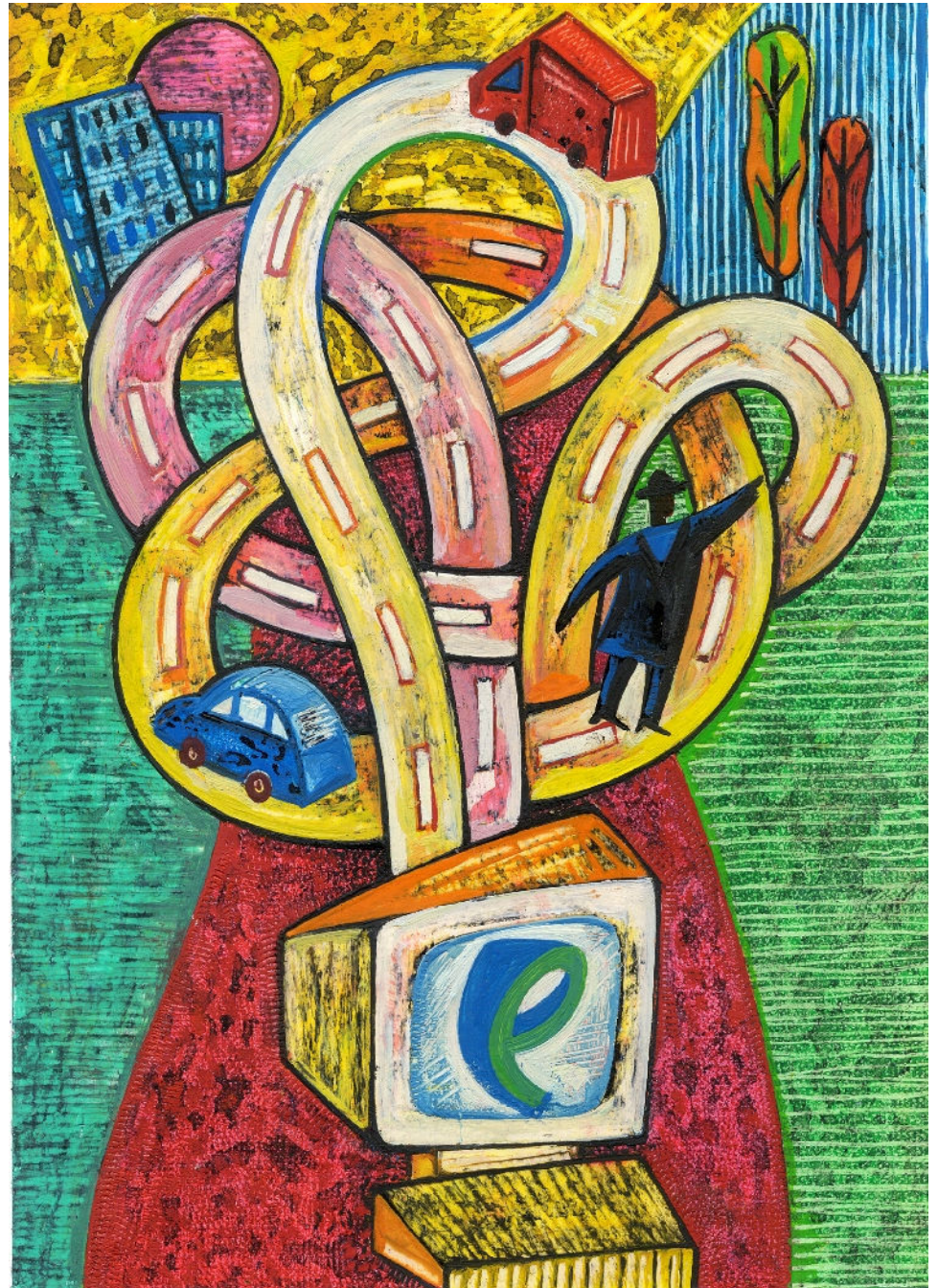


Why Discovery of Social Media Matters

Or
Dumb Things People Do
on
Social Media

Brent N. Coverdale
Seyferth Blumenthal & Harris LLC
brent@sbhlaw.com



This Belongs on the Internet



This Does Not

 **News Feed**

Top News · Status Updates ▼

Share:  **Status**  **Photo**  **Link**  **Video**  **Question**

What's on your mind?

 **Brock Anton** ×
Maced in the face, hit with a Batton, tear gassed twice, 6 broken fingers, blood everywhere, punched a fucken pig in head with riot gear on knocked him to the ground, through the jersey on a burning cop car flipped some cars, burnt some smart cars, burnt some cop cars, I'm on the news..... One word History :) :) :))
 about a minute ago via iPhone · Like · Comment

Good friend 

 Brock Anton and Tyrone Gallant like this.

 **Ashley Pehota** brockddd! take this down!!! its evidence!
2 seconds ago · Like ·  1 person

Bad friend 

Write a comment...

This Belongs on the Internet



This Does Not

Jason's Profile · Jason's Wall



Jason Valdez

Well i was lettin this girl go but these dumb bastards made an attempt to come in after i told them not to, so i popped off a couple more shots and now were startin all over again it seems.....

📱 Saturday at 6:25am via Mobile Web · Like · Comment

👍 4 people like this.

Bad friends



Ester Osorio This is not a game just let her go

Saturday at 6:47am · Like



Brittney Navarro u are crazy cuz, their gettin ready, expect the un expected. Love ya

Saturday at 6:57am · Like



Ashley Leishman JDOG WOW

Saturday at 7:08am · Like



Celeste Villarruel Come out unharmed Please for you and your family and your babies!!!! Please Jason We All love you Praying you come out in good health ...

