

The Intersection of Family Law and Social Media Communication

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ABSTRACT

The rise of social media has significantly transformed interpersonal communication, with far-reaching implications for family law. This paper explores the complex interaction between social media and family law, examining how digital communication influences legal processes such as adoption, divorce, child custody, and protective orders. Social media has become both a tool and a challenge in legal proceedings, often serving as evidence in litigation while also exacerbating personal conflicts through public disclosures. From cyberbullying to sharenting, the ethical, legal, and emotional consequences of online activity are increasingly shaping judicial outcomes. By analyzing legislative gaps, court rulings, and real-world case studies, this paper underscores the need for updated legal frameworks, client education, and judicial consistency in addressing digital communication in family law matters. Future trends suggest that courts and practitioners must adapt to an evolving digital landscape, balancing constitutional rights with the best interests of families and children.

Keywords: Family Law, Social Media Communication, Child Custody, Digital Evidence, Sharenting, Cyberbullying, Adoption Privacy.

INTRODUCTION

Family law refers to the body of law that governs family matters (e.g., marriage, civil unions, domestic partnerships, adoption, surrogacy, child abuse, child abduction, child neglect, divorce, division of family property, spousal abuse, and child custody and visitation). Family law courts are courts of limited jurisdiction and can handle only certain types of cases. Family law is also referred to as matrimonial law. Most family law cases are handled in state (or territory) courts. Family law legislation is usually found in the family codes of states (or territories). For many families, the adoption process can be a lengthy and stressful experience. Married couples and single individuals hoping to add to their families will typically begin the process by completing a home study and submitting extensive financial and health information to the adoption agency. In cases of domestic adoptions, this information typically remains confidential and is used solely for screening prospective adoptive parents. If a prospective adoptive parent is matched with a birth parent, in some cases, letters and pictures are shared. Before placement, attorney-criminal records checks and background checks are also often completed. With the advent of social media, prospective adoptive parents are now confronting these same developed network concerns. Adoption legislation in the United States remains varied, confusing for individuals. In general, agencies and the legal system will prepare adoptive families before placement regarding letter-writing. However, much is left unsaid. Issues concerning online profiles promoting adoption equal fundamental disclosure about personal matters, the nature and extent of which is left to the discretion of individuals. Due to a lack of understanding of the digital framework, some individuals use social media to share intimate perspectives [1, 2].

Overview of Social Media Communication

The digital communications revolution set off by social media and mobile devices has transformed the way people communicate, socialize, date, parent, mourn, and do business. Technology and digital communications have created new ways to connect with others and have resulted in communication changes with far-reaching impacts and unintended consequences. Before social media, communication was

often limited to face-to-face conversations and phone calls or one-way blocks of text communication such as letters, memos, and emails. That world, however, has drastically changed in the last decade. Social media platforms have given rise to the instant exchange of text, images, audio, and video and have created new paradigms for communication that are not easily understood, much less governed, regulated, or restricted. As countries, states, municipalities, and organizations move to strike a balance between permitting the unique forms of communication emerging on social media while balancing safety and privacy, there is also a growing need to understand the effects of social media communication on family law matters. Family law encompasses legal and administrative issues surrounding the domestic relations among couples, parents, families, and children. Traditional and well-recognized matters in family law include divorce, child custody, child support, spousal support, adoption, child abuse and neglect, and domestic violence/restraining orders. New social media developments are being introduced in each of these areas that must be addressed – some existing laws and rules are being pressed against the bounds of their provisions (or in some instances, do not apply at all), while new laws about social media communication are being explored – as family courts and practitioners grapple with social media and its implications for family law. As a frame of reference for the discussion of the interaction of family law and social media communication in the following sections, a brief overview of social media communication is provided. Social media is a term that encompasses any communication over the internet involving two-way interaction, such as comments, replies, reposts, blogs, etc., versus one-way communication, such as emails, memos, letters, and press releases. It is a term of convenience, owing to the all-inclusive nature of communication that would need to be addressed otherwise, harking back to previous such catch-all monikers like “the information superhighway,” but it also despises an important distinction – the industry-platform distinction [3, 4].

