



ATTORNEYS AT LAW



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Gene Stone is a partner with the law firm of Homan & Stone. His practice focuses on general liability and casualty defense in the areas of products liability, premises liability, professional malpractice, automobile, wrongful death, and employment law. He has tried dozens of cases involving auto, general liability issues, wrongful death and product liability. He has also successfully tried cases involving construction site accidents, product liability, automobile accidents, employment disputes, and general personal injury litigation.

EVENTS



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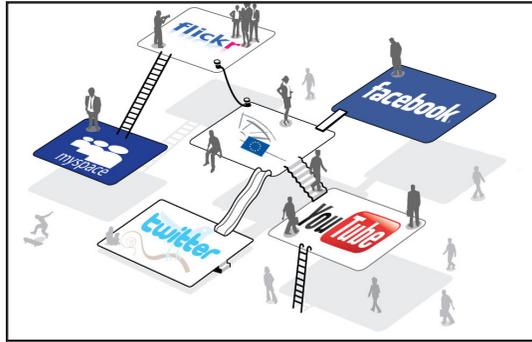
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## IN SOCIAL MEDIA AGE, LIABILITY FOR SMALL- & MID-SIZE COMPANIES GROWING

Written by BY MARK E. RUQUET, PROPERTYCASUALTY360.COM



For example, an employee inadvertently posting political commentary on a company's Twitter account instead of the employee's personal account.

READ THE REST OF THIS ARTICLE AT  
<http://www.propertycasualty360.com/2012/12/04/in-social-media-age-liability-for-small--mid-size>

More small- and medium-size companies are incorporating social media into their businesses, insurance professionals believe their clients' risk exposure will grow in the coming year, according to a survey released by specialty-insurer Torus.

In a survey of 105 insurance professionals conducted during the Nov. 7-9 Professional Liability Underwriting Society conference in Chicago, 58 percent say they expect to see an increase in requests for media-liability policies to mitigate social-media risk. Of that number, 16 percent believe the increase will be significant. Thirty-six percent say they don't think there will be a change in the number of requests, while 6 percent believe requests will decrease.

Christopher Cooper, assistant vice president, media liability practice leader, for Torus, says the exposures for small- and medium-size companies are the same as they are for large companies. The difference is that small- and medium-size companies do not have the support and resources to train individuals, monitor postings and have legal advice at the ready.

Litigation over inappropriate postings is growing, says Cooper. He cites an example last year when a fashion designer was offended by a posting aimed at her by the singer Courtney Love. The designer sued and the result was close to half-million dollars spent to defend the suit.

"It's the off-the-cuff comments and knee-jerk reactions that can cause damage," says Cooper.

Among those surveyed, 33 percent say their primary concern is data leakage. Cooper explained this covers the dissemination of company secrets and company information that could pose problems with Securities and Exchange Commission regulations.

Twenty-seven percent are concerned about lack of control over potentially damaging content posted by employees. Principally, Cooper says, this covers making comments that can damage a company's brand.

## NOTEWORTHY PANEL DECISION

Written by Gene Stone

Plaintiff allegedly tripped on a crack or raised cement which she claimed was due to roots from a nearby tree which created an approximately 1/2" to 1" displacement of the concrete.

Simon's Motion for Summary judgment was heard on March 6th, 2011 and was granted by the court. The court agreed with the defense that the defect in the paved walkway in an outdoor shopping mall, was trivial as a matter of law.

In her opposition, Plaintiff did not dispute that the 1/2 inch height differential of the crack falls within the range considered by the courts as trivial matter of law. Instead, plaintiff argued that aggravating factors were such that the defect was not in fact trivial. Specifically, plaintiff argued and presented evidence that (1) the crack was jagged and irregular in shape, (2) plaintiff fell while traversing in a crowd moving in a disorderly fashion, and (3) before the accident, defendant tried to sand or ground the concrete down in order to lessen the height differential.

In Simon's reply we pointed out that plaintiff does not proffer any evidence that the lighting conditions were poor, the crack was obstructed by weeds or brush on the ground, or that anyone else was injured by the same defect. The additional factors which plaintiff proffered did not render the defect non-trivial. The non-uniform shape of the defect has no bearing on how dangerous it was. The fact that the presence of other persons prevented plaintiff from observing the crack doesn't change its character as "trivial"; otherwise, no cracks would be trivial in busy commercial locations. Finally, whether or not defendant attempted to reduce the height differential is immaterial; what matters is the height at the time of the accident. The court agreed with our position and ultimately granted the motion.

After extensive briefing, The Court of Appeal recently denied Karen Shiohama's appeal and awarded costs to our client.