Saturday at 7:13am · Like · 👍 1 person



Mario Sosa Good luck homie!! Be aware of \$urroundNz

Saturday at 7:20am · Like

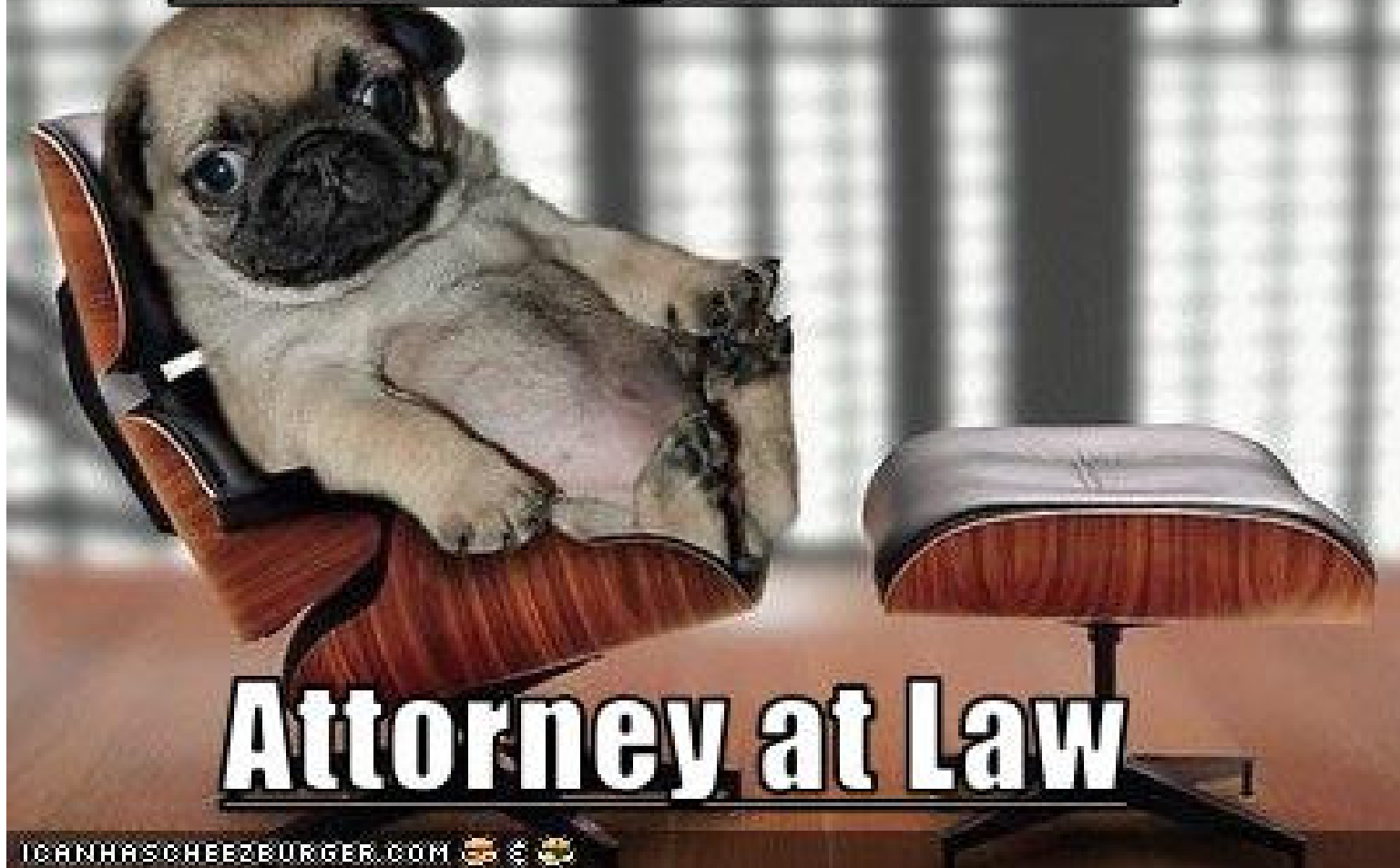
Good friends

This Does Not



This Belongs on the Internet

Mr. Pudgemuffin:




This Does Not

Profile

RECENT POSTS

OXYCONTIN, ROXICODONE, OXYCODONE (GENERIC)

I Provide Samples Of Oxycontin 80MG OC

I'll take a sample.... must be real. email me at  thanks. (Sep 6, 2010 | [post #20](#))


OXYCONTIN, ROXICODONE, OXYCODONE (GENERIC)

Suboxone 8mg Reasonable price!!! Can send sample.

I really need to see if this stuff works, I'll buy a bunch if it does. Please email me at  (Sep 6, 2010 | [post #45](#))

PORTLAND, OR

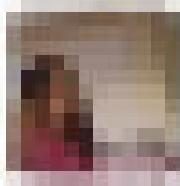
Marijuana - Portland, OR

I currently work on the Oregon hemp and cannabis 2012 campaign (OCTA)... please message or email me if you would like to get involved!  (Sep 6, 2010 | [post #27](#))

This Belongs on the Internet



This Does Not



Lindsay  OMG I HATE MY JOB!! My boss is a total pervy wanker always making me do shit stuff just to piss me off!! WANKER!

Yesterday at 18:03 · Comment · Like



Brian  Hi  I guess you forgot about adding me on here?

Firstly, don't flatter yourself. Secondly, you've worked here 5 months and didn't work out that I'm gay? I know I don't prance around the office like a queen, but it's not exactly a secret. Thirdly, that 'shit stuff' is called your 'job', you know, what I pay you to do. But the fact that you seem able to fuck-up the simplest of tasks might contribute to how you feel about it. And lastly, you also seem to have forgotten that you have 2 weeks left on your 6 month trial period. Don't bother coming in tomorrow. I'll pop your P45 in the post, and you can come in whenever you like to pick up any stuff you've left here. And yes, I'm serious.

Yesterday at 22:53

Write a comment...

Have you ever rejected a candidate because of what you saw about them on a social networking site?

