

**HR Tip of the Week**  
**P•A•S ASSOCIATES**  
**February 18, 2019**

## **Get Permission in Writing Before Posting Employee's Photo Online**

*Can I choose to post photos of my employees on my company's website and social media page? Do I need each employee's consent first? What if an employee refuses?*

Posting photos of your employees on the internet can raise serious privacy concerns in California. Some employees may be happy to see their smiling faces online, but others may object for a number of reasons.

An employee who has been the victim of stalking or who has a restraining order may not want others to know where he/she works. Another may be a private person who is not comfortable having his/her photo online. Other employees who don't like the way they look in photos simply may not wish to have their picture made public.

Regardless of the reason, posting photos online without the employee's permission may be illegal.

### **Right of Publicity Laws**

Many states, including California, have so-called "right of publicity" laws that limit the way a person's image can be used for commercial purposes.

California Civil Code Section 3344 makes it illegal to use a photo or video of another person for any sort of marketing purpose in most situations without permission.

Because your company's website and social media page both likely exist to attract customers and potential employees, use of an employee's photo for such marketing purposes without his/her permission could be a violation of Civil Code Section 3344. As a result, your company could become liable to your employee for monetary damages, attorney's fees and costs, as well as punitive damages.

### **Get Permission in Writing**

Before posting a photo of an employee online, get express written permission from that employee. You may choose to get a blanket consent for all future use of the employee's image at the time of hire, although a better practice is to also obtain permission each time an image is used.

If an employee refuses to consent for whatever reason, do not use their image on your website or social media page.

To view a PDF version of this week's HR Tip, please visit

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