



Emma Sadleir speaking on social media and its risks for the legal profession at the LSSA information communication technology session on 15 August.

their employers for their posts on social media platforms such as Facebook.

Ms Sadleir urged judges to sign up on social media websites. 'How can judges decide on matters dealing with Facebook, for example, if they are not aware of what goes on on Facebook or how to use it?' she asked.

Ms Sadleir noted that there are no guidelines on tweeting in court, except in *S v Kotze and Others* (GNP) (unreported case (C119/12, 15-7-2013) (Bam AJ) - the *Modimolle* case - where tweeting was banned. She noted that these days all you need to know is which journalists are in court covering a certain case, and the hashtag they are using, to be able to follow court proceedings as if you were in court yourself.

Ms Sadleir warned delegates to avoid tweeting when angry, drunk or emotional. 'Once you tweet, that is it; it is out there. Even if you delete it, people usually retweet so quickly, someone is bound to read your tweet,' she said, adding that the disclaimer which reads 'I tweet in my personal capacity' is not a magic wand that gets one out of trouble for 'wrong' tweets.

Ms Sadleir highlighted the fact that as long as your profile indicates where you work, you cannot distance yourself from your employer in your tweets.

She concluded by making a few recommendations for the legal profession:

- Guidelines on social media for legal practitioners.*
- A social media policy.*
- A policy or rules on social media as evidence.
- Guidelines on tweeting from court.
- Social media training for judges.

*The LSSA's guideline and draft social media policy for law firms can be accessed on the LSSA website at www.LSSA.org.za under 'Resources for attorneys'.

- See also 2013 (April) *DR* 7; 2013 (Jan/Feb) *DR* 17 and see page 28 of this issue.

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Shaun Barns wins SALRC 10th anniversary essay competition

Shaun Barns has come up tops in the 2013 Ismail Mahomed Law Reform Essay Competition. This was announced at the awards ceremony held by the South African Law Reform Commission (SALRC) in Centurion on 5 September 2014. The ceremony also commemorated the ten-year existence of the competition.

Speakers at the ceremony included Justice Minister Michael Masutha; Judge of the Supreme Court of Appeal and SALRC chairperson, Mandisa Maya; and South Gauteng High Court Judge and vice chairperson of the SALRC, Jodi Kolapen.

Shaun Barns (24) who studied law at the University of Cape Town told *De Rebus* that he entered the competition because it is a prestigious one. He said he felt humbled by winning. He noted: 'I think that it is amazing that something that I wrote was given recognition and that it matched the spirit of the late Chief Justice Mahomed.'

His essay titled 'Constitutional damages: a call for the development of a framework in South Africa' explored whether the doctrine of vicarious liability adequately fulfills the positive duties placed on the state by the Constitution. More specifically, whether vicarious liability in delict sufficiently protects the rights of citizens where institutional failures in the South African Police Service have resulted in physical injury to private persons. 'My intention when writing the paper was to identify some challenges legal reform faces in this complex space where the public and private spheres overlap, and further to provide a viable alternative to vicarious liability centred squarely within constitutional law, namely constitutional damages. Lastly, I used Canadian jurisprudence as a comparator to demonstrate how a framework for constitutional damages has been developed in foreign jurisdictions,' he said.

After completing his studies, Mr Barns did his articles at a law firm in Cape Town for five months but resigned for personal family reason. 'To keep myself busy I started two companies. The one helps vendors make furniture out of recycled goods, and the other one is closely related, it formalises informal traders in the city of Cape Town,' he said.

When asked whether he would consider going into practice, Mr Barns said that he would like to but he is not sure



The winner and runners up of the Ismail Mahomed Law Reform Essay Competition Steven Stuart-Steer, Shaun Barns (winner), Colette Ashton and David Houze. Nathan Sarkas was absent.

when. He added that he would also like to study further and would like to work on the paper that he submitted for the competition. 'A lot of my essay was on Canadian jurisprudence. I would like to go to the US as they have a unique take on damages as compared to the rest of the world,' he said.

Mr Barns would like to do a masters in law focusing on constitutional law and jurisprudence.

The runners up in the 2013 competition were Colette Ashton from the University of Pretoria; David Houze from the University of Witwatersrand; as well as Nathan Sarkas and Steven Stuart-Steer from the University of Cape Town.

According to the SALRC, the competition is named in honour of the late Chief Justice Mahomed and it aims to encourage and incentivise critical legal writing by students, while generating new and innovative ideas for law reform.

The initiative also seeks to encourage legal scholarship and dialogue on the link between law reform, human rights and the rule of law. Essays could be on any topic relating to the modernisation, improvement, development or reform of any aspect, area or branch of South African law.

The winner won a R20 000 voucher. The four runners up each won R10 000 vouchers and their supervising lecturers won R2 500.

A book - published by sponsors, Juta Law - containing all winning essays since inception of the competition in 1999 until 2013 was launched at the awards ceremony and presented to all the competition alumni.

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