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## **Why Defense Lawyers Should Care About Social Media, Part 1**

By Andrew B. Downs

*This is the first post in a two part series from the [Federation of Defense & Corporate Counsel's \(FDCC\) Blog](#) on social media and what defense lawyers need to be aware of.*

Over the past several years, the use of social media has expanded dramatically to the point where it now can have a significant impact on business decisions, corporate public relations and how litigants are perceived. For those reasons, defense lawyers need to be social media aware.

Being social media aware isn't confined to using social media for marketing or personal purposes. It includes being aware of the impact social media has on the public discourse and the public perception of the defense attorney's clients. The defense lawyer should think of social media as a untraditional crowd-sourced form of journalism not necessarily subject to the professional standards of traditional print and broadcast journalism.

Blogs, including this one, are a form of social media. So too is Twitter, BuzzFeed, Facebook, Instagram and the like. And, other forms of social media are being invented continuously. Have you heard of Pheed, a tool for people to monetize their posts? I hadn't until I researched this post. Thumb, a crowd sourced decision making application? Path? Not all have "journalistic" uses today, but then, neither did Twitter initially.

The untraditional, crowd-sourced (or less politely, mob) aspects of social media make it particularly challenging for civil defendants and corporations because they can create a surge of public and consumer opinion that influence corporate or litigation decisions. For example, just this last weekend a woman in corporate communications lost her job for sending a racially and socially insensitive tweet just before boarding a flight to South Africa. By the time her flight landed and she was once again connected, it was too late because her tweet had been widely circulated and discussed. Indeed a hashtag regarding her location was one of the top trending items on Twitter and parody accounts for her appeared even before she landed. (<http://dailym.ai/1jAg7As>) Similar issues affected an insurance company defending an underinsured motorist claim when the deceased's sibling accused her insurer of "defending her killer" in court. (<http://bit.ly/J8URBG>)

While it's easy to discount last week's incident as the product of poor decision making, agitating the social media world doesn't require poor decision making – the party simply needs to be in the wrong place at the wrong time. Defendants and corporations can't eliminate all social media risk but defense attorneys and corporate counsel need to be attuned to how a particular dispute could play out in the social media arena in order to avoid increasing the risk of adverse social media exposure.

Next up: A few social media management ideas.