

Employers Beware: Accessing Employees' Social Media Accounts Violates Federal Law

In the current age of prevalent social media, more employees are accessing such social media sites during the workday. As a result, many employers now include specific restrictions in employment handbooks and policies regarding access to and usage of social media during working hours. However, it is important for employers to recognize that such restrictions may cross the line, especially when an employer accesses an employee's social media account without authorization.

Specifically, the Stored Communications Act (the "Act") imposes liability on parties, including employers, who obtain unauthorized access to a facility through which an electronic communication service is provided. This would include social media sites such as Facebook and Twitter. A federal court interpreting the Act has determined that employers that use coercion or pressure to access an employee's social media account or non-public social media posting may face liability under the Act.

Therefore, any requirement that an employee provide an employer with the username and password of the employee's social media account would be a clear violation of this law and open the employer up to significant liability.