

# Social Media & the Law for Nonprofits

UVA Club Nonprofit Group

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## Kenneth E. Liu

University of Virginia, 1993

Cornell Law School, 1997

Partner at **Gammon & Grange, P.C.**, a law firm serving hundreds of large and small nonprofit organizations throughout the U.S.

- Intellectual property, trademark, copyright, Internet law
- Nonprofit law: tax-exemption, governance.

Chair, **U.Va. Asian American Alumni Network**

President, **Good Samaritan Advocates** (formerly Christian Legal Aid)

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**Don't post anything in social media that you wouldn't want to see on the front page of the Washington Post (or to go viral!).**

# Tweets from Congressional Staffers Describe On-Job Drinking in Office of Congressman Larsen

[www.nwdailymarker.com](http://www.nwdailymarker.com)

The image shows a screenshot of three tweets from a user named 'TheRocketship1 Seth'. Each tweet features a blue profile picture with a white letter 'D'. The tweets are as follows:

- Tweet 1:** "I'm pretty sure I couldn't pass a field sobriety test right now. Looking forward to a day in the office. #D2R #workoutskipped" (2 hours ago)
- Tweet 2:** "Best walk of shame ever #FTW #D2R" (2 hours ago)
- Tweet 3:** "Dear taxpayers - I hope you don't mind that I'm watching YouTube clips of Nirvana at my government job. Thanks, you're the best." (21 Jul)

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Don't post anything in social media that you wouldn't want to hear on the witness stand.

- Posts on social networks are generally discoverable in litigation.

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If you're not allowed to do it in the "real world," you're probably not allowed to do it in a virtual world.

- Real world laws do apply to the virtual world (including social media).

## Actions taken by an organization's employees can be held against the organization

- This can sometimes be true even if the employee's posts are ostensibly done in his/her "personal" life
- The line between personal and professional life is becoming increasingly blurred in the social media world.

## Legal issues to be concerned about in social media for nonprofit:

- Intellectual property
- Defamation
- Harassment
- Confidential information
- Charitable solicitations
- Political campaign restrictions
- Many others . . .



## Intellectual Property (IP):

- Trademarks
  - organization name
  - logo
  - slogan
  - product or service names
- Copyright - content:
  - text
  - website
  - videos
  - music
  - photos

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Need to be careful of:

1. Your organization infringing on others' IP
2. Others infringing on your organization's IP

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**Defamation:** the issuance of a false statement about another person, which causes that person to suffer harm.

# Hostile Work Environment, harassment, and Discrimination Claims.

- Employers and supervisors can be held liable for harassment against employees that occur on social media!

## Improper Disclosure of Confidential or Other Protected Information.

- Employers can be held liable for disclosing confidential information in social media!

## Employers should have social media policy to govern use of social media by employees

- Prohibit infringing uses of third party copyrighted works (e.g., videos, music, text) and trademarks (names and logos).
- Prohibit unauthorized dissemination of employer's own copyrighted works and trademarks.
- Prohibit obscene, defamatory, harassing and/or abusive language.
- Prohibit disclosure of sensitive, proprietary, confidential, or financial information about the employer, other than what is publicly available.

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Personal posts, blogs, etc. of employees that relate to the field of the employer's activities should be distinguished from the employer.

*Sample: "The opinions expressed on this site are the opinions of the participating user. [Organization] acts only as a passive conduit for the online distribution and publication of user-submitted material, content and/or links and expressly DOES NOT endorse any user-submitted material, content and/or links or assume any liability for any actions of the participating user."*

# Charitable solicitations

- About 22 states require nonprofits to register if they solicit funds those states.
- In states like Arizona, Florida, Georgia, Illinois, New Jersey, and New York, the mere existence of a “Donate Now” button triggers your registration requirement.



## No political campaign activity

- 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.
- Online activities could violate this prohibition.

Kenneth Liu

Gammon & Grange, P.C.

8280 Greensboro Dr., 7<sup>th</sup> F

McLean, VA 22102

703-761-5000

[kel@gg-law.com](mailto:kel@gg-law.com)

[www.gg-law.com](http://www.gg-law.com)

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