



Professionalism and Social Media

Presented By:
Roger A. Page, Justice, Tennessee Supreme Court &
Holly M. Kirby, Justice, Tennessee Supreme Court



Lawyers and



SOCIAL MEDIA

IN 2018



76%

of law firms maintain an online presence
compared to 55% in 2012.



The background of the slide features a light blue world map. Overlaid on the map are several social media icons, including Facebook (f), LinkedIn (in), and a speech bubble icon. A large, curved light blue line sweeps across the middle of the slide, separating the title from the list.

Purposes of Social Media Use for Lawyers

- Advertising
- Networking
- Case Investigation
- Sharing Information
 - New Laws or Changes in the Law
 - Awards You or Your Firm have Received
- Crowd Sourcing
 - Groups of People to Ask for Information/Professional Discussions



LAWYERS USE SOCIAL MEDIA FOR A NUMBER OF REASONS:



70%

**career
development/
networking**



54%

**client
development**



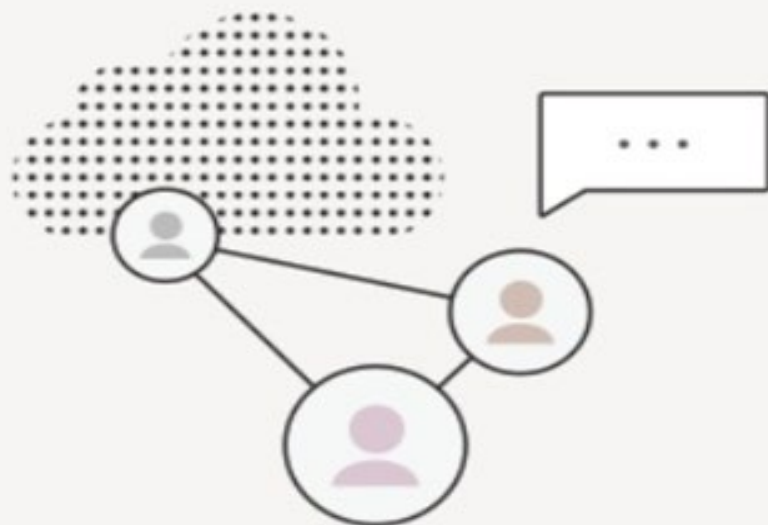
48%

**education/
current
awareness**



30%

**case
investigation**



35%

**of lawyers have had a client retain
them directly or via referral because of**

their online networking.

The background of the slide features a collage of various social media icons, including Facebook, LinkedIn, YouTube, and others, overlaid on a faint world map. A large, light blue curved line sweeps across the upper half of the slide, separating the title from the list.

Three Main Concerns when using Social Media

- Are you perceived by potential clients as a professional?
- Are you using social media ethically?
- Are there potential future effects on your career due to current social media use?

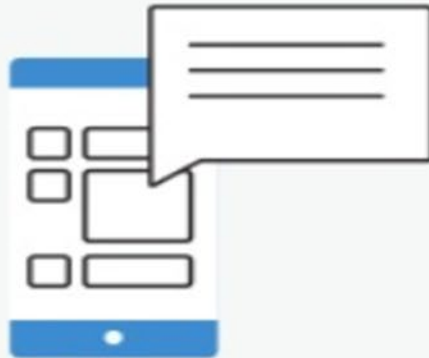
Lawyers and

LINKEDIN



Jones & Smith, LLC
Law Firm

1d



46%

of law firms maintain a
presence on LinkedIn.



- **89% of firms of 100 or more attorneys have a presence on LinkedIn**
- **65% of solos**
- **90% of mid-sized firms (10-49 attorneys)**
- **58% of small firms (2-9 lawyers)**

LINKEDIN

Skills & Endorsements

+ Add skill



Skills and Endorsements Settings

I want to be endorsed ☒ Yes ☐ No

- ☒ Include me in endorsement suggestions to my connections
- ☒ Show me suggestions to endorse my connections
- ☒ Send me notifications via email when my connections endorse me

What are your areas of expertise?

Add

You can still add: 50

⬅️ ➡️ Drag to reorder.