69%

Yes

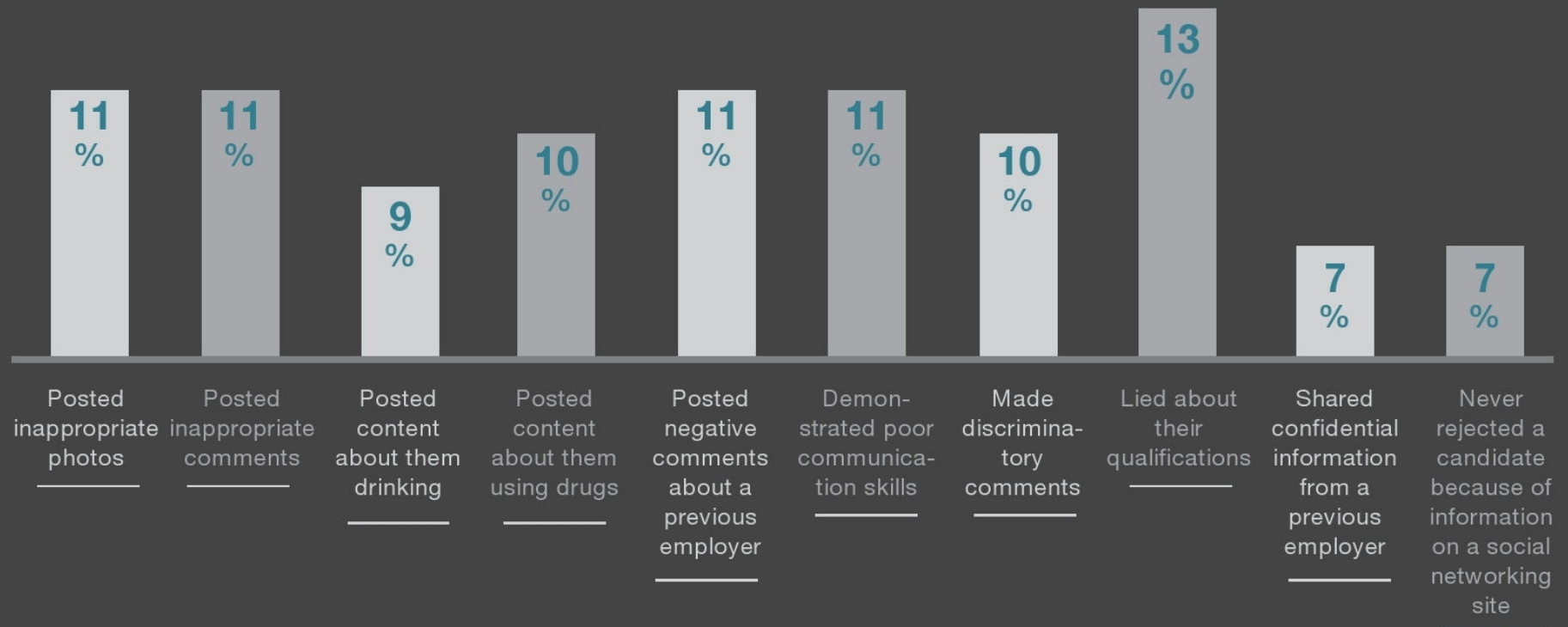
26%

No

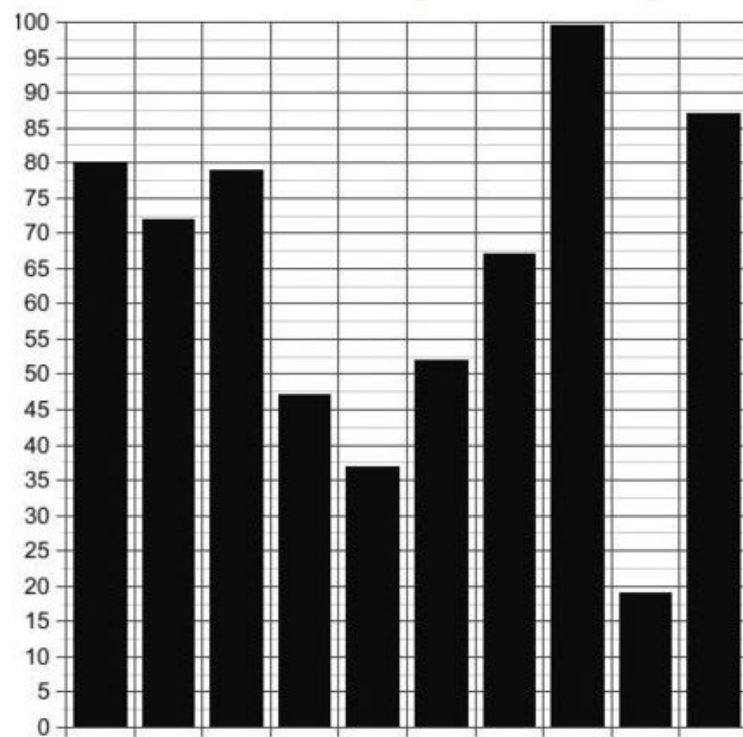
5%

I don't use those sites to screen prospective employees

Why have you rejected those candidates?



**Percent Chance That Each Of These Bars
Will Reach The Top Of This Graph**



©2011 Ben Greenman/Stupid Ideas



DISCOVERY OF SOCIAL MEDIA: FORMAL VS. INFORMAL AND "HOW TO'S"

**Presented by Jason L. Bush,
Polsinelli Shughart**

WHAT IS SOCIAL MEDIA?

- Social media refers to the use of web-based and mobile technologies to turn communications into an interactive dialogue. Some refer to social media as consumer-generated media. A common thread running through all definitions of social media is a blending of technology and social interaction for the co-creation of content and value.

There are at least six different types of social media:

1. Collaborative projects (Wikipedia)
2. Blogs and microblogs (Twitter)
3. Content communities (You Tube)
4. Social networking sites (Facebook; MySpace)
5. Virtual game worlds (World of Warcraft)
6. Virtual social worlds (Second Life)

Social media accounts for ____% of all time spent online in the U.S.?

1. 6%
2. 11%
3. 22%

Facebook has been redesigned and it now contains a “real-time” news ticker. Every update says, “Breaking news: You’re screwing around at work.” --Conan O’Brien

Twitter averages over _____ tweets per day.

1. 1 million
2. 10 million
3. 20 million

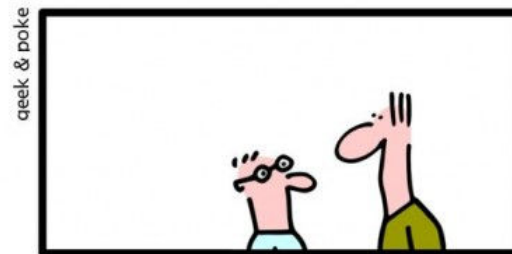
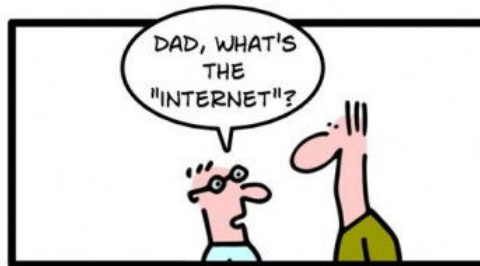


To quote further from people's exhibit A, your Twitter feed,
"@holdupguy I'm in the getaway vehicle with
the money and hostages. Where R U?"

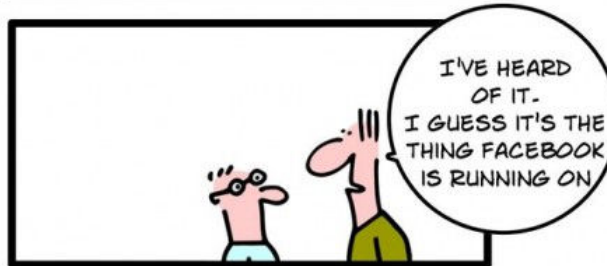
© 2011 Polsinelli Shughart PC

Before social media, the number one activity on the web was _____.

1. Music streaming
2. Email
3. Pornography



geek & poke



2040

The number of social media users age 65 and older grew 100% in 2010.

DISCOVERY OF SOCIAL MEDIA

"Mining" social media for "gold."

Informal Discovery

1. “Friend” on Facebook; “Follow” on Twitter
2. Ethical considerations.

