

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO**

In The Matter of : **General Order Number Fifteen**

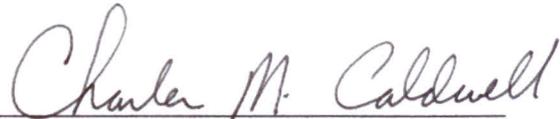
Adoption of Social Media Policy : GENERAL ORDER: United States
Bankruptcy Court, Southern District
Of Ohio (Cincinnati, Columbus and
Dayton) **Effective September 5, 2011**

Effective September 5, 2011, the Court adopts the attached Social Media Policy, including subsequent amendments and updates. With the exception of Judicial Officers, it applies to all employees, including law clerks and externs of the United States Bankruptcy Court for the Southern District of Ohio.

This policy should be read in conjunction with the Code of Conduct for Judicial Employees and the Court's Employee manual, as their provisions are also applicable to all social media activity. Absence of an explicit reference to a specific form of social media does not limit the application of this policy. Employees should consult with their manager or supervisor when uncertainty exists.

IT IS SO ORDERED.

FOR THE COURT



**Charles M. Caldwell, Chief Judge
United States Bankruptcy Court**

FILED

AUG 26 2011

Kenneth Jordan
Clerk of Court
U. S. Bankruptcy Court

**SOCIAL MEDIA POLICY
U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO**

Introduction¹

Social media (a.k.a. social computing or social networking) refers to a variety of internet-based tools and platforms that increase the sharing of information among individuals. These diverse online media permit interaction by multiple individual users and participation in social computing and are now a daily activity for more than 400 million people. Facebook, MySpace, LinkedIn, blogs, Twitter, chat rooms and visual sharing are just some of the forums for social networking today.

For the judiciary, social media may provide valuable tools, e.g., recruiting, employee development, and the posting of benefits information. But the use of social media also raises ethical, security and privacy concerns for both the court and court employees. Participation in social media offers everyone the opportunity and freedom to publish thoughts and opinions on any subject, but also affords the opportunity to render injudicious comments. Further, users can never be certain that their entries on blogs and other user-generated media are truly erased or deleted; internet messages and images may be replicated and preserved for many years.

By this document the court is setting forth a separate social media policy for its employees; the major theme is that the Code of Conduct for Judicial Employees applies to all online activities, including social media. The advent of social media does not broaden ethical restrictions; rather, the existing Code of Conduct is merely extended to include the use of social media. If an activity is deemed impermissible in an employee's non-online life, it is just as impermissible in one's online activities.

The within guidelines are intended to assist in maintaining the ethical and security standards of the court, but they are not intended to restrict private employee conduct unless that conduct violates the Code of Conduct, poses a danger to court facilities or personnel, or otherwise negatively impacts upon the court's mission and dignity.

¹ The court has relied extensively on the following resources in developing its social media policy: [Resource Packet for Developing Guidelines on Use of Social Media by Judicial Employees](#) (Judicial Conference Committee on Codes of Conduct), [Social Media Policy/Guidelines](#) (USDC DRI), [Clerk's Office Employee Social Media & Social Networking Policy](#) (USDC CDCA), and [Social Media Policy](#) (USBC NDOK).

In addition, special thanks is extended to Andrea Henson-Armstrong of the Federal Judicial Center for conducting a social media presentation for our judges and court management.

Ethical Concerns

The court's social media policy is based on concern that its employees' online activities comport with the Code of Conduct for Judicial Employees. The five canons of that code read as follows:

1. A judicial employee should uphold the integrity and independence of the judiciary and of the judicial employee's office.
2. A judicial employee should avoid impropriety and the appearance of impropriety in all activities.
3. A judicial employee should adhere to appropriate standards in performing the duties of the office.
4. In engaging in outside activities, a judicial employee should avoid the risk of conflict with official duties, should avoid the appearance of impropriety, and should comply with disclosure requirements.
5. A judicial employee should refrain from inappropriate political activity.

These five canons, then, plus concern for the safety of the court and its employees and the dignity of the court, form the basis for the following social media policy and guidelines for employees of the U.S. Bankruptcy Court for the Southern District of Ohio.

