

Ethical Issues Related to Attorney Use of Social Media  
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- I. As a User
  - a. Client Confidentiality (Rule 1.05)
  - b. Lawyer Advertising Rules (Rules 7.01-7.07)
  - c. Professional Misconduct (Rule 8.04)
  - d. Unauthorized Practice of Law & Barratry
  - e. Ethics Opinions
  - f. Traps for the Unwary
  - g. Examples
    - i. A 19-year public defender lost her job after her blog posts referred to a judge as “Judge Clueless” and included thinly-veiled facts about the case.
    - ii. The Florida Supreme Court disciplined a lawyer who blogged that one judge was “an evil, unfair witch.”
    - iii. A North Carolina judge was publicly reprimanded for “friending” a lawyer who was involved in a case pending before him.
    - iv. A lawyer in Galveston became famous last year when Judge Criss told how the lawyer had posted a string of updates about drinking and partying, then asked for a continuance because her father died.
    - v. A public defender lost her job and could lose her license after posting confidential client information on her blog and substituting the client’s inmate number instead of his name. The number was easily looked up online and thus the client was identifiable.
    - vi. A defendant’s conviction in California was set aside because a lawyer on the jury blogged about the trial while serving. The lawyer received a 45-day suspension.
    - vii. An Oregon lawyer posed on Classmates.com as a high school teacher and described fictional sexual relations with students. The Oregon Supreme Court disciplined him even though he described it as a practical joke.
- II. As a Lawyer in a Nonprofit Law Firm or Government Legal Department
  - a. Funding Restrictions
  - b. Employment Law Issues
  - c. Defamation
  - d. Self-preservation
- III. Preventive Measures
- IV. Resources:
  - a. March 2010 Issue of *Texas Bar Journal*, especially “Social Networking Dos and Don’ts for Judges and Lawyers” p. 192
  - b. ABA Ethics Opinion 10-457 “Lawyer Websites”
  - c. *Social Media for Lawyers: Twitter Edition*, Adrian Dayton (2009)
  - d. *Social Media for Lawyers: The Next Frontier*, Carolyn Elefant and Nicole Black (2010)
  - e. ATTORNEY-CLIENT RELATIONSHIPS IN CYBERSPACE: THE PERIL AND THE PROMISE, 49 *Duke L. J.* 147 (1999). Catherine Lancott, Villanova Law Professor.