity of meeting Anne at one of the Lansing Regional Chamber of Commerce events. With several different connections with her now, I can surely testify she is an outstanding individual and without losing sight of strategic objectives.

Anne, President of UZoom, believes in "working your passion and live your dream". She has proven both. Anne has helped businesses define their business and marketing goals, and implemented strategies to reach those top goals. Without reservation, I am honored and pleased to recommend her." December 27, 2010

1st Susan Hengesbach, Ambassador, Lansing Regional Chamber of Commerce was with another company when working with Anne at UZoom Media

LinkedIn Groups

- LinkedIn Groups is a way for organizations such as corporate and college alumni groups, nonprofit organizations, trade groups, conferences, and industry-specific groups to keep in touch with other members. Groups allow you to discuss issues that are of common interest.
- Establish yourself as an expert by commenting on group streams.
- You can also add presentations, make status updates, display awards, and show the world your most recent photo.

Additional Information

Websites

· Company Website

· Champion Chrysler Jeep Dodge

Twitter:

Social Media, Social Network Marketing, Website review and copy Interests writing, New Media, and Technology.

Groups and Associations:

Association of Strategic Marketing

Already a member

Capital City Connect CONNECT Already a member

Communication Arts & Sciences Alumni - Michigan State University Already a member

Detroit Job & Career Network Already a member

Digital Marketing Already a member

Fans of Mashable Mashable Already a member

Ideas - Market Yourself Ideas Already a member

INBOUΩD Inbound Marketers - For Marketing Professionals ARKETERS Already a member

Job & Career Network Already a member

> MSU Alumni Association Already a member

Michigan Social Media Marketing Already a member

Pro Lansing Already a member

social Social Media Today media today Already a member

USA Job & Career Network USA Already a member

USA Midwest Job & Career Network USA Midwest Job o

eMarketing eMarketing Association Network Association Already a member

100% profile completeness

Advertising on LinkedIn

- □ The average income on LinkedIn is \$100,000 a year.
- Use LinkedIn networking to generate commercial business leads.
- Advertising on LinkedIn can be targeted by geography, gender, age, group association, company affiliation, or job title (including CEO, Marketing Manager, HR, etc.)





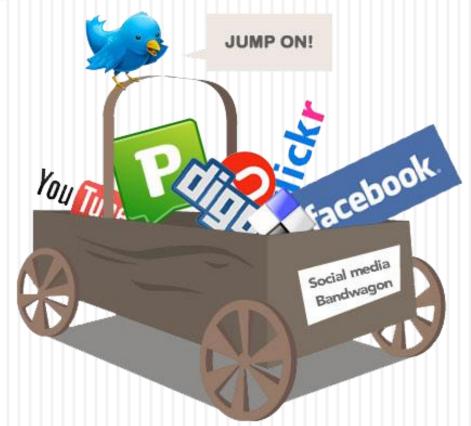
Your Business Needs Social Media

- Each social network can offer unique benefits to your business.
- Utilize your social network resources to effectively grow your business, increase loyalty, and establish your brand.





Will you jump on the bandwagon?



...Or will you be left behind?