

Who Owns the Social Media Account?

Zoe Argento

Assistant Professor, Roger Williams University School of Law
zargento@rwu.edu

What rights does an employer have in its workers' social media accounts? Increasingly, using social media is a key part of a company's branding strategy, consumer outreach, and market research efforts. Success in the social media context, however, typically requires a sense of personal interaction. Accordingly, companies rely on their employees not only to converse with the public on behalf of the company, but also to inject their personalities into the conversation. The goodwill associated with an account and the build-up of links enabling direct communication with key communities can be quite valuable to a company. When does the company have a right superior to that of a worker to an account? Due to the personal nature of these accounts and their dependence on third party social media services, the accounts would seem to fall outside of the employer's purview. Yet employees use them at least in part to further their employer's interests. On the one hand, companies should be rewarded for their efforts to build their brand, serve their customers, and conduct market research with the right to keep the account and its associated value. On the other hand, the public relies on the authenticity of the personal voice behind the account. Indeed, the value of the account – both to the employer and to the public – often depends on its expression of a specific personality. These concerns must be balanced in determining who has the superior right of access.