Formal Discovery

1. Interrogatories and Document Requests.
2. *Held v. Ferrell Gas, Inc.*, 2011 WL3896513 (D. Kan. 2011).
3. “How To” Subpoena Facebook, Twitter or Myspace
4. Potential Road-block to Discovery: Stored Communications Act, 18 U.S.C. 2701, *et seq.*; *In re Subpoena Duces Tecum to AOL, LLC*, 550 F. Supp. 2d 606 (E.D. Va. 2008).

View From the Bench

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Social Media & the Jury:
“Google Mistrial.”

K.S.A. 22–3423(1)(c). **Mistrials:**

(c) Prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without injustice to either the defendant or the prosecution; or

Kansas 2011 Case:

State v. Mitchell, 252 P.3d 586 (2011)

1. Under [K.S.A. 22-3423\(1\)\(c\)](#), a district court may order a mistrial at any time if prejudicial conduct, inside or outside the courtroom, makes it impossible to proceed without injustice to either party. Juror misconduct will not be a ground for mistrial, however, unless the party claiming error shows that such error substantially prejudiced his or her rights.

2. With regard to unauthorized juror communication, whether electronic or otherwise, it is the usual practice to question the juror involved in complaints alleging misconduct, but a trial court is within its discretion to deny a mistrial where the complaining party fails to request an interview of the juror or otherwise meet his or her burden of proving juror misconduct.

Social Media and Juries: A Bad Mix: Examples

- In Arkansas, a juror was Tweeting during jury deliberations (that's when the jury decides who wins the case). It was a civil case involving an investment company's mismanagement of investor's funds. The jury awarded the investors \$12.6 million. But it may not stand. Defense attorneys filed a motion for a [mistrial](#) asking that the judgment be thrown out because the juror's Tweets showed that he was biased against the company and had done outside research over the internet
- In Florida, a [mistrial](#) was declared in a criminal case after a defendant was convicted of drug-related crimes. Several jurors were running [Google](#) searches about the defendant, looking up definitions of legal terms, and discovered evidence that they weren't supposed to know about (it had been [excluded](#) from the trial)
- Again in Pennsylvania, there was a motion for a mistrial in criminal case against [Vincent Fumo](#), a former state senator. He claimed the trial was unfair because a juror was posting updates on the case Twitter and Facebook. The motion was denied, but he plans an [appeal](#) based on the juror's activities

Remedies?

- During Voir dire trial counsel should ask potential jurors: Do they blog, do they have Facebook or MySpace pages, or do they have Twitter accounts? If so, how often do they post, tweet, update, etc.?
- Make Jury promise not to go on line, out loud. We are less likely to break promises we have made in public and on the record.
- Some have suggested asking jurors to sign forms promising they won't violate the rules.

Remedies?

- Prohibit All Electronics (2011 Ks Ct App)
 1. We agree with the Indiana Supreme Court that the best practice is to prohibit such use of electronic devices by jurors. “These and other detrimental factors are magnified due to swift advances in technology that may enable a cell phone user to engage in text messaging, social networking, web access, voice recording, and photo and video camera capabilities, among others. The best practice is for trial courts to discourage, restrict, prohibit, or prevent access to mobile electronic communication devices by all persons except officers of the court during all trial proceedings, and particularly by jurors during jury deliberation.” (Emphasis added.) [Henri v. Curto, 908 N.E.2d 196, 202–03 \(Ind.2009\)](#)

Remedies?

- Improve Instructions (2011 Ks Ct App)

1. We encourage our PIK committee to consider a revision to the general instruction on juror communication along the lines of that utilized in New York: “ ‘Jury Admonitions in Preliminary Instructions’ to include specific instructions to jurors not to use ‘internet maps or Google Earth’ as well as not to actually visit any place mentioned during the trial, not to use ‘the internet’ to do any research about the case, and not to use ‘text messages, email, internet chat rooms, blogs or social websites, such as Facebook, MySpace, or Twitter’ as well as face-to-face conversations to discuss the case.” [People v. Jamison, No. 8042/06, 2009 WL 2568740 \(N.Y.Sup.Ct., Misc.3d 2009\)](#) (unpublished opinion).

Remedies?

- Enhance the consequences and disclose them to the Jury at the beginning of a trial:

1. A Massachusetts judge recently fined a juror \$1200, the court costs to retry a case, after he told the other jurors about the defendant's criminal history, which he found online [\[xx\]](#), and a judge in England recently sentenced a juror to jail for eight months when a juror "friended" and communicated with a defendant via Facebook, during deliberations, leading to a mistrial in a case that has already cost the justice system over £6 million [\[xxi\]](#).

Remedies?

- File Motion:

“Motion for the Court to Adopt a Policy to Deal with Juror Usage of Electronic Devices.”

ETHICAL ISSUES: WEBSITES AND EMAILS



Attorney's Use of Email to Communicate with Clients

- Confidentiality
- Security
- Communication



Confidentiality of Information: A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation . . .

KS Rule Prof'l Conduct R. 1.6(a)

MO Rule Prof'l Conduct R. 4-1.6(a);



Communication: A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

KS Rule Prof'l Conduct R. 1.4(b)

MO Rule Prof'l Conduct R. 4-1.4(b)

“A lawyer may not withhold information to serve the lawyer’s own interest or convenience”

Cmt 4 to KS Rule 1.4.



ABA'S Approach

- ABA Formal Opinion No. 990413 (Mar. 10, 1999).
“[A] lawyer sending confidential client information by unencrypted e-mail does not violate Model Rule 1.6(a) in choosing that mode to communicate. This is principally because there is a reasonable expectation of privacy in its use.”
- Most states have agreed with and/or followed the ABA's reasoning (*e.g.*, Delaware; Washington D.C.; Florida; Illinois; Maine; Minnesota; North Carolina; New York; Ohio; Tennessee; Utah; Vermon.)

Missouri



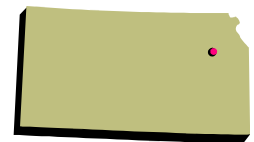
- To date, Missouri has NOT adopted the ABA approach. In 1997, 1998, and again in 1999, the Missouri Bar issued informal opinions stating that an attorney who wishes to use email to communicate with a client or prospective client should apprise the client of the risks of interception of email communications and obtain the consent of the client prior to communicating via email. MO Informal Op. Nos. 970161, 970230, 980137 and 990007.

Kansas

No official opinion from KBA regarding use of email to communicate with clients.

