

A quarterly publication of Wiles, Boyle, Burkholder & Bringardner, Attorneys at Law.



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**Topics this issue:**

**Tweet! Tweet!  
Protecting Your  
Company's  
Confidential  
Information in the  
Era of Social  
Networking Sites**

**Featured WBBB  
attorneys**

**Overview of State  
Ballot Issues  
for November  
Election**

**I'm a Fiduciary,  
Now What?**

## Tweet! Tweet! Protecting Your Company's Confidential Information in the Era of Social Networking Sites

Updated your Facebook status recently? Have you been tweeting to your followers on Twitter?

To some, this might seem like a foreign language and to others it might be a part of your daily vocabulary. Either way, social networking sites, such as Twitter, Facebook and LinkedIn, have quickly become a mainstream part of our society. Twitter is a free blogging service that lets users post short updates, known as "tweets," on what

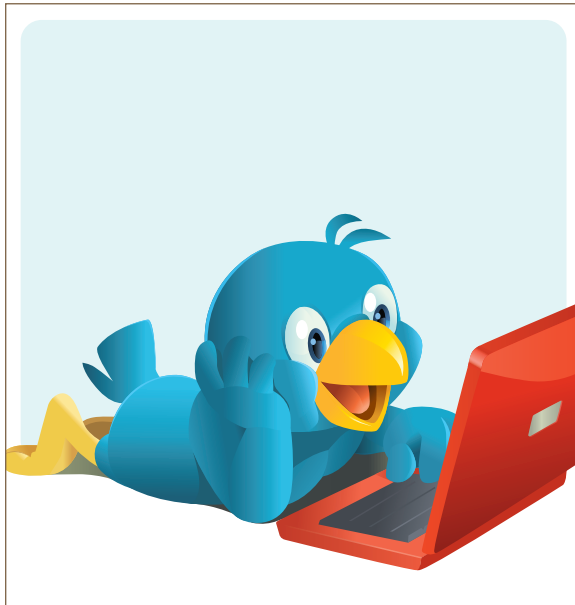
they are currently doing which can then be viewed by others on the Internet. There is an estimated 600 million individuals worldwide who everyday log in to sites like Twitter and Facebook. Like it or not, this latest phenomenon is here to stay in one form or another. The question is whether your company is prepared to handle this new form of communication.

Social networking sites are revolutionizing the way companies do business, allowing them to connect instantly with customers, sell goods and services, and recruit employees. Organizations such as Zappos and Comcast have used these sites to manage their brand sentiment and improve communications with customers.

Sites like Twitter carry a number of legal risks. Users posting information from corporate networks could expose company secrets. These "conversations" are no different from letters, e-mails or text messages. Posts on social networks are subject to the legal rules of electronic discovery, which means they can be subpoenaed in a lawsuit.

As an employer or manager, you must be cognizant of the potential issues that could arise because of your employees' use of these sites. Take for instance a recent situation in Battle Creek, Michigan. In June 2009, the local mayor revealed city employees' confidential information accidentally on Twitter, including their Social Security numbers.

Social networking sites also could trigger more workplace retaliation and wrongful termination claims. Employees may claim they were retaliated against or fired because of information they posted on their Facebook profile. Two employees at a



Houston restaurant chain currently are suing their former employer for violating their privacy by looking at a MySpace forum where the employees were criticizing their boss and restaurant in general.

Here are a few tips and ideas for implementing a policy in order to protect your company's confidential information while at the same time allowing your company to use the benefits of these sites:

Hold a meeting with your management, human resources and information technology staff to educate everyone on how the technology works and how it can be utilized by your company. Measure the employee benefits of sharing specific thoughts, especially related to your company and its competitors.

Speak with legal counsel for assistance in drafting the policy to avoid violating any employment or privacy laws.

Develop a social networking policy with a balance between employee privacy and protecting company secrets. This policy should include provisions covering all social networking sites and offer guidelines and best practices for both employees and executives. Be sure to remind employees that use of these sites at home and on personal time also can impact not only the company but also their career.

Finally, have a method for monitoring discussions of your company and industry on these sites to ensure employees are abiding by the rules.

Spending the time now to develop a company policy to handle this new wave of communication could prevent much larger legal issues from arising in the future.

Please contact our firm if you have any questions regarding developing a social networking policy for your company.

By Brandon L. Abshier

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## Featured Attorneys



**John Lucas**

John Lucas joins the firm with more than 30 years of private practice experience. His practice areas include estate planning, tax, business, real estate and debtor-creditor law.

Currently, he is a member of the American, Ohio and Columbus Bar Associations, American Institute of Certified Public Accountants and the Ohio Society of Certified Public Accountants. He also is involved with the Davis Foundation, Catholic Foundation and Columbus Foundation. Lucas is a Miami University, Oxford, Ohio and Case Western Reserve University School of Law graduate.