Save

Cancel



Rule 7.4: Communication of Fields of Practice and Specialization

Subject to the requirements of RPCs 7.1, 7.2, and 7.3,

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

(b) Except as permitted by paragraphs (c) and (d), a lawyer shall not state that the lawyer is a specialist, specializes, or is certified or recognized as a specialist in a particular field of law.

FACEBOOK

← → ↻ <https://www.facebook.com>

Lawyers and

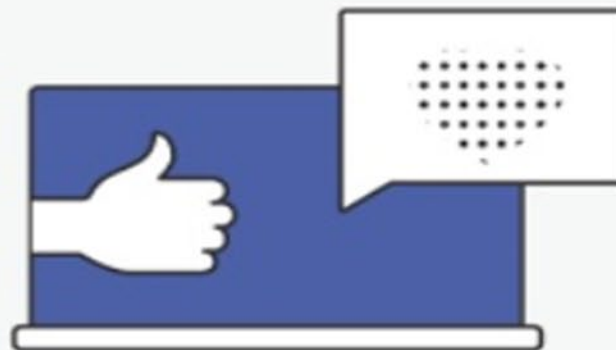
FACEBOOK



Wilson & Jones, PC
16 hrs.

42%

of law firms maintain a
presence on Facebook.



FACEBOOK

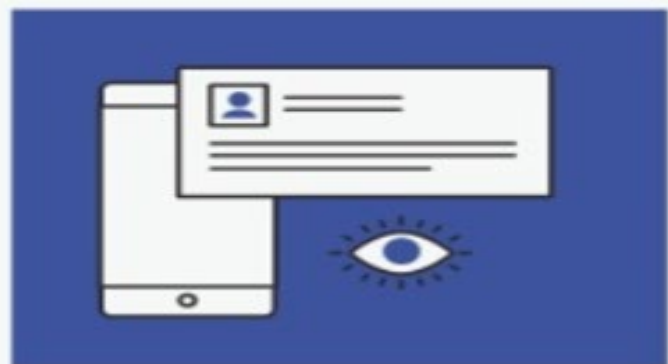
https://www.facebook.com

Lawyers and

FACEBOOK



Will Wilson
3 hrs.



37%

of lawyers maintain a personal
presence on Facebook for
PROFESSIONAL
purposes.

The background of the slide features a light blue world map. Overlaid on the map are several social media icons, including Facebook, Pinterest, Twitter, YouTube, LinkedIn, and Instagram, each enclosed in a square frame with a grid pattern. A thick, curved blue line sweeps across the middle of the slide, separating the header from the main content.

Law Firms and Facebook

- Post to Facebook at least a few times a month in order to keep customers engaged.
- Show a personal side.
 - Engage the community at large to grow a brand presence and establish credibility
 - Consider showcasing a firm community initiative



The Kleister Law Group

July 16 · 🌐

👍 Like Page

Exhibit 1 🗑️📦📄 [#thekleisterlawgroup](#) [#politicallyincorrect](#) [#newyork](#)
[#lawfirm](#) [#lawoffice](#) [#lawyer](#) [#lawyerlife](#) [#lawyerup](#) [#lawyerstatus](#)
[#lawyerswag](#) [#attorney](#) [#attorneyproblems](#) [#paralegal](#) [#paralegalife](#) [#legal](#)
[#legalmatters](#) [#law](#) [#washingtonvilleny](#) [#orangecountyny](#) [#hudsonvalleyny](#)



👍😂❤️ 1.7K

18 Comments 303 Shares





Search



Fish out of water. I'm an in-house GC trying to help my 90-year-old grandmother recover damages from a serious car accident she was injured in last year. Since this isn't my typical area of practice, are there any PI attorneys willing to mentor me through the medical records gathering and evaluation of the demand process? Records are almost complete but need assistance compiling the demand. I just want to be sure my grandmother and her husband are made whole. Thanks!



Like



Comment



5



Definitely. Email me at

[Redacted] or give me a call at [Redacted] and I'll be happy to talk you through the process and what you need to do to help your grandma.



Write a comment...



Post



2





That awkward moment when someone you are suing tries to friend you on Facebook. [REDACTED]

 80

19 Comments

 Like

 Share

RULE 4.2: COMMUNICATION WITH A PERSON REPRESENTED BY COUNSEL

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer 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.

