

4 Tips for Attorneys Navigating the Social Media Ethics Minefield

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Despite all lawyer jokes to the contrary, attorneys are bound by a set of ethics rules set forth by state bar associations. In general, concern about ethics and social media focus on advertising, confidentiality, discovery, and solicitation. While every state's bar rules are unique, here's are 4 specific minefields where you need to check your state bar's rules in order to avoid ethics issues:

Social media profiles.

Some state bar associations treat social media profiles as legal advertisements, requiring attorneys in those states to adhere to very specific advertising rules. Depending on where you practice, you may be required to:

- Label posts as “advertising material” or “attorney advertising” at the beginning and end of each post;
- Identify the person responsible for the content and include contact information for the firm's office;
- Include specific disclaimer information.

Not every state has these requirements; while Tennessee says LinkedIn profiles are advertisements, Texas does not treat LinkedIn or Facebook profiles as ads.

LinkedIn recommendations.

Getting recommendations on LinkedIn from your connections is one of the pillars of the site. However, in states that don't allow testimonials, this could be a violation. Some states that do allow testimonials require attorneys to add disclaimers, or may have additional restrictions on their usage.

The safest way to avoid an ethics violation if you live in one of these states is to screen each comment on your profile before it is posted publicly. You also need to be careful about reciprocal recommendations, since attorneys are prohibited from providing anything of value in exchange for a

recommendation.

Blogs.

Legal blogs may be treated differently than law firm websites, which many state bars consider to be advertisements. In some states, a blog that provides only educational information and commentary is not considered an advertisement. By keeping your blog's content focused on information that would be of use to any consumer wanting to know about a particular practice area, you can claim the educational high ground.

Responding on social media.

If someone has posted on Facebook that they just got in an accident where the other driver was at fault, a personal injury lawyer may be tempted to respond with a message offering help. However, since the person posting did not ask for an attorney or have a prior relationship with this specific attorney, this message would violate ethics rules in many states. If the post specifically asked for help with finding an attorney, then the PI lawyer's response may be permitted.

Whenever you ask someone to contact you in a post, you are generally considered to be engaging in commercial speech for the purpose of soliciting business. The State Bar of California draws a fine distinction here, categorizing general statements like "check out my website" or "call me for a free consultation" as solicitation. However, if you post that you have just written an e-book on a particular legal subject, you can ask people to contact you for a free copy. Best practice here is to know your state bar's restrictions on commercial speech and examine your posts before you put them up for any gray areas. You are responsible for everything that is posted on your social media accounts, so be sure to read and edit all information before it is posted.

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National Law Review, Volumess VIII, Number 220

Source URL: <https://natlawreview.com/article/4-tips-attorneys-navigating-social-media-ethics-minefield>