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NETWORKING WEB SITES CAN BE SNARES: EMPLOYERS SHOULD WEIGH PROS AND CONS BEFORE INVESTIGATING EMPLOYEES ONLINE

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It is becoming increasingly common for employers to use social networking sites such as Myspace and Facebook to obtain information about current employees and job applicants in making personnel decisions. Many employers believe it is essential to do so in light of potential liability for negligent hiring and retention. Indeed, recent studies suggest that at least one in five employers use social networking sites to screen job applications and make personnel decisions about current employees. However, employers who use social networking sites in such a manner need to be aware of the potential legal risks and pitfalls.

- Employers may be subject to potential liability for violations of state and federal anti-discrimination and anti-retaliation laws.
- Employers may also be subject to potential liability for invasion of privacy.
- While the Fair Credit Reporting Act (FCRA) does not oblige employers to comply with its consent, notice and disclosure requirements when using social networking sites without engaging a background screening firm, it may require employers to disclose a summary of the information they found on the social networking sites in conjunction with certain workplace misconduct investigations.

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