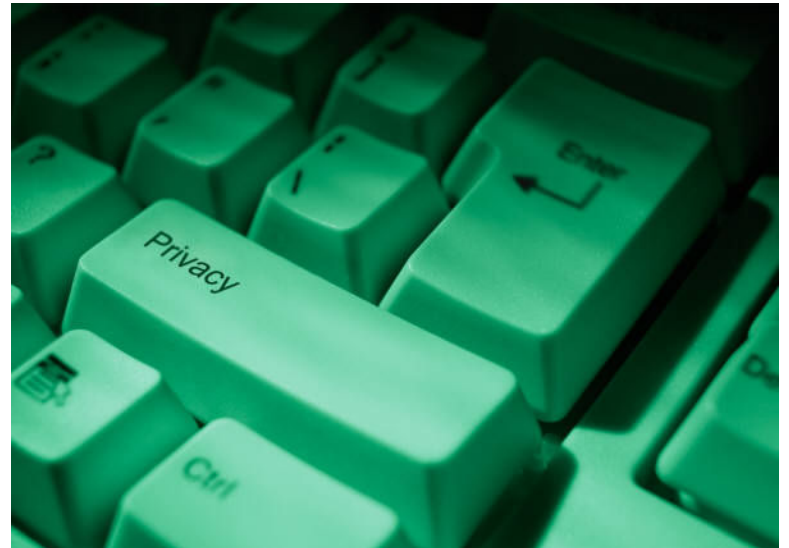
Sample disclaimer used by one KS attorney:

- Do not send ATTORNEY private information until you speak with staff in-office and receive specific authorization to send information to us. Unsolicited information is not confidential and our receipt of information does not create an attorney-client relationship and does not mean that information is private.
- If you want to communicate with ATTORNEY by email, we recommend that you use encrypted email. We suggest use of OpenPGP®, Verisign® or another encryption program that protects the secrecy of any information provided by you.



Electronic Communications Privacy Act of 1986 (18 USC § 2510 *et seq.*)

- That third parties can be prosecuted for intercepting, accessing or engaging in unauthorized use of another person's electronic communications favors the expectation of privacy when communicating with clients via email.



Suggestions

- Consider whether topic of documents are of such sensitivity that an in-person conference is more appropriate.
- Consult with new clients to ensure they are comfortable with email communication.
- Obtain consent from Missouri clients to communicate via email.
- Do not rely solely on a “attorney-client privileged” label affixed to every email.
- If it is actually privileged – indicate that in the subject line.
- Be sure you have up-to-date safeguards, i.e., firewalls, password protection, etc.



More Fun with Emails

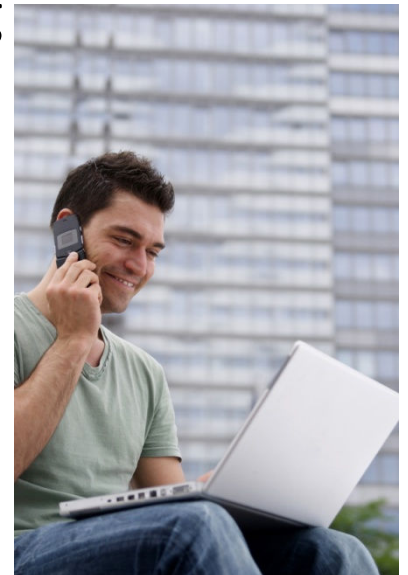


The Starbucks/Panera/Airport Attorney

Q: Does an attorney violate her duties of confidentiality when communicating with client or transmitting client information over public wireless connections

A: Probably. If information is actually privileged, attorney should refrain from using public wireless connections or obtain consent after informing client of potential risks, including waiver of attorney-client privilege.

Cal. Formal Opinion 2010-179



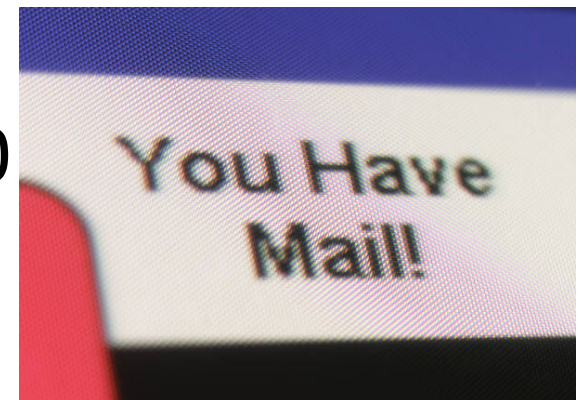
Oops! I didn't mean to send that to you.

A.K.A.: Why “recall” doesn't work

Q: What is a lawyer's ethical obligation when he is copied on an email between opposing counsel and her client?

A: Receiving counsel must notify the sender and consult with his own client in deciding how and whether to use the information in the email.

Penn. Bar. Assoc. Opinion. 2011-10



“A Nightmare on Email Street”

A.K.A. : Why you should not have members of the press in your contact list

- Feb. 5, 2008 from Portfolio.com
One of Eli Lilly & Co.’s outside lawyers at Philadelphia-based Pepper Hamilton had mistakenly emailed confidential information on settlement talks (negotiations were in the \$1 billion range) to *New York Times* reporter Alex Berenson instead of Bradford Berenson, her co-counsel at Sidley Austin.
- Berensen got a scoop and filed a juicy story for the New York Times.
- Pepper Hamilton kept Eli Lilly as a client and ultimately settled the suit in question for a \$1.4 billion fine.



Email and the Working Man

What are an attorney's obligations to her client when communicating via email?

If client is an employee, attorney should assume that employee's email is being monitored by employer and advise client not to use work computer for sensitive or privileged communications.

ABA Formal Opinion 11-459



Ethical Issues and Websites

- The Accidental Client



Creating a Conflict?: The “Good Faith” Email

- Scenario:

A prospective client, in a good-faith attempt to obtain counsel, contacts you or your firm via email obtained from your firm website. She discloses information about her circumstances, lawsuit, or concerns. In reading the email, you discover the prospective client is considering legal action against a firm client. What can you do?