Impact of Social Media on Family Dynamics

Several considerations arise regarding the impact of social media on family dynamics in custodial relationships created through adoption. While social media can support newly formed families, it carries risks that increased attention could help manage. The rise of adoption advocacy on social platforms, along with the involvement of social workers, could benefit families, but greater awareness of stakeholders, the families involved, and the online communication consequences is essential. As custodial relationships form through adoption or foster care, multiple stakeholders are involved in sharing family information. A key consideration is understanding that non-traditional families' details are often perceived as “newsworthy” and must be protected. Newly formed families commonly want privacy in custodial relationships, but claiming such rights may be challenging when information is shared online. There's also a tendency for media and adoptive parents to focus on the adoptive child and agency rather than the biological parents, which raises awareness of race and doctrinal stereotypes. Research indicates that children often feel negative emotions about being discussed online or featured in news stories, which can affect the child's well-being and family stability. Families can take steps to limit public information about themselves, and potential recourse if discussions trend virally. Ties to birth families complicate privacy, especially in transracial families, where efforts to protect a child's privacy can lead to stigmatization and awareness of differences. Conversely, increasing a child's birth family visibility may not serve the child's best interests. Establishing shared interests may also be more significant for non-traditional families. Multiple factors, including children's need for normalcy in foster and adoptive settings, should be considered when determining permanence terms related to existing community placements. Parents must think carefully about what information to share publicly about private matters, recognizing that relationships formed through private means may differ from those created through public news or social media [5, 6].

Legal Implications of Social Media Evidence

As the use of the internet and social media increased, courts began handling how those topics impact litigation. Drafting interrogatories with questions regarding social media is an option for opposing counsel. A motion could be drafted for a party to produce posts related to a claim or defense. Broad discovery requests may be thwarted, while narrower requests may prevail. A personal injury plaintiff who stated on Facebook that a full recovery from an accident had not been anticipated made it difficult for a jury to see the post. A key to successfully impeaching was finding a witness who could introduce the post into evidence as an exhibit. A wrench is the metadata surrounding the social media communication. Expert testimony is often needed to overcome, perhaps, an inability to lay a proper foundation. Emails and word-processor documents are potentially unaltered due to inherent editing and storage characteristics, while social media posts potentially all lack a proper foundation since they are commonly

broken into sub-posts. Authentication can be defeated by showing tampering. Discovery and use of inflammatory social media for impeachment purposes could warrant a motion in limine, although no cases seem to have been reported resolved by such a motion. The social media evidence used at trial would not have been noticed but for its disclosure through earlier examination under oath questioning. Posts elicited on motion to compel were virtually subject to exclusion in court, ignoring their relevance. The fact that evidence is from social media posts does not necessarily warrant heightened scrutiny [7, 8].

Social Media and Child Custody Disputes

In March 1986, the Massachusetts Supreme Court issued its ruling involving a child custody dispute. Among the court's instructions, it ordered that Amy and David not "speak disparagingly of one another in the child's presence," or "in the presence of the child, publish, post, or otherwise disseminate anything on social media or on the Internet which disparages the other party." According to the court, the directive constituted a restriction on artistic expression in violation of the First Amendment. It was a stark reminder, too, that parental expression—for good and for ill—is often shielded from interference even if the children's best interest militates otherwise. In recent years, courts have been hearing more and more cases involving parental conflict as amplified and twisted through digital proof. The authors use the term "documented parental discord," often through social media, to describe the phenomena. Cases frequently involve accusations of drug and alcohol abuse, neglect, or emotional abuse. Children are sometimes used as pawns in the battle to gain custody over them, often employed as objects of ridicule or degradation. The cases offer a distinctive and unsettling glimpse into how digital conduct—and the evidence collected in its wake—can fundamentally alter childhood in ways hitherto unseen. Because of their unique legacy, custodial cases can operate both in retribution and reparations. When it comes to social media conversations, it generally comes as no surprise that divorced parents go at it. It is common to see them posit their respective claims or defenses on Facebook or Twitter, often with copy jobs from each other's pages. There is a palpable darkness—to viewers, such online content might come across as thrice removed—by the time it is read, it has been filtered through someone's stream-of-consciousness interpretation of the social media posts, then re-translated back into standard English verb composition. But that filtering often has a purpose and is most often heard in private. In most respects, the composition of posts about one's children should be no different than advocacy through more traditional posturing: the conflict is generally between willing parties at some level of cognizance [9, 10].

