

Technology and Social Media from a Legal Ethics Perspective

- 6:30 to 6:35 Introduction Team Hirsch and Vlach-Ing
- 6:35 to 6:50 Part 1: Social Media as Legal Advertising 15 min.
Presented by Aaron Jeffers and Sean Armstrong
- 6:50 to 7:05 Part 2: Using Social Media as an Advocacy Tool
Presented by Michelle Vlach-Ing and team
- 7:05 to 7:20 Part 3: Cyber Security
Presented by John Vehrs and team
- 7:20 to 7:30 Q&A / Group Discussion

Team Hirsch & Vlach-Ing:

Audrey Hirsch

Michelle Vlach-Ing

Sean Armstrong

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Aaron Jeffers

John Vehrs

Nicole Lemieux

Janet Graham

Kathryn Jackson

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1. Sub-topic: Social Media as Legal Advertising Aaron Jeffers

- a. Potential issues:
 - i. Improper solicitation of clients
 - ii. Potential for inadvertently creating attorney-client relationships
 - iii. Potential unauthorized practice of law in another jurisdiction
 - iv. Dealing with negative online reviews:
- b. Materials:
 - i. Oregon Formal Opinion 2005-3 – Disseminating Information through the Media
 - ii. Oregon Formal Opinion No. 2021-196 – Solicitation of Clients
 - iii. Oregon Formal Opinion No. 2005-108 – Information about Legal Services (Yellow Pages Advertising)
 - iv. ABA article
 - v. OSB article
 - vi. California Ethics Opinion 2014-1 and 525

2. Sub-topic: Using Social Media as an Advocacy Tool Michelle Vlach-Ing

- a. Researching jurors and investigating witnesses
 - i. Potential issues:
 - 1. Failure to investigate could be ineffective assistance of counsel
 - 2. Unauthorized contact with unrepresented vs. represented parties
 - ii. Materials:
 - 1. OSB article regarding social media investigations
 - 2. ABA Formal Opinion 466 – Reviewing jurors’ internet presence
 - 3. Oregon Formal Opinion 2013-189 – Accessing Information about Third Parties using Social Media
 - 4. Oregon Formal Opinion 2005-164: Contact through website and the internet
- b. Public comments / activity on social media
 - i. Potential issues:
 - 1. Duty to protect client confidences
 - a. Example: posting confidential and personal medical information on listserv
 - b. Example: identifying clients by name or jail number on blog without consent
 - 2. Improper extrajudicial statements
 - 3. Improper ex parte communications
 - 4. Breach of settlement or confidentiality agreements
 - a. Example: Florida case where man forfeited settlement because he breached confidentiality agreement after his daughter posted on Facebook that he won the case: “Mama and Papa Snay won the case against Gulliver. Gulliver is now officially paying for my vacation to Europe this summer. SUCK IT”
 - ii. Materials:
 - 1. ABA Formal Opinion 462 – Judge’s Use of Social Networking Media
 - 2. NY Times article regarding online activities of lawyers
 - 3. Law 360 article regarding requested disqualification of lawyer on personal injury case (Carnival Cruise) who posted inflammatory statements on Facebook

4. Oregon Formal Opinion No. 2007-179 – Trial Publicity
5. Florida judge removed from divorce case over Facebook friend request to one party
6. Miami-Dade Circuit Judge: recusal not required, per appellate court, in case involving attorney / Facebook friend

3. Sub-topic: Cyber Security John Vehrs

- a. Potential issues:
 - i. Duty to maintain client confidences and safeguard client property
 - ii. Inadvertent disclosure of meta
 - iii. Notifying clients of a data breach
 - iv. Potential violation of other privacy and data protection laws
- b. Potential materials:
 - i. Oregon Formal Opinion 2011-188 – Third-Party Electronic Storage of Client Materials
 - ii. Oregon Formal Opinion 2016-191- Electronic Files
 - iii. Oregon Formal Opinion 2011-187 – Competency: Disclosure of Metadata
 - iv. ABA Formal Opinion 484 – data breach
 - v. WSBA Law Firm Guide to Cybersecurity
 - vi. PLF [resources and guides](#) on “using technology” and “cybersecurity” in your practice

4. General Materials

- a. Arkansas State Bar Article: Don't be “Socially” Unacceptable: Avoiding Ethical Issues with Lawyers' Use of Social Media
- b. OSB article regarding use of social media
- c. PA State Bar Formal Opinion 2014-300
- d. Oregon Rules of Professional Conduct