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news

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Newsletter

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SOCIAL MEDIA

Social media is a globally recognised trend that has grown, and continues to grow, in popularity upon a daily basis. This platform is used by companies to interact with their clients and prospective clients, as well as a place where fellow employees and friends interact.

It is important that any content that is posted on these platforms is not offensive to the reader, nor should it infringe on copyright laws of the country. Care should be taken to recognise the consequences and repercussions of posting on these platforms and in a public environment.

The most popular of these platforms are Facebook, LinkedIn, Twitter and Instagram.

Recently, and in South Africa, there was an incident where an individual posted very verbal political views on Facebook, only to be taken to task when he was being interviewed for a

senior auditor- general position. Social media is also affecting employer and employee relationships, which touches at the core of Labour Law.

In the case of H v W (12/10142) [2013] ZAGPJHC 1, the Respondent posted on Facebook, this statement “I wonder too what happened to the person who I counted as a best friend for 15 years, and how this behaviour is justified. Remember I see the broken hearted faces of your girls every day. Should we blame the alcohol, the drugs, the church, or are they more reasons to not have to take responsibility for the consequences of your own behaviour? But mostly I wonder whether, when you look in the mirror in your drunken testosterone haze, do you still see a man?”

The Applicant successfully obtained an interdict against the Respondent on the above matter, interdicting Respondent from posting similar posts, and the Respondent was further ordered to remove all postings which she had posted on Facebook or any other site in the social media which referred to the Applicant. The Respondent was also ordered to pay the Applicant’s legal costs in the application.

The unfettered use of social media can also lead to potential criminal liability, in that one could open a case with the police for crimen injuria (“injury to reputation and dignity”). In the case of Hoho v The State (493/05) [2008] ZASCA the Supreme Court of Appeal dismissed a claim that criminal

defamation was inconsistent with the Constitution, which means a person can be successfully charged and convicted of criminal defamation on social media.



It is important for individuals who engage in social media and utilise these public platforms, to be careful of what they post, as the legal implications are serious.

Some companies use Facebook profiles of their candidates as a screening tool, before they shortlist individuals for interviews, so it is important how one conducts themselves in these platforms.

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