Social Media's Role in Divorce Proceedings

The dissolution of family units can be devastating, leading to lengthy legal processes to finalize divorce, which often include custody arrangements and asset distribution. Co-parenting introduces new dynamics, requiring adjustments in behavior and expectations. Post-divorce life can prompt reflection and unexpected behavior, including problematic social media communication like posting negative content about ex-partners. This trend has caught the attention of states across the US, as social media introduces new challenges for parents attempting to navigate custody amicably. One mother, a judge, faced visitation disputes related to an inappropriate social media post concerning her child's attendance at a wedding, reflecting how public sharing can complicate personal matters. Cases involving social media communications have reached the Massachusetts Supreme Judicial Court and New Jersey family law courts, prompting questions about the extent of discussions regarding shared children online. Additionally, the emerging issue of "sharenting" has surfaced, where parents share photos and personal details about their young children, sometimes leading to complications related to privacy and child development. Requests for social media connections from individuals with potential biases, such as ex-spouses or disgruntled family members, complicate matters further. These relationships often involve ulterior motives aimed at gathering unfavorable information for public sharing. This situation presents unique challenges, particularly for children who may already be victims of cyberbullying. Various jurisdictions are grappling with striking a balance between vocal and more reserved parents in custody disputes, reflecting the complex relationship between family law and modern communication [11, 12].

Cyberbullying and Family Law

Given the sheer number of children with accounts associated with social media sites, the potential for social media to play a role in the perpetration and/or the attempted prevention of cyberbullying is great. While there seems to be little dispute regarding it, definitions or adequate reports of circumstances investigated in legal cases are sparse. Cyberbullying is bullying that takes place on the Internet. It is an awful act that can be perpetrated by one or many individuals against another individual or a group. This form of bullying began to take on a new form in 2006 with the instance in which one individual used a

social media platform to harass another. This young girl was falsely befriended by a supposed love interest and then taunted by others, and it is said that the severity of this type of harassment on the Internet directly correlates to the victims of it taking their own lives. The aforementioned instance gave rise to active research into the topic. Some of the preventive attempts include a website made by a government department as well as laws, which have arisen in 44 states (along with Washington D.C.) since the aforementioned occurrence. When looking at legal cases involving medium-sized and small-sized disputes, considering wrongful actions via electronic and digital devices that were investigated by the police and led to court cases, frivolous claims regarding harassment by simply searching an individual's name in a search engine for the public to see were uncovered. All involved individuals with prior histories of electronic disputes made great attempts to prove wrongdoing. As stated, a lack of clarity and sufficient evidence regarding prohibitive measures on freedom of speech impedes and has thwarted preventive legal efforts [13, 14].

Protective Orders and Social Media

Intra-familial protective orders often include restrictions on social media use, particularly to prevent parents from posting derogatory content about each other. These orders may prohibit parents from sharing custody details with friends or family through social media and suggest that such use should be explicitly covered in parenting plans. Courts may direct social services to investigate a parent's social media activity or require monitoring of social accounts every week. In custody disputes, mutual restraining orders are increasingly including social media restrictions, although courts typically resist restraining parental speech unless specific conditions apply. The courts tend to overturn social media restrictions more frequently than upheld them, particularly if deemed overly broad. For instance, a prohibition against making disparaging comments during interviews was struck down when a mother commented on Facebook regarding her ex-husband in a way unrelated to the child. A mutual restraint order later barred both parents from publicly discussing custody matters while allowing personal communication with family and friends. The court found the mother's reference to her ex-husband did not violate the order, as it was not directly aimed at the child [15, 16].

