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# Legal Matters®

## Beware: Social networking sites are a danger in divorce

The popularity of Twitter, Facebook, and other social networking sites has created a can of worms in divorce: These sites often contain evidence of a person's whereabouts, "friends," employment status and other information that can be used as evidence against them.

People often forget that the pictures they post and the things they write about on these sites are public information.

Anyone going through a divorce should be cautious about their actions online, especially on social networking sites. The same is true for people who have been through a divorce but whose ex-spouse might still want evidence against them with regard to continuing alimony and support payments, child custody issues, etc.

If you're concerned, it's a good idea to take down your social networking presence, or at least adjust your privacy settings and carefully monitor sites so that nothing untoward appears.

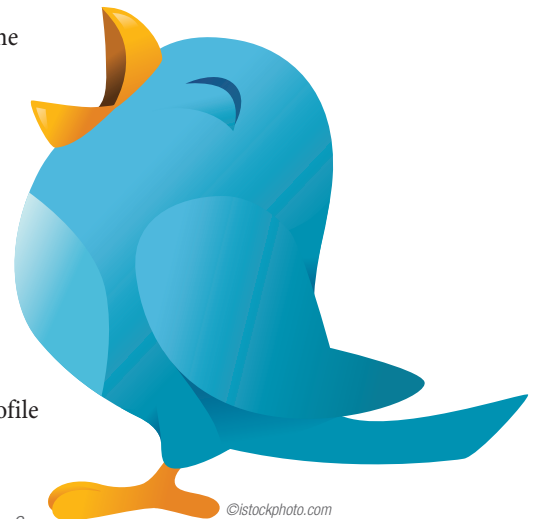
Remember that once something is posted online, a permanent record may exist even if you later delete it.

In a similar vein, if your ex-spouse is making claims during or after divorce that aren't true, social networking information might prove the person to be a liar.

Here are some of the types of evidence that can be found on social networking sites:

**Adultery.** Spouses will have a hard time denying that they're having an affair if there are photos on their Facebook page showing them cavorting with a new boyfriend or girlfriend in a hot tub. Facebook wall messages can also be incriminating.

**Finances.** Some people claim that they're not able to make significant alimony or support payments because their job prospects are poor, but their profile on LinkedIn might suggest the complete opposite. In addition, some spouses hide



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## Can divorcing spouses read each other's e-mail?

Many married couples know each other's passwords, and thus can access each other's e-mail accounts. But do they have a right to continue accessing these accounts once a divorce has begun?

In a recent New York case, a court ruled that a wife had a right to access her estranged husband's e-mail account.

The wife accessed the account and obtained copies of e-mails to his business associates and his employer's accountant. She claimed the e-mails proved that her husband was trying to hide income from her.

The husband argued that the e-mails shouldn't be used as evidence at the divorce trial, because even though the wife knew the password to his account, he never authorized her to use it. He also argued that even if the wife had permission to access the account during the marriage, her right ended when divorce proceedings began.

But the court said the e-mails could be used as evidence. It said there was no state law against what the wife did, so her accessing the account was legal.

However, the results could be different in other

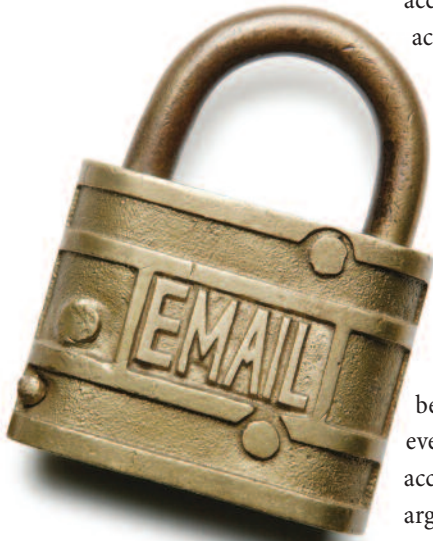
states or where other facts are involved, such as domestic violence.

In a California case, a married couple with two children divorced. A few years later, the ex-husband accessed the wife's e-mail account because she allegedly failed to communicate with him about her whereabouts. He then tried to use e-mails he found as evidence in court.

The wife applied for a restraining order to prevent him from using her personal information. She told the court that her ex-husband had a history of physical and emotional abuse, and therefore she should receive protection under the state's domestic violence law.

The court agreed with her and issued a restraining order to keep the ex-husband from accessing her e-mail. It said the ex-husband publicly disclosed some of the e-mails and this caused the ex-wife to suffer shock and embarrassment and to fear for her safety.

Of course, there's a simple solution to this problem: If you're contemplating divorce, change your e-mail password, or get a new account.



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**If you're contemplating divorce, change your e-mail password, or get a new account.**

## Husband gets two children, wife gets one

A family with three children could have custody split up, with one parent getting two children and the other getting one, North Dakota's highest court recently ruled.

The couple's divorce decree gave custody of the couple's 10-year-old son to the mother. The father received custody of the two older children, one of whom was in his late teens.

The father claimed this was improper. He argued he should have been awarded custody of all three children to keep them together.

But the state high court said that in this specific case, "split custody" was okay.

The family's visitation schedule was such that the siblings would be together the majority of the time, and the youngest child preferred living with the mother, while the older children preferred living with the father, the court said.

The children had different interests, the court explained, and while the older children enjoyed living on the father's farm, the younger child did not.