The background of the slide features a light blue world map. Overlaid on the map are several social media icons in a grid-like fashion, including Facebook (f), Pinterest (p), LinkedIn (in), and YouTube (Tube). A thick, curved blue line sweeps across the middle of the slide, separating the header from the main text.

Should Judges and Lawyers be Facebook Friends?

“In the meantime, judges will perhaps best be served by ignoring any false sense of security created by so-called “privacy settings” and understanding that, in today's world, posting information to Facebook is the very definition of making it public. A judge's online “friendships,” just like his or her real life friendships, must be treated with a great deal of care.”

State v. Madden, No. M2012–02473–CCA–R3–CD, 2014 WL 931031, at *8 (Tenn. Crim. App. Mar. 11, 2014). *But see Frazier v. Frazier*, No. E2016- 01476-COA-T10B-CV, 2016 WL 4498320 (Tenn. Ct. App. Aug. 26, 2016).

Should Judges and Lawyers be Facebook Friends?

- Florida's Third District Court of Appeals in *Law Offices of Herssein v. USAA* (August 23, 2017)
 - “The issue in this case is therefore whether a reasonably prudent person would fear that he or she could not get a fair and impartial trial because the judge is a Facebook friend with a lawyer who represents a potential witness and party to the lawsuit.”
 - “A Facebook friendship does not necessarily signify the existence of a close relationship.”
 - “Some people have thousands of Facebook friends.”
 - “Facebook members often cannot recall every person they have accepted as friends or who have accepted them as friends.”
 - “Many Facebook ‘friends’ are selected based on Facebook’s data-mining technology rather than personal interactions.”

The background of the slide features a light blue world map. Overlaid on the map are several social media icons, including Facebook, Pinterest, Twitter, YouTube, and LinkedIn, each enclosed in a square frame with a grid pattern. A thick, curved blue line sweeps across the upper portion of the slide, separating the header area from the main text.

Lawyers on Facebook

These are real posts.

You've seen them.

You've been warned.



Like Page



Like Page

When you get called into the boss' office... 🤔

When your hearing was adjourned to January and now you don't know where to store all these records. Not lugging them back to the office 🤔



24

3

2 Comments

1 Share

Like

Comment

Share

Should you ever post about your client on social media?



Today I had a criminal client that I gave some pretty good news about his case. He had very little reaction to my news. I asked about his lack of enthusiasm and he said, "[REDACTED], I've had three friends get killed in the last month. It seems like cats like me can only be in jail or dead". The pain on his face, the look in his eyes, the fear in his voice... Whew. Happy Monday folks!



Like



Comment



Share



[REDACTED]

My client was released from the Penal Farm in March of 2016 and transported back to 201 Poplar. The jail would not release him or give him any information about why he was there. I received a letter from him a week ago informing me of his situation and I contacted everybody but President Obama to figure out why he was still in custody. After a week of (unpaid work) I figured out that my client had been in custody almost 3 extra months because of an computer error. Long story short, I threatened his life if he gets arrested again and gave him the number to Olympic Training ([REDACTED]) so he can hopefully get a skill. Oh yeah and he was released today! I forgot to thank [REDACTED] for being my legal research assistant during this ordeal! I have the most amazing team of mentors that a young lawyer could ask for! [REDACTED]

[REDACTED]

👍 Like

💬 Comment

➦ Share

RULE 1.6: CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to the representation of a client unless:

- (1) the client gives informed consent;
- (2) the disclosure is impliedly authorized in order to carry out the representation; or
- (3) the disclosure is permitted by paragraph (b) or required by paragraph (c).

TWITTER

← → ↻ <https://www.twitter.com>

Lawyers and

TWITTER



Davis & Hill, LLP @davishillllp • 18h

14%

of law firms have a presence on twitter

Who is Using Twitter Correctly?



Justice Don Willett @JusticeWillett · Aug 15

To the thousands of aspiring JDs beginning law school today:

May the odds be ever in your favor. ⚖️🇺🇸



88



310





Justice Don Willett @JusticeWillett · Aug 31

On the bright side, 36% *can* correctly name all 3 branches of government. So we have that going for us. 🇺🇸



Justice Don Willett @JusticeWillett

Survey—

35% of Americans can't name a single branch of government.