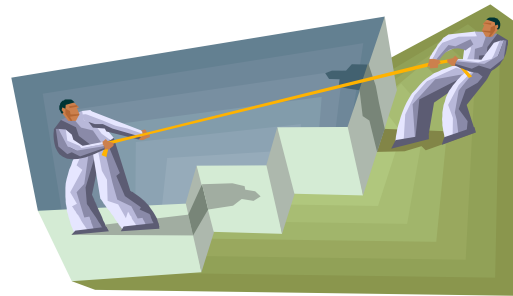


- Ethical Implications:

- ✓ Duty of Confidentiality (MPRC 4-1.6; KPRC 1.6)



- ✓ Conflict of Interest
(MPRC 4-1.7; 4-1.8; KPRC 1.7; 1.8)



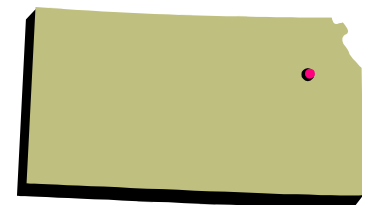
- ✓ Duties to Prospective Client (MPRC 4-1.18; KPRC 1.17)



Sample Disclaimer

But here is how one local attorney has handled the issue on his website:

- Do not send ATTORNEY private information until you speak with staff in-office and receive specific authorization to send information to us. Unsolicited information is not confidential and our receipt of information does not create an attorney-client relationship and does not mean that information is private.
- Sending an email inquiry to ATTORNEY does not create any attorney-client relationship and does not obligate ATTORNEY to protect the confidentiality of any information contained in that communication. The communication of any information by Email is public information unless an attorney-client relationship has been established by written attorney-client contract.
- Unless and until you enter into a written attorney-client contract with ATTORNEY, any information provided to ATTORNEY is not private or confidential, and is not protected by attorney-client privilege or by any other privilege or confidence.



- Missouri's Approach [adopted very similar rule at same time – MPRC 4-1.18]
- Pre-rule Informal Opinions are consistent.
- Informal Opinion Nos. 980029, 20000103, and 20000179 warn attorneys that providing prospective clients with an opportunity to communicate with or contact attorneys via email from a firm website creates the risk that a conflict may be created which would prevent the attorney from representing another party in the matter. "The nature of the Attorney's obligation would depend on the [extent and] nature of the communication." Missouri also requires that attorneys who receive emails from prospective clients promptly advise them of the relative security of email communications.



Other Jurisdictions' Solutions

Firm websites must effectively disclaim any intention to form an attorney-client relationship and warn prospective clients that transmitted information will not be considered confidential.



Sample website disclaimers:

- 1) By clicking “accept” you agree that our review of the information contained in email and any attachments will not preclude any lawyer in our firm from representing a party in any matter where that information is highly confidential and could be used against you, unless that lawyer has actual knowledge of the content of the email. we will otherwise maintain the confidentiality of your information.
- 2) By clicking “accept” you agree that we may review any information you transmit to us. You recognize that our review of your information, even if it is highly confidential, does not preclude us from representing another client directly adverse to you, even in a matter where that information could and will be used against you.
- 3) Email addresses of our attorneys are not provided as a means for prospective clients to contact our firm or to submit information to us. By clicking “accept” you acknowledge that we have no obligation to maintain the confidentiality of any information you submit to us unless we have already agreed to represent you or we later agree to do so. Thus, we may represent a party in a matter adverse to you even if the information you submit to us could be used against you in that matter.

Source: David Hricik, *“Whoops, I Did It Again! What Britney Spears Can Teach Us About the Ethical Issues Arising from Intentional Transmission of Confidences From Prospective Clients to Firms,”* E-Ethics, Vol. III, No. 1 (May 2004).

Disclaimers Requirements/Samples

- ✓ Need to have a “click to accept” disclaimer that requires affirmative action by prospective client before an email can be sent. (*Specht v. Netscape Comm. Corp.*, 306 F.3d 17 (2d Cir. 2002)).
- ✓ Should not be able to close pop-up window or disclaimer box without accepting terms.



More Website Fun

Why You Should Update Your Website:

Connecticut attorney sues former firm for failing to remove his name, biographical information, and email address from firm website for months after his departure. Suit alleges unfair competition based on unfair and deceptive acts.

Murphy v. Del Sole & Del Sole, New Britain, CT

Missouri Informal Op. No. 20060074 also states that failure to keep website updated and remove attorney information can violate Rule 4-7.1 (communicating concerning a lawyer's services and should be reported under 4-8.3 (reporting professional misconduct) if the firm does not remove information upon request.



Common Sense and Websites

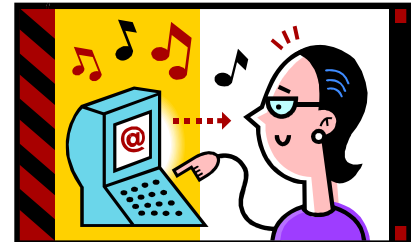
ABA Formal Opinion 10-457

Information on firm websites is governed by Rule 7.1 (communications about a lawyer's services) which prohibits attorneys from making false or misleading communications about his services.



Website Pointers (No Brainers)

- Make sure legal information provided is accurate;
- Include disclaimers, i.e., results are not guaranteed;
- Providing hypothetical questions and answers is fine;
- Be clear that any legal information is general in nature and advise website visitors to seek personal legal advice.



Solicitation of Clients



- KPRC 7.3 governs contact with prospective clients.
- No real-time pitches (electronic, in-person, or by telephone) to non-attorneys if attorney does not have a familial or prior professional relationship.
- Facebook posts on others' pages must include "Advertising Material" at beginning and end of post if lawyer initiate contact and recipient has a known need for legal services in particular matter (KPRC 7.3(c)).
- Postings on your own Facebook page, or Craig's List need not contain the "Advertising Material" language but must be truthful and not misleading. (KPRC 7.1)

Stupid Things People Do on Craig's List

Illinois Immigration Attorney Posts Ad in “adult gigs” section of Craig's List:

“Loop law firm looking to hire am [sic] energetic woman for their open secretary/legal assistant position. . .If interested, please send current resume and a few pictures along with a description of your physical features, including measurements. We look forward to meeting you.”

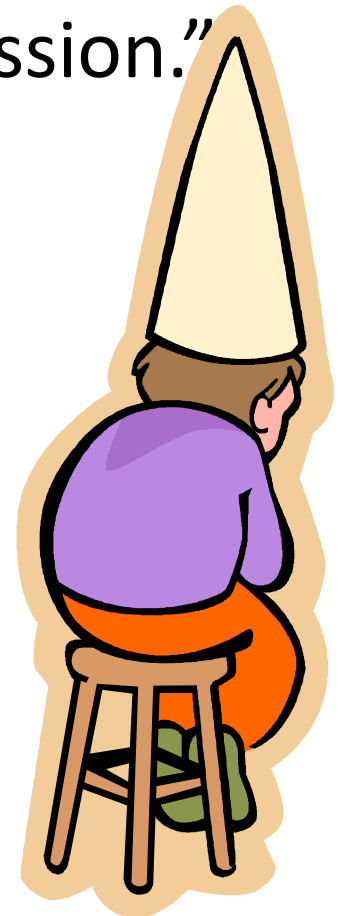


Attorney responds to applicant's inquiry by email:

"As this is posted in the "adult gigs" section, in addition to the legal work, you would be required to have sexual interaction with me and my partner, sometimes together sometimes separate. This part of the job would require sexy dressing and flirtatious interaction with me and my partner, as well as sexual interaction. You will have to be comfortable doing this with us."