## Make sure your ex follows up on divorce requirements

It's always important for people who have been through a divorce to make sure their ex is doing everything he or she is required to do by the divorce agreement.

Here's another example of what can go wrong: A Wisconsin couple divorced, and the husband agreed to write a will leaving two-thirds of his estate to the couple's three children. The husband wrote a will, but he ignored the agreement and left the majority of his estate to his second wife.

After the husband died, the second wife and the children engaged in a long legal battle over the estate. They eventually settled, but the children received far less than their two-thirds share, and had to spend time and effort and lawyers' fees in the process.

Please feel free to contact us if you have any concerns that your spouse isn't meeting his or her continuing obligations.

## Court can't order mother to drop out of job-training program

A judge can't order a mother seeking child support to drop out of a "welfare-to-work" program to look for a full-time job, according to a California appeals court.

The program provided the mother with benefits while she attended school as part of a job-training program.

A judge ordered her to quit the program and find a full-time job. The judge stated, "If that means you quit school to get a job, so be it. You've got children to support; this is ridiculous."

But the mother appealed, and an appeals court took her side.

The appeals court said that participating in the program qualified as "looking for a job," since the entire goal of the program was to help the woman prepare for employment.

Also, the court said the judge's order placed the woman in a Catch-22, since if she obeyed it, she could be punished by the state for dropping out of the program, and if she didn't, she could be punished by the judge for violating the order.

## Father couldn't stop children from attending religious school

A divorced father couldn't prevent his children from attending a religious school, a court in Arizona recently ruled.

At the time the couple divorced, one of their children attended a private religious school. The second child started at the same school a few years later.

The father went to court to object, and to ask for a reduction in his child support payments. He argued that it was too expensive for the children to continue at the school and that it violated his constitutional rights to force him to pay for a private religious school.

But the court disagreed.

It said that the couple's parenting plan required both parents to decide the appropriate school for their children, and it couldn't simply accept the father's choice over the mother's, or give the father "veto power" over the children's education. Rather, the court had to analyze the issue from the children's perspective and focus on what was in their best interests.



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In one case, a father denied that he used drugs, but the background of his MySpace page featured marijuana leaves.



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assets during divorce proceedings, but evidence of those assets might turn up online.

In one recent case, a spouse tried to avoid paying alimony by claiming he had no job prospects after being laid off, but he was caught when his Twitter messages clearly showed that he was about to be hired.

**Child custody.** Social networking pages can contain information that casts doubt on a parent's claim that he or she is an ideal parent. This includes things a parent has done, places they've been, attitudes and frustrations they've expressed, and people and influences to which a child has been exposed.

For example, a parent who has agreed not to take

a child out-of-state might post photos of a visit to Disney or some other vacation destination with the child, thus proving that the parent violated the agreement.

In one case, a father denied that he used drugs, but the background of his MySpace page featured marijuana leaves.

**Threats.** One divorcing spouse was able to present evidence in court that the other spouse sent a threatening message in a "friend request."

If you're concerned about social networking sites, we'd be happy to help you with advice on how you can protect yourself.

**We welcome your referrals.** We value all our clients. And while we're a busy firm, we welcome all referrals. If you refer someone to us, we promise to answer their questions and provide them with first-rate, attentive service. And if you've already referred someone to our firm, thank you!

# Divorcing couples can agree to keep everything confidential

The process of divorce can be messy – and public. Some spouses might want to keep their private details private, especially in a small town, if a family business is involved, or if one of the spouses is a local celebrity.

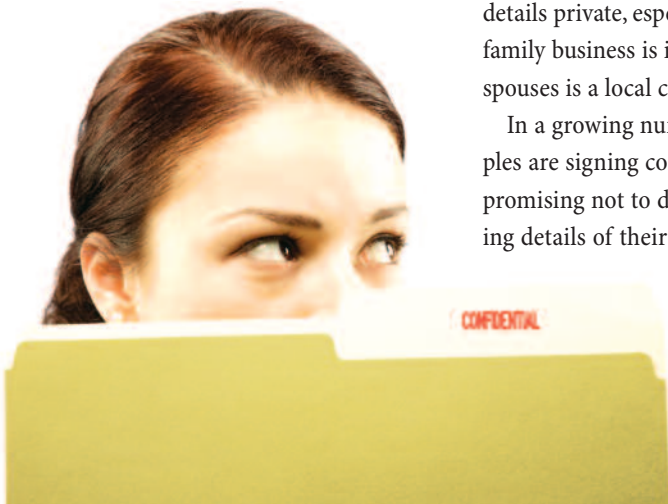
In a growing number of cases, divorcing couples are signing confidentiality agreements, promising not to disclose potentially embarrassing details of their marriage and finances.

One recent case involved an agreement signed by Dr. Nicholas Perricone, an anti-aging guru who wrote the best-seller *The Wrinkle Cure*.

After his divorce, Perricone went to court asking for a restraining order. He claimed his ex-wife was planning to appear on the national television show “20/20” to discuss the details of their marriage, which would violate the agreement.

The ex-wife then added a new wrinkle to the case: She claimed that even though she signed the agreement, it wasn’t valid because it violated her First Amendment right to free speech.

But the Connecticut Supreme Court smoothed things out for Dr. Perricone – it ruled that his ex-wife had waived her First Amendment rights when she signed the agreement.



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