6 Tips to Navigate Social Media Ethics for Lawyers

The use of social media has permeated every corner of the earth and nearly every industry. So, it’s no surprise that lawyers are having to learn how to tread lightly and ethically on both their personal and professional social media accounts. While the current ABA rules may not expressly dictate social media ethics of lawyers, their recommendations can, and should, be applied when lawyers find themselves interacting with the public on social media platforms.

If you’re a lawyer looking to use social media to connect with your clients, lead generation, network, or for general business development, here are six tips to help you succeed without violating any code of ethics.

1. Leave no room for doubt in regards to licensing and representation
2. Confidentiality is key
3. Choose your connections wisely
4. Use caution when advertising
5. Social media ethics for lawyers apply to your staff
6. Stay in the public realm when viewing content
7. Keep the personal profile private and avoid oversharing

1. Leave no room for doubt in regards to licensing and representation

According to ABA Model Rule 1.18(a), “a person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.”
When posting on social media, a lawyer must be careful to not use language that could form an attorney-client relationship or unintentionally provide legal advice. The best way to avoid this is by expressively using verbiage that states where the lawyer is licensed and that their content isn’t intended to form an attorney-client relationship.

2. Confidentiality is key

ABA Rule 1.6(a) states, “a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent.”

This rule should be applied to all posts and blog entries that a lawyer may make on their social media accounts even if the information is public record. If the given information wouldn’t be shared with a reporter or individual, it shouldn’t be shared on social media even if offered in a hypothetical situation. A violation of this rule could lead to suspension so lawyers should think twice before posting.

3. Choose your connections wisely

In relation to clients, ABA Rule 1.7 states, “a lawyer shall not represent a client if the representation involves a concurrent conflict of interest.” Also, Rule 8.4 states, “it is professional misconduct for a lawyer to knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.”

Keeping in mind those two rules, lawyers should be careful about who they accept as “friends” or contact on their social media accounts in order to avoid the appearance of a conflict of interest. Lawyers have unintentionally presented a conflict of interest with their clients strictly based on social media contacts. The same line of logic applies in relation to judges and avoiding the appearance of favoritism or bias.

4. Use caution when advertising

ABA Rule 7.1 states, “a lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services.”

While the ABA is clear that a lawyer may advertise their services through any media, it’s also expressly clear that the communication must be honest and clearly identifiable as an advertisement for services. This means a lawyer should include the name and contact information of the lawyer or the law firm and must not be misleading in the words they use to describe their services.

It’s important to keep in mind that this rule applies anytime a lawyer is soliciting clients which means any communication that discusses a lawyer’s services. While the line between a post and an advertisement can be hard to define, it’s best to be safe and make all appropriate disclosures to avoid potential violations.

5. Social media ethics for lawyers apply to your staff
In addition to applying the ABA’s rules and recommendations to the social media posts of lawyers, the accounts of any non-lawyer person employed or retained by the firm must also be monitored since the lawyer may be held responsible for the content they share. If a non-lawyer makes a post that is considered to be unethical, the lawyer can be held responsible for their actions so immediate action should be taken to remove the content. In addition, policies should be put into place to avoid such violations in the future.

While discussing non-lawyer staff, it’s important to keep in mind that a lawyer cannot ask another person to do anything on social media that they aren’t allowed to do themselves based on ABA rules and guidelines. This means a lawyer may not ask their staff member to view restricted content or virtually approach a juror when performing research.

6. **Stay in the public realm when viewing content**

ABA rule 3.5(b) states that a lawyer should not “communicate ex parte during the proceeding.”

When a lawyer or their team is doing research during the jury selection process, they are allowed to view social media content that is public. However, they should not attempt to view anything that is only available once special access has been granted. This means they should not join private groups or send private messages to view restricted content.

7. **Keep the personal profile private and avoid oversharing**

If there is one tip to help avoid the biggest ethical issues for lawyers that may arise on social media, it would be to keep your personal profile private. In addition to avoiding sharing content that could be viewed as legal advice. By limiting the number of people that can find a lawyer’s profile, let alone view the content that may be shared, it lowers the risk of unintentionally violating the ABA’s rules and recommendations for ethical conduct on social media.

**Outlook on social media ethics for lawyers**

Social media is here to stay, for all of its benefits and downsides, which is why it’s crucial that lawyers learn how to navigate it without violating rules of conduct and ethics. From Twitter to Facebook, by following the above tips, a lawyer should be able to avoid any possible disciplinary action and infractions. These rules and guidelines are constantly evolving to keep up with technological advancements so the best thing for a law firm to do is to stay up-to-date on their state’s mandates and form office policies accordingly.

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