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Lawyers warn: Bosses who 'friend' are begging to be sued

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Bosses who "friend" their subordinates on social networking sites may seem warm and harmless, but they've got liability risk written all over them. So warn employment lawyers.

Managers sending friend requests to staff via Facebook, Twitter and other sites constitute a growing trend in the workplace. And it's one that needs to stop, the lawyers stress, because online relations between boss and employee can trigger or exacerbate a host of legal claims, including harassment, discrimination or wrongful termination, as well as touch off cries of favoritism if the boss friends only a select few subordinates.

"The intention may not be a bad one," said management-side attorney Michael Schmidt of the New York office of Philadelphia's Cozen O'Conner. But "it's the unintentional consequences" they need to be concerned about.

Given that social networking sites are loaded with personal information, Schmidt said, a manager is bound to learn things about an employee that he or she will wish the boss didn't know. Moreover, when a manager learns of some personal attribute through the site, the worker now has the opportunity to argue that any later adverse employment decision "was based on this personal information," Schmidt said.

For example, a supervisor may learn from someone's Facebook page that he or she belongs to a gay rights group. If the same employee is later fired for a performance problem, the employee could claim he or she were fired for being gay.

Shanti Atkins, an attorney and president of ELT Inc., which specializes in compliance training in the workplace, listed other kinds of intensely personal information — religious affiliation, age, ethnicity, political affiliation, health problems — that is not supposed to influence employment decisions but does appear on social networking sites. She posited a boss, planning to discipline or even terminate an employee, who sees a profile update about the person's severe medical condition or frustration over perceived religious intolerance. Will this knowledge influence the manager's decision — or be seen as doing so?

Atkins pointed up another way that online friendships between managers and workers can put the managers in a difficult position. If the employee refers to being drunk at work or makes discriminatory remarks about co-workers, the manager may be obligated to investigate such behavior and report it to higher authorities at work.

Atkins said employers need to upgrade their policies on online worker-manager friendships. Specifically, she said, employers should ban them. "You should just, very politely, tell everyone, 'Don't do this,' " she said.

Meanwhile, employees may also want to hold off on friending their bosses. According to a recent survey by the staffing service Office Team, nearly half — 48 percent — of executives are uncomfortable being friended by those they manage. Another 47 percent don't want to be friended by their bosses either.

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