

This is your Release #6 (March 2019)

Social Media and the Law

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Social Media and the Law examines the use of social media in a variety of legal contexts, including privacy, civil litigation, employment, criminal activity and prosecution, intellectual property, defamation, advertising, and regulated industries. Relevant legislation, cases, usage trends, and industry responses are included in the discussions.

The many developments that occurred in this field in the last year are covered throughout this update. For example:

- In September 2018, Tesla CEO Elon Musk settled a dispute with the SEC regarding his allegedly misleading Tweet about taking Tesla private at \$420 per share. The settlement included Musk paying \$40 million in penalties and stepping down as Chairman of Tesla.
- Recent studies demonstrate increasing use of AI, big data and data analytics by employers to source and screen candidates.
- In June 2018, the NLRB General Counsel's Office issued a new guidance memorandum on employee handbook rules, following the NLRB's *Boeing* decision. In it, the General Counsel detailed the types of rules that might be implicated under *Boeing*.
- In *Kumho Tires*, the NLRB found an employer's social media policy lawful under *Boeing* where it was in place to maintain the confidentiality of the company's trade secrets and private or confidential information.
- In *In re CSGOLotto, Inc.*, the FTC for the first time brought an action against individual influencers for failure to disclose their connections with the advertiser.

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