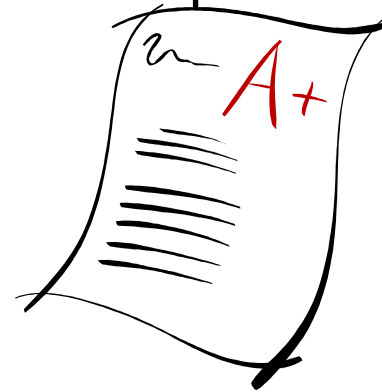
Result

- Attorney suspended for one year for conduct that “reflects poorly on the legal profession.”



Stupid Things, cont'd.

- Mass. Appeals Court clerk Damian Bonazzoli tried to earn some side income by offering his services on Craig's List to write term papers and essays for students. Bonazzoli promised:
“I'm offering the only service that guarantees you a quality grade for a paper that I write or edit for you” and reportedly charged \$300 per paper.
- Bonazzoli lost his job with the court and was suspended from practicing law for six months.



Would you hire this guy?

**** Seeking a model-type female for a photo shoot ****

http://newyork.craigslist.org/mnh/etc/2337929745.html

Gmail 8notes.com ...uitar Tuner Apple Yahoo! Google Maps YouTube Wikipedia News Popular

new york craigslist > manhattan > jobs > et cetera jobs

Avoid scams and fraud by dealing locally! Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping, escrow, or any promise of transaction protection/cer

****** Seeking a model-type female for a photo shoot **** (Midtown)**

Date: 2011-04-21, 12:01AM EDT

Reply to: job-kg/ta-2337929745@craigslist.org (Errors when replying to ads?)

I am a professional male (actually, an attorney) who has not worked as a model - but from time to time, a number of people have asked me if I am a model - based on my appear

I am having headshots taken very shortly, and the photographer asked about my posing with an attractive partner for the pictures.

The shoot can be a bit racy - but if so, it would be entirely tasteful (with no nudity). After all, I have a real career and co-workers to concern myself with.

If this interests you, please contact me ASAP for more information.

- Compensation: \$125
- Principals only. Recruiters, please don't contact this job poster.
- Please, no phone calls about this job!
- Please do not contact job poster about other services, products or commercial interests.

PostingID: 2337929745

Copyright © 2011 craigslist, inc. [terms of use](#) [privacy policy](#) [feedback forum](#)

Would you hire these ladies?

\$\$\$ Female Attorneys Wanted \$\$\$ (Midtown)

Date: 2011-01-31, 2:03PM EST

Reply to: jaimetheclub@gmail.com (Email's subject is linking to job.)

NOT MAKING ENOUGH \$\$\$ AT YOUR DAY JOB? NOT HAVING FUN WHILE YOU'RE WORKING?

EARN THOUSANDS WEEKLY WORKING A FEW HOURS A NIGHT GIVING
LAP DANCES AND LEGAL ADVICE FOR UPSCALE GENTLEMAN'S CLUB LOCATED IN TIME SQUARE.
SERIOUS INQUIRIES ONLY. ATTACH PHOTO AND BIO, PLEASE CONTACT JAIME

- Compensation: \$\$\$
- Principals only. Recruiters, please don't contact this job poster.
- Please, no phone calls about this job!
- Please do not contact job poster about other services, products or commercial interests..

PostingID: 2190132000



Accepting a “Friend” request or maintaining a Facebook “friendship” during the course of litigation?



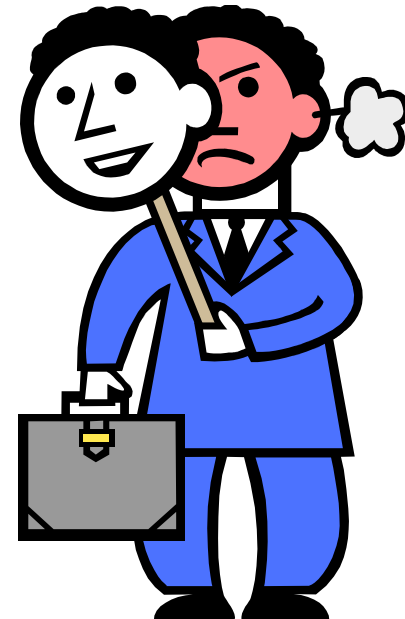
Transactions with Persons other than Clients:

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyers knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

KS Rule Prof'l Conduct R. 4.2



Pretending to be someone other than yourself on social media sites?



Truthfulness in Statements to Others:

In the course of representing a client, a lawyer shall not knowingly: (a) make a false statement of material fact or law to a third person

KS Rule Prof'l Conduct R. 4.1



Client endorsements or recommendations
on LinkedIn profile?



Information about Legal Services:

A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertisements or communications permitted by this rule

KS Rule Prof'l Conduct R. 7.2

RULE 226 – KANSAS RULES OF PROFESSIONAL CONDUCT

1.6 CLIENT-LAWYER RELATIONSHIP: CONFIDENTIALITY OF INFORMATION

- (A) A LAWYER SHALL NOT REVEAL INFORMATION RELATING TO REPRESENTATION OF A CLIENT UNLESS THE CLIENT CONSENTS AFTER CONSULTATION, EXCEPT FOR DISCLOSURES THAT ARE IMPLIEDLY AUTHORIZED IN ORDER TO CARRY OUT THE REPRESENTATION, AND EXCEPT AS STATED IN PARAGRAPH (B),**
- (B) A LAWYER MAY REVEAL SUCH INFORMATION TO THE EXTENT THE LAWYER REASONABLY BELIEVES NECESSARY:**
 - 1) TO PREVENT THE CLIENT FROM COMMITTING A CRIME; OR**
 - 2) TO COMPLY WITH REQUIREMENTS OF LAW OR ORDERS OR ANY TRIBUNAL; OR**
 - 3) TO ESTABLISH A CLAIM OR DEFENSE ON BEHALF OF THE LAWYER IN A CONTROVERSY BETWEEN THE LAWYER AND THE CLIENT, TO ESTABLISH A DEFENSE TO A CRIMINAL CHARGE OR CIVIL CLAIM AGAINST THE LAWYER BASED UPON CONDUCT IN WHICH THE CLIENT WAS INVOLVED, OR TO RESPOND TO ALLEGATIONS IN ANY PROCEEDING CONCERNING THE LAWYER'S REPRESENTATION OF THE CLIENT.**