Future Trends in Family Law and Social Media

As social media evolves, family lawyers will need to advise their clients on using social media appropriately in family law matters. One way to approach this project is to begin with an examination of how family law jurisdictions have adapted to modern communications technology, including social media. More than half of the world's population uses social media. Thus, it is unsurprising that family law rules governing the issues arising out of social media usage are necessary. Social media impacts today's families tremendously, and parents need guidance on the contours of the family law issues that arise with the use of social media. Laws and rules presently in place may not keep pace with the ever-evolving platforms of social media or the time stamps of their content. Thus, uniform laws that can apply to the various social media platforms currently in use still seem daunting and certainly not comprehensive. Explorations of the intersection of family law with social media communication must necessarily begin with a legal analysis of the issues raised in three realms of family law. This information will also apply to civil, domestic violence, and juvenile matters as they pertain to communications on social media and will be equally applicable to issues affecting individual liberty interests in matters other than family law. While insight from family law is examined here, many issues raised in this Article are generally applicable to civil and juvenile matters and their potential intersection with social media communication. Because the expression of interest should review and critique social media and law journal literature, the analysis of those articles will be saved for a future discussion. Because family law has traditionally been at the state level, there is often only local or occasionally regional literature on such issues, which would not be broadly applicable to other jurisdictions. Additionally, those issues and articles would be of more practical and immediate concern to practicing attorneys than to academic law journals, as would articles on social media in domestic violence and juvenile matters published in non-law publications. Thus, for breadth and relevance to the public, only articles within the family law community will be reviewed. Social media is an evolving technology, making this a monumental task [17, 18].

Case Studies

Family law disputes are highly emotional and can lead to privacy violations and exposure of sensitive information, often exacerbated by social media. Many individuals naively believe that sharing family issues publicly will help, yet this can lead to further damage. Social media, while a platform for sharing, also serves as a tool for evidence collection in legal cases. Lawyers frequently monitor social media to

uncover incriminating information about opposing parties. In custody disputes, accusations and damaging claims about parental fitness can proliferate, turning reconciliation attempts into public spectacles filled with allegations of abuse, neglect, and other harmful labels. Such rapid dissemination through online platforms can disrupt family dynamics across generations. Family law is particularly susceptible to the unpredictable nature of social media, a reality that courts are just beginning to recognize. The impact of social media can distort self-identity and family relationships on a larger scale, leading to negative outcomes. Moreover, the stresses from litigation can further strain family relationships, and this spillover can subject children and parents to ridicule, shame, and bullying both online and offline [19, 20].

Ethical Considerations for Family Law Practitioners

Ethical considerations for family law practitioners using social media require careful attention to maintain message control and reputation. Practitioners must weigh the benefits and risks of their online presence, as reputations are influenced by numerous factors, both controllable and not. Courts emphasize free speech, but practitioners should be cautious about how their social media activities relate to promoting their services, even indirectly through family members' pages. Avoiding self-promotion is essential; mentions of expertise should be minimal and non-self-serving. Attention is needed for seemingly harmless interactions, as they could connect undesirable associations with family law practice. When creating social media profiles, lawyers must prioritize children's safety and be strategic in engaging followers while crafting their content. They can share non-specific legal advice, using inclusive language to address common parenting concerns or visitation issues, avoiding fear-inducing language associated with complex legal processes. Simplifying content with relatable examples can foster meaningful dialogue and respectful interactions. The goal should be to elicit constructive engagement while maintaining professional decorum within the community and with the judiciary. Public representation of experience and success should be balanced with the potential for quiet acknowledgment of collaborative efforts outside of the spotlight, reinforcing the value of discretion and respect in all professional dealings [21, 22].

CONCLUSION

The intersection of family law and social media communication reveals an urgent need for thoughtful legal reform and proactive client counseling. As digital platforms continue to shape how individuals share, document, and dispute personal matters, family law practitioners and courts must navigate the gray areas between privacy rights, free speech, and the best interests of children. Whether in custody disputes, adoption cases, or divorce proceedings, the influence of social media is no longer peripheral—it is central to the emotional, evidentiary, and ethical dimensions of family law. Developing standardized legal responses to social media use, educating families on responsible digital behavior, and fostering a multidisciplinary approach will be essential to mitigating harm and promoting justice. As society continues to evolve alongside technology, so too must the legal systems tasked with safeguarding families.

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