



North Carolina Law Life

Who Owns a Twitter Account?

By: Donna Ray Berkelhammer. Tuesday, January 3rd, 2012

Could this happen to your **Twitter** account after you amicably leave your job:

“The costs and resources invested by ON A WING AND A PRAYER PRODUCT GROUP into growing its followers, fans and general brand awareness through **social media** are substantial and are considered property of the Company. We intend to aggressively protect our customer lists and confidential information, **intellectual property, trademark** and **brands**. That’s why we are suing you for misappropriation of our customer list and other trade secrets (aka your Twitter followers). Please pay us \$2.50 per follower per month of your unauthorized use.”

The first case to address whether a Twitter account is a corporate asset and how to value the account has been filed in federal court. Initial hearings are later this month.

It’s an important case because as more and more employees post material on **Facebook, LinkedIn** and Twitter—often on behalf of their companies — the social media account becomes increasingly more valuable to both employer and employee. The company gets an online voice and brand, and the employee makes often significant personal connections that can impact his career.

In **Phonedog v. Kravitz**, an employee voluntarily quit a technology review company. At separation, he was permitted to keep his Twitter account with 17,000 followers, but was asked to occasionally tweet about the company and continue to provide content for blogs and reviews. At some point he changed his Twitter name to delete the name of the company. The relationship later soured, with the employee filing suit for unpaid benefits and compensation, and the company contending that the former employee misappropriated the company’s Twitter account and followers, and cost the company thousands of dollars in lost advertising and sales.

Without delving into the details of this particular case, here are some reasons a Twitter account could legitimately belong to an employer:

- The account uses the company’s brand name.
- The account was created specifically to communicate with the company’s customers.
- The account was created to attract new customers.

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- There is an applicable non-competition or confidentiality agreement.
- What does the corporate social media policy say?

Reasons the account could legitimately belong to the employee:

- The account name does not include the employer's brand name.
- Tweets were not exclusively about the company (some about the Tweeter's life and thoughts, some about the company and its products).
- Followers connect because of the personal relationship with the Tweeter, not because of the brand name of his company.
- Twitter followers (and LinkedIn connections) are not secret, so this is not theft of a **trade secret**.
- The employee is actually an independent contractor.
- What does the social media policy say?

If you are not hearing my subtext, a **social media policy** is more crucial than ever. But there are significant hidden issues in the areas of **labor and employment law**, **intellectual property protection** and **public relations/disaster recovery**. This is a good time to spend money on an attorney.

Stay tuned for more insight into social media policy.

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