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LAW FIRM RECRUITING

Some job hunters are what they post

Prospective employers are increasingly vetting candidates' Web pages.

By Michael D. Mann

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PLUG A PROSPECTIVE employee's name into Google or any other Internet search engine, and you might be surprised at what you find. Web pages may tell hiring attorneys that the person they just interviewed wrote for an undergraduate newspaper or belonged to a specific sorority, but the Web may also reveal the recent interviewee's drink of choice and dating status.

The advent of social networking Web sites such as MySpace, Facebook and Friendster have added a wealth of previously personal information to the Internet, some of which job seekers may prefer to keep private and out of an employer's hands.

Gone are the days of hidden diaries revealing internal emotion and personal opinions. That diary has been replaced by the blogosphere and social networking sites open for anyone with a basic Internet connection to read, share and comment on.

For most educated individuals below the age of 35, MySpace and other popular social networking sites have revolutionized the way people express themselves. Instead of pouring their heart out into a journal each night, many young people post their internal monologues on a Web log, more commonly known as a blog. Instead of staying in touch with friends via the phone, the younger generation relies on the Web.

Even e-mail has become a touch passé. Why send information into an impersonal inbox that is already stuffed with spam when you can send messages from one personal Web page to another?

As is the case with most advances in information technology, progress is a double-edged

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sword. The Internet makes it easier for individuals to stay in touch with each other in the face of the post-college diaspora; however, it also carries the risk of blurring the line between a personal and professional identity.

In the ongoing effort of law firms to identify the best and the brightest, hiring committees would be foolish to ignore the treasure trove of information the Internet offers about prospective associates.

For those who remain among the uninitiated, networking Web sites such as MySpace, Facebook, Friendster and other competitors are virtual communities that allow members to meet and make friends by posting information and pictures about themselves on personal Web pages. Currently, MySpace is the fifth most popular Web site in the world and the third most popular in the United States, with more than 106 million registered accounts and approximately 230,000 new ones created each day.

The popularity of MySpace and sites like it has exploded in only the last few years, making the site a cultural phenomenon and the reason Rupert Murdoch's News Corp. paid upward of half a billion dollars for the Internet startup in July 2005.

For legal recruiters, a MySpace user's profile alone can yield a bonanza of biographic information. A single page may reveal a job candidate's photo, location, race, ethnicity, political affiliation, religion, educational background including expected graduation date, extracurricular activities, classes, professors, past work experience and lifelong ambitions, not to mention candid personal pictures, comments from friends and the job candidate's account of last night's blind date—or even worse, an account of his or her interview with a particular firm.

While MySpace has become the epitome of online interaction, it does not even begin to include the millions of blogs, message boards and videos posted on countless Web sites available to a recruiter at the click of a mouse.

No more is an interviewer's information about a job seeker limited to a résumé, cover letter and professional references. Now, it seems that Google can produce more information about a person than his or her FBI file. And therein lies the rub.

It is important for legal recruiters to remember that Google is also the tool of choice for cy-

berstalking ex-boyfriends and girlfriends, and that the Internet is used to spread gossip about everything from celebrities to co-workers. When Google's algorithms spit out a list of results about a person, his or her academic achievements and journal publications may rank significantly lower than photos of tabletop dancing.

Yet the dangers of the Web and all of its interpersonal-communication wonders are not new to recruiters or students. Most recruiters know that dirt on the seemingly perfect summer associate may be out there and, in turn, law students and laterals know they have to make an effort to edit what personal information exists on the Web.

Reliability of Web posts

This puts hiring committees in a still-emerging position when it comes to internet information. The simple fact is that information is out there about recruits, and hiring committees will find it. But in reality, there is information out there about most people with a public profession, and therefore recruiters must be aware of emerging reliability issues. It is also incumbent upon law firms to use the Web responsibly and know when information about potential hires is noteworthy or simply idle gossip and Internet chatter.

Certainly, what a law student puts on the Web on his or her own volition is fair game. Firms should always be free to hire and fire candidates who are unable to manage their professional reputations by irresponsibly posting indefensible rants, sordid details about personal matters and inappropriate photos. However, recruiters must keep in mind that not all information about a prospective hire on the Web was put there by that person, or even with his or her knowledge or permission.

Individuals other than the person in question may post information on other Web sites and blogs, and tag photos of the prospective hire without authorization, and law firms should make an effort to differentiate between what a law student allows on the Web of his or her volition and what postings are beyond his or her power.

Recruiters should pay attention to the mens rea of the potential hire, if you will. Postings that were not within the control of the student

should be given far less weight in an evaluation of that person's professional character than those that a student clearly put up on his own.

A recent *Washington Post* article described the dangers of unauthorized Web postings and the damage they can do to a person's reputation and job prospects, by detailing the situation of a Yale law student who, after interviewing with 16 firms for a summer job, became confused when she received only four callbacks and no offers. Confounded because of her strong grades and activities, the student investigated and found that she was a subject of critical postings on a popular law school message board. Ellen Nakashima, "Harsh Words Die Hard on the Web," *Wash. Post*, March 7, 2007, at A1.

While the intent of the site was constructive discussion, it had instead become a bastion of online trash talking specifically meant to damage the reputation of particular individuals. Hundreds of anonymous postings issued derogatory remarks about individual law students by name or other identifying information. The student in question was sexually threatened and mocked.