MISSOURI RULE 4-1.6: CONFIDENTIALITY OF INFORMATION

- (A) A LAWYER SHALL NOT REVEAL INFORMATION RELATING TO THE REPRESENTATION OF A CLIENT UNLESS THE CLIENT GIVES INFORMED CONSENT, THE DISCLOSURE IS IMPLIEDLY AUTHORIZED IN ORDER TO CARRY OUT THE REPRESENTATION, OR THE DISCLOSURE IS PERMITTED BY RULE 4-1.6(b).
- (B) A LAWYER MAY REVEAL INFORMATION RELATING TO THE REPRESENTATION OF A CLIENT TO THE EXTENT THE LAWYER REASONABLY BELIEVES NECESSARY:
 - (1) TO PREVENT DEATH OR SUBSTANTIAL BODILY HARM THAT IS REASONABLY CERTAIN TO OCCUR;
 - (2) TO SECURE LEGAL ADVICE ABOUT THE LAWYER'S COMPLIANCE WITH THESE RULES;
 - (3) TO ESTABLISH A CLAIM OR DEFENSE ON BEHALF OF THE LAWYER IN A CONTROVERSY BETWEEN THE LAWYER AND THE CLIENT, TO ESTABLISH A DEFENSE TO A CRIMINAL CHARGE OR CIVIL CLAIM AGAINST THE LAWYER BASED UPON CONDUCT IN WHICH THE CLIENT WAS INVOLVED, OR TO RESPOND TO ALLEGATIONS IN ANY PROCEEDING CONCERNING THE LAWYER'S REPRESENTATION OF THE CLIENT; OR
 - (4) TO COMPLY WITH OTHER LAW OR A COURT ORDER.

KRPC 3.6 ADVOCATE: TRIAL PUBLICITY

- (A) A LAWYER WHO IS PARTICIPATING OR HAS PARTICIPATED IN THE INVESTIGATION OR LITIGATION OF A MATTER SHALL NOT MAKE AN EXTRAJUDICIAL STATEMENT THAT THE LAWYER KNOWS OR REASONABLY SHOULD KNOW WILL BE DISSEMINATED BY MEANS OF PUBLIC COMMUNICATION AND WILL HAVE A SUBSTANTIAL LIKELIHOOD OF MATERIALLY PREJUDICING AN ADJUDICATIVE PROCEEDING IN THE MATTER.
- (B) NOTWITHSTANDING PARAGRAPH (A) A LAWYER MAY STATE:
 - (1) THE CLAIM OR DEFENSE INVOLVED AND, EXCEPT WHEN PROHIBITED BY LAW, THE IDENTITY OF THE PERSONS INVOLVED;
 - (2) INFORMATION CONTAINED IN A PUBLIC RECORD;
 - (3) THAT AN INVESTIGATION OF THE MATTER IS IN PROGRESS;
 - (4) THE SCHEDULING OR RESULT OF ANY STEP IN LITIGATION;
 - (5) A REQUEST FOR ASSISTANCE IN OBTAINING EVIDENCE AND INFORMATION NECESSARY THERETO;
 - (6) A WARNING OF DANGER CONCERNING THE BEHAVIOR OF A PERSON INVOLVED, WHEN THERE IS REASON TO BELIEVE THAT THERE EXISTS THE LIKELIHOOD OF SUBSTANTIAL HARM TO AN INDIVIDUAL OR THE PUBLIC INTEREST; AND

(7) IN A CRIMINAL CASE, IN ADDITION TO SUBPARAGRAPHS (1) THROUGH (6):

- (i) The identity, residence, occupation and family status of the accused;
- (ii) If the accused has not been apprehended, information necessary to aid in apprehension of that person;
- (iii) The fact, time and place of arrest; and
- (iv) The identity of investigating and arresting officers or agencies and the length of the investigation.

(C) NOTWITHSTANDING PARAGRAPH (A), A LAWYER MAY MAKE A STATEMENT THAT A REASONABLE LAWYER WOULD BELIEVE IS REQUIRED TO PROTECT A CLIENT FROM THE SUBSTANTIAL UNDUE PREJUDICIAL EFFECT OF RECENT PUBLICITY NOT INITIATED BY THE LAWYER OR THE LAWYER'S CLIENT. A STATEMENT MADE PURSUANT TO THIS PARAGRAPH SHALL BE LIMITED TO SUCH INFORMATION AS IS NECESSARY TO MITIGATE THE RECENT ADVERSE PUBLICITY.

(D) NO LAWYER ASSOCIATED IN A FIRM OR GOVERNMENT AGENCY WITH A LAWYER SUBJECT TO PARAGRAPH (A) SHALL MAKE A STATEMENT PROHIBITED BY PARAGRAPH (A).

KANSAS - RULES RELATING TO JUDICIAL CONDUCT

601B – KANSAS CODE OF JUDICIAL CONDUCT CANONS 1 – 4

CANON 1 – INTEGRITY AND INDEPENDENCE OF JUDICIARY

- Four rules under this Canon

CANON 2 – APPEARANCE OF IMPROPRIETY

- Sixteen rules under this Canon
- Six potentially have social media implications

CANON 3 – EXTRAJUDICIAL ACTIVITIES

- Fifteen rules under this Canon
- Three potentially have social media implications

CANON 4 – POLITICAL ACTIVITY

- Five rules under this Canon

Twitter for Lawyers

Reading List

There's a growing body of articles about Twitter for Attorneys and others in the legal professions. For your consideration:

- [Twitter for Lawyers](#) by Gina F. Rubel, The Legal Intelligencer. Mar 2009
- [Lawyers Hop on the Twitter Bandwagon](#) by Sindya Bhanoo, The Industry Standard. Feb 2009
- [Aren't You on Twitter Yet?](#) by Lance Godard. Feb 2009
- [To Twitter or Not to Twitter?](#) by Carolyn Elefant. Feb 2009
- [The Revolution will not be Televised, it will be Tweeted.](#) by Rodney Dowell. Feb 2009
- [Twitter lures lawyers, helps them drum up business](#) by Alison Grant. Jan 2009
- [Twitter for Lawyers: Valuable Marketing Tool or Waste of Time?](#) by Bryan McKae. Jan 2009
- [Twitter 101 for Lawyers](#) by Niki Black. Nov. 2008
- [How to use Twitter as a Lawyer](#) by Grant Griffiths. Sep 2008
- [Lawyer Marketing with Twitter has arrived](#) by Kevin O'Keefe. May 2008.

Resources & Tools:

- [Legal Tweets blog: tracks Twitter conversations on legal topics](#)
- Securities Docket ["BigLaw Lawyers on Twitter"](#)
- [145 lawyers and legal professionals to follow on Twitter](#) by Adrian Lurssen. Sep 2008
(List has since grown to 600+)

On Twitter: @kevinokeefe

See also:

www.lexblog.com

Where should you post your status?