**James M. Hughes**

A firm veteran, Jim recently was elected to the Ohio Senate as State Senator for the 16th District. Previously, he served as an Ohio House of Representatives member.

Jim is a member of the Columbus and Ohio State Bar Associations and active with Charity Newsies, Shamrock Club, Agonis Club of Columbus and Ohio Crime Prevention Association. His practice areas include probate, estate planning, contracts and real estate. He is an Ohio State University and Capital University Law School graduate.

## Overview of State Ballot Issues for November Election

This November, Ohioans will head to the polls to elect judges, township trustees, mayors, city and village councilpersons and a host of other local positions that impact the lives of residents and their families. While these positions may not seem as glamorous as governor or president, they are essential to keeping our communities running smoothly and prepared for the challenges that lie ahead.

In addition to the many municipal elections taking place, voters also will have the opportunity to vote on three statewide ballot issues – each seeking to amend the Ohio Constitution. The first, State Issue 1, would allow the state to issue up to \$200 million in bonds in order to provide veterans of the Persian Gulf War and the ongoing conflicts in Afghanistan and Iraq with a cash bonus. If approved, Ohio veterans who served in the conflicts in the Persian Gulf, Afghanistan and Iraq would receive a \$100 cash bonus for every month of

service, up to \$1,000. Servicemen and women stationed in other locations during those conflicts could receive a bonus of \$50 per month, up to \$500. State Issue 1 also provides for a \$5,000 death benefit to be paid to the family of any soldier who is killed in the line of duty.

State Issue 2 would establish the Ohio Livestock Care Standards Board, which would be responsible for creating and enforcing guidelines for the care and well-being of livestock and poultry in Ohio. The board would be composed of 13 members representing family farmers, consumers, a local humane society and statewide farm organizations, as well as the director of the Ohio Department of Agriculture, the state veterinarian and an expert in food safety.

Finally, State Issue 3 seeks to allow the construction and operation of a single casino each at a designated location in Cleveland, Columbus, Cincinnati and Toledo. The taxes from the

casinos would be distributed among the 88 counties, public school districts, the host cities, the Ohio casino control commission, the Ohio state racing commission fund, a state law enforcement training fund and a fund dealing with problem gambling and addictions.

For additional information about any of these issues, including arguments for and against each issue and the full text that will appear on the ballot, please visit [www.sos.state.oh.us](http://www.sos.state.oh.us) and click on the “Statewide Issues Information” link. Voting is one of our most important civic duties – one that countless Ohioans take very seriously. The ballots that are cast this Election Day will decide many races and set the course for what is to come in the future, so it is essential that all voices are heard. The future of Ohio is in our hands.

By James M. Hughes

## I’m a Fiduciary, Now What?

Almost everyone, during the course of one’s life, will be nominated to be a fiduciary, either as a Guardian, Trustee, Attorney in Fact or Executor/Administrator, for someone else. Here is a simple overview of common fiduciary designations and tips for what you should do if you are nominated to be a fiduciary.

### Types of Fiduciary Designations:

**Guardian:** A person who is appointed by a court to represent another person’s interests because of that person’s incapacity or minority. A guardian can be appointed over a person’s body (health, education and maintenance of the person) or over a person’s estate (finances and transactional decisions) or both.

**Attorney in Fact:** A person who is nominated by an adult (the Principal) to act under a properly executed Power of Attorney document. An Attorney in Fact can be nominated to make decisions for the Principal’s physical well-being under a Healthcare Power of Attorney or

to make financial and transactional decisions for the Principal under a Financial Power of Attorney. The document should state when the Power of Attorney goes into effect. Powers of Attorney can only be made by adults. For minors in Ohio, only a parent can make a Power of Attorney, the Power of Attorney may be for healthcare only, and the Attorney in Fact must be a grandparent.

**Executor/Administrator:** A person who is appointed by a court to oversee the administration of a decedent’s estate. An Executor is nominated in a decedent’s will; an Administrator is not.

**Trustee:** A person who is nominated or who is appointed by a court to oversee a Trust’s assets and to carry out the Trust’s terms.

### Basic Tips:

- 1 Review the document that nominates you to be a fiduciary.
- 2 Consult with an attorney to

review the default duties for all fiduciaries in Ohio and to review the documents that nominate you in order to identify special instructions, special duties, or special powers.

- 3 Go to the Probate Court to get officially appointed as a fiduciary (if applicable) and to receive the court’s instructions for you as a fiduciary.
- 4 Notify important agencies and organizations (doctor, bank, school, etc.) of your role as fiduciary.
- 5 Keep excellent records.
- 6 Keep finances separate (do not commingle your funds with the person, trust or estate that names you as the fiduciary.) Always make an account of your transactions as fiduciary, and keep it current.
- 7 Always sign “Your name, as fiduciary for....” to indicate that you are acting on behalf of someone else when conducting affairs as a fiduciary.

By Nikki S. Mesnard

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