The Court's Social Media Policy

For purposes of this policy, social media includes any activity on the Internet that involves posting by an individual employee, either directly or as the result of other individuals' input that results in a post. Examples include blogging; hosting or updating any other form of website; posting comments to any website; posting photos, other graphics, or multimedia materials; posting documents or links; saving website bookmarks to a public site; filling out surveys; posting status updates, comments, or links; posting materials or links, or sharing or participating in any other way on a social networking site such as Facebook; micro-blogging, e.g., through Twitter, contributing to a wiki, etc.

With the exception of Judicial Officers, this social media policy applies to all employees, including law clerks and externs of the United States Bankruptcy Court for the Southern District of Ohio. This policy should be read in conjunction with the Code of Conduct for Judicial Employees and the Court's Employee Manual; their provisions are applicable to all activity on social media.

This policy is approved and administered by the Bankruptcy Judges and the Clerk of this court. Absence of an explicit reference to a specific form of social media does not limit the application

of this policy. Employees should consult with their manager or supervisor when uncertainty exists.

I. General Principle

The underlying general principle for court employees utilizing social media is that the rules of conduct are the same as the rules for using other modes of communication (such as writing, telephoning, public speaking and conversation).

II. Common Sense and the Integrity of the Judiciary

Judicial employees are expected to avoid impropriety and conduct themselves in a manner that does not detract from the dignity and independence of the judiciary. Common sense counsels discretion in the nature and subject matter of internet postings.

III. Identifying Yourself as a Court Employee

Users of social media frequently list their occupations and place of employment. This policy does not absolutely prohibit court employees from identifying themselves as court employees, but does require that extreme caution be exercised because an employee's identification with the court reflects on the court and may lend the court's prestige to an employee's postings. By identifying yourself as an employee of this court, you become, to some extent, a representative of the court, and everything you post has the potential to reflect upon the court and its image.

While you are in control of what you post, you can neither predict nor control what others may post on your page in a blog. Their actions, while harmless in intent, could embarrass you or the court. You are a representative of the court and must conduct yourself in a manner that avoids bringing embarrassment upon yourself and the court. Therefore, you are required to periodically review the content of the posts of others to pages under your control and remove those posts which violate the provisions of the court's social media policy.

You must also consider whether the listing of your employment might pose a security risk to court facilities, other court employees or yourself.

You must be careful to avoid communications that may adversely affect perceptions about the quality and objectivity of your work or the court's work.

Do not use the court's seal, letterhead, or any other distinctive insignia of the court.

Court employees should abide by a simple rule: you must assume that anything you say or write by virtue of social media is available for public consumption.

IV. Confidentiality

Court employees handle confidential and sensitive information, and any restrictions or safeguards that employees observe during their day-to-day duties are also applicable to their use of social media. Just as court employees are prohibited from disclosing sensitive, nonpublic information to the public on the phone or in person (e.g., the outcome of pending cases), the same restrictions apply to social media.

In short, confidential information is not to be discussed or referred to on social media sites.

V. Impartiality

The court's reputation for impartiality and objectivity is critical to its mission of dispensing justice. The public must be able to trust the integrity of the court and be confident that the outside activities of our employees do not undermine the court's impartiality, and that the manner in which the court's business is conducted is not influenced by any commercial, political or personal interests. For example, attorneys who appear in this court, as well as litigants, shall not be listed as "friends" of court employees on Facebook.

VI. Observing Security Protocol

Court employees must take care to avoid doing anything that could compromise the security of the courthouse and personnel. To maintain security, do not post pictures of the courthouse (external or internal); do not post pictures of court events; and do not post pictures of court employees (including those of judicial officers). In addition, do not post information regarding the judges' traveling schedules and vacation plans, or otherwise indicating the presence or absence of judges within the district.

VII. Professionalism

Employees of the court must maintain honesty, respect and professionalism. Consider your online dialogue as subject to the same bounds of civility required at work. Employees must comply with laws covering libel and defamation of character. Even noncourt specific behavior could have ramifications on your employment status (for example, photographs in compromising or illegal situations).