Although such material was put up without the victim's permission, the anonymous aspect of the "discussion" allowed others to post replies giving the appearance that she was part of the dialogue and playing along.

Info may be posted without permission of the prospective hire.

Although the Yale student cannot prove any direct correlation between the disparaging postings and her failure to gain a single offer, she and others believe that she was so sexually objectified on the site that it placed a scarlet letter on her résumé at law firms. Her story offers a cautionary tale to students and recruiters alike, who should keep in mind both her experience in particular and the reality that women are the subject of Internet character attacks far more often than men.

The sheer scale and scope of the Web makes it a heavy burden to monitor one's online identity. Neither the courts nor statutory law have yet definitively dealt with the matter of libelous and slanderous behavior via the Web; hence, it is somewhat unfair to expect law students to manage it effectively 100% of the time.

The Internet can be equally frustrating to law firms that seek to limit their own bad information on the Web. For example, if one enters New York's Dewey Ballantine into Google, among the top 20 hits—as of press time—is a *New York Times* article discussing charges that the firm is biased against Asian-Americans. Jonathan D. Glater, "Asian-Americans Take Offense at a Law Firm Memo," *N.Y. Times*, Feb. 7, 2004, at C1. Nothing and no one is completely safe.

The issue of Internet etiquette, or lack thereof, is not unknown among the online community, recently causing several well-known bloggers, including David Weinberger, a fellow

at the Berkman Center for Internet and Society at Harvard Law School, to call for a blogging code of conduct that discourages problematic behavior such as anonymous postings. However, at best, a code would offer guidelines, not bright-line rules, with limited ability to enforce them.

In essence, dealing with the Internet is very much like dealing with the popular press. As educated consumers, we give more weight to material printed in the *New York Times* or *Wall Street Journal* than in supermarket tabloids and gossip glossies. Similar differentiation should apply to Web sites, and employers should shoulder some of the burden of determining what is reliable and what is not.

Firms should expect everyone to have information on the Web and in turn must become savvier about knowing what to use. In a perfect world, would-be associates might leave no trace of themselves in cyberspace, but firms must deal with things as they are, not as they wish them to be. Most individuals who have graduated from college or law school in the last few years and garnered any attention along the way—good or bad—will have an online presence whether they asked for it or not.

A Web presence can be positive

The great irony of law firms' distrust of associates with an Internet identity is that the legal world trains students to rely on the Internet for anything and everything. Research on Westlaw and Lexis, e-mail communication and even newspaper reading are all conducted via the Internet.

Therefore, it is only natural that a generation trained to carry out its professional life on the Web would turn to the Internet for personal and social networking. Firms cannot punish individuals for the blend of private and professional worlds that appears in a basic Google search, when the medium itself allows no opportunity to separate the two.

Moreover, the Internet is where, in large part, legal discussion currently takes place. Last March, Yeshiva University Benjamin N. Cardozo School of Law held a symposium discussing the possibility that law reviews have become obsolete, as fewer scholars and judges turn to them for legal analysis. Instead, the first research step is to find out what discussion of a concept is taking place on the "blawgs"—blogs specifically about legal issues including recently issued court decisions, statutory evolution and other emerging items in the making and practice of the law.

All sorts of legal bigwigs have an online presence, perhaps the best known being Judge Richard A. Posner, who sits on the 7th U.S. Circuit Court of Appeals and maintains his own blog, www.becker-posner-blog.com. If a circuit court judge uses the Internet to disseminate personal views, it is naive to hold law students to a different standard.

Right now, firms look on the Web for embarrassing information about associates. Yet it might be worth their time to look instead for students who can use the emerging medium effectively.

Perhaps, when searching the Internet, firms should look for people who can market themselves well and present an appealing image, or who can post on a blawg cogent and original

thoughts on a recent court decision, rather than launch a witch-hunt for pictures taken at a fraternity party.

A recent *New York Times* article discussed how the current presidential candidates are using MySpace pages as a tool to communicate with younger and more Internet-aware voters. Alex Williams, "The Future President, On Your Friends List," *N.Y. Times*, March 18, 2007, at 1. The marketing tools of modern presidential campaigns are among the most intricately researched and results-oriented promotional efforts of all time.

If high-powered political pollsters have decided that MySpace is a tool worth their time to win the attention of the young and educated, law firms competing for the top law students might consider following suit. MySpace is a platform that students know and use. Law firms should think about participating in the technology in an effort to reach students in as yet untried ways.

Firms can make MySpace work for their own purposes.

The Web as a recruiting tool

Personal Web pages such as MySpace offer the kind of viral marketing Madison Avenue can only dream of in terms of reaching a niche audience—person-to-person contact whereby getting the message to one raises the possibility of bringing it to hundreds or thousands of others. There is an entire country of law students checking MySpace every hour; why shouldn't law firms offer them the opportunity to check the firms' own MySpace pages?

Law firms cannot make students take down their MySpace pages, but they can find out who uses the medium well. Additionally, they can make MySpace serve for their own purposes by using it as a new communication tool to reach the future associates they want. The Internet is here to stay, and with it comes new opportunities in researching, discussing and practicing the law.

Recruiters have already realized its possibilities as a sorting tool, using it to identify individuals who may not be prepared to properly maintain their own or a firm's image. However, recruiters should also realize its potential in both finding new associates who can effectively negotiate an always evolving medium and as a place to expand their own reputation with new and desirable audiences. **NEJ**

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