VIII. Think Before You Post

Internet postings – whether text, photos, video or audio – may remain accessible to many Internet users long after they are forgotten by the user who posted them. Also, remember that nothing should be considered "private" on the Internet; this is true despite users' best efforts to maintain privacy or even to delete items.

Do not post anything on the Internet that you would not want to see posted on your lunchroom

bulletin board or on the front page of the *Columbus Dispatch*, *Cincinnati Enquirer*, or *Dayton Daily News*.

IX. Relevant Social Media

This policy includes (but is not limited to) the following specific technologies:

- Facebook
- Flickr
- LinkedIn
- LiveJournal
- MySpace
- Personal Blogs
- Personal Websites
- Twitter
- Yahoo! Groups
- YouTube

X. Illustrative Examples of Prohibited Activities Using Social Media

The following concrete examples of prohibited activities illustrate ethics concerns related to employee use of social media and have been provided by the Committee on Codes of Conduct for the Judicial Conference of the United States. The list is not exclusive.

Confidentiality (Canon 3)

Example: posting a “status update” on a social networking site that hints at the likely outcome in a pending case; making a comment on a blog that reveals confidential case processing procedures; sending a Tweet that reveals nonpublic information about the status of jury deliberations

Avoiding Impropriety in All Conduct (Canons 2 and 4)

Example: exchanging frequent “wall posts” with a social networking “friend” who is also counsel in a case pending before the court

Not Lending Prestige of Office (Canon 2)

Example: affiliating oneself on a social networking site as a “fan” of an organization that frequently litigates in court

Not Detracting from the Dignity of the Court or Reflecting Adversely on the Court (Canon 4)

Example: posting inappropriate photos or videos on social networking sites

Not Demonstrating Special Access or Favoritism (Canons 1 and 2)

Example: commenting favorably or unfavorably on a legal blog about the competence of a particular law firm

Not Commenting on Pending Matters (Canon 3)

Example: posting a comment on a legal blog that pertains to issues in a pending case, even if the case is not directly mentioned

Fundraising Only Within Limitations (Canon 4)

Example: circulating a pledge appeal for a charity walk to all of your social network site “friends,” which includes individuals who practice before your court

Not Engaging in Partisan Political Activity (or Any Political Activity, for Certain Judicial Employees)(Canon 5)

Example: circulating an online invitation for a partisan political event, even if the employee does not plan to attend herself; posting pictures on a social networking profile that affiliates the employee with a political party or a partisan political candidate

For Certain Judicial Employees, Avoiding Activities that Involve Controversial Issues That May Appear Before the Court or that Involve Organizations that Frequently Litigate (Canon 4)

Example: circulating an online petition regarding a highly contentious state ballot measure

XI. Monitoring Employees’ Use of Social Media

The Court reserves the right to visit and monitor Social Media sites to ensure that employees are not violating our court’s Social Media Policy via court computers or any other computers.

The court’s IT Department has established protocols to preserve evidence of any alleged violation of the court’s Social Media Policy. In the event an activity poses an imminent threat to computer integrity and security, the IT Director may take whatever steps are necessary to preserve the status quo.

You are not required to provide your password(s) for your social media sites to the court.

XII. Disciplinary Action

Employees who participate in online communication deemed in violation of this policy or any other provision of the Employee Manual (particularly Section 8.00 “Internet Access Policy”) are subject to disciplinary action by the court.

Disciplinary action for Clerk's Office employees is governed by provisions and procedures detailed in the Employee Manual regarding adverse actions, and may include verbal warning, written reprimand, denial of a step increase, leave without pay and termination.

All reports of alleged violations of the court's Social Media Policy by law clerks or judicial assistants will be forwarded to the appropriate judge for disposition.

In the event an activity by any employee poses an imminent threat to the security of Judges, their staff and other court employees, the Clerk may take whatever steps are necessary to preserve the status quo.

XIII. Amnesty

All court employees are granted a one-time period of 14 days after the effective date of this Social Media Policy to terminate social media accounts or edit any existing entries in their social media accounts so that the employee's social media conduct complies with the court's Social Media Policy.

The effective date of the court's Social Media Policy is September 5, 2011.