82



184



Justice Don Willett @JusticeWillett · Aug 20

Ain't no party like a legalese party 'cause a legalese party don't estop. 🎉⚖️

Autumn Price @AutumnDawnPrice

My life goal is to become fluent in legalese just like @JusticeWillett.



99



328



Justice Don Willett:



“I don’t talk about matters that could come before the court, I don’t throw partisan sharp elbows or try to score cheap political points.”

“I resolutely try to stay above the fray and keep things light and comical and entertaining, and sometimes even informative.”

But even Twitter Laureates must be careful!



Texas nominees to the 5th Circuit Court of Appeals James C. Ho (left) and Don R. Willett are sworn in during a U.S. Senate Judiciary Committee confirmation hearing on Capitol Hill in Washington, D.C., on Nov. 15, 2017.

📷 Allison Shelley for The Texas Tribune

A Texas Supreme Court Justice's popular Twitter account, and its future, drew sharp questions from U.S. senators Wednesday as two of President Donald Trump's Texas nominees for federal court openings faced their confirmation hearings.

Willetts also drew criticism for a 2015 tweet that critics have argued trivializes the issue of same-sex marriage:



The justice insisted he had meant only to inject some “levity” into a country polarized by recent U.S. Supreme Court arguments on the right to same-sex marriage. Lambda Legal, which advocates for LGBTQ issues, has come out against Willett, citing his track record as a judge in Texas, including decisions related to same-sex marriage.

Willett told the committee several times that if he resumes tweeting after being confirmed to the bench, his focus would be on civic education. "It'd be above the fray," he said.

"Don't you think the wiser course would be to just not do it?" U.S. Sen. John Kennedy, a Louisiana Republican, asked him.

"You and my wife have a mindmeld on this," Willett joked in response.



Justice Don Willett ✓ @JusticeWillett · Nov 15

"To live under the American Constitution is the greatest political privilege that was ever accorded to the human race."

—Calvin Coolidge



190



1.5K



3.9K



Other Effective Legal Twitter Users

@JudgeDillard

@whycourtsmatter

@rickhasen

– Also runs the popular Election Law Blog

@howappealing

– Attorney who tweets only about appellate news.

Twitter Pages that Might be Helpful to You

@attnyatwork – Attorney at Work delivers one really good idea every day to help enterprising lawyers create the career and life they can love.

@AvvoLawyers – provides actionable tips, advice and news updates for attorneys who want to grow and manage their practice more efficiently.

@NCCyberAdvocate – Helping lawyers and law firms effectively and ethically utilize technology to provide high-quality, efficient, and profitable service to their clients.

@SCOTUSblog – a private feed about all things SCOTUS

Lawyers and **BLOGGING**

24% of law firms maintain a legal blog



Lawyers Blog for a variety of Reasons:

Client Development: 73%

Enjoyment of Writing and Outreach: 36%

Career Development and Networking: 32%

The background features a collage of various social media and technology-related icons, including Facebook, Pinterest, Twitter, YouTube, and others, overlaid on a faint world map. A large, light blue curved line sweeps across the middle of the slide, separating the title from the list.

ABA Journal Blawg 100 Hall of Fame

- The Employer Handbook (a handy resource for employment lawyers)
- Gavel to Gavel (covering legislation in all 50 states affecting the courts)
- How Appealing (appellate news-watch blog)
- LawProse (Bryan Garner on language and grammar)
- 3 Geeks and a Law Blog (devoted to discussing how technology and how it affects a law practice)

Lawyers and

WEBSITES

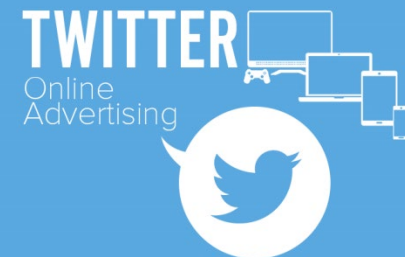


77%

of law firms

HAVE A WEBSITE





RULE 7.2: ADVERTISING

(a) Subject to the requirements of paragraphs (b) through (d) below and RPCs 7.1, 7.3, 7.4, 7.5, and 7.6, a lawyer may advertise services through written, recorded, or electronic communication, including public media.

(b) A copy or recording of each advertisement shall be retained by the lawyer for two years after its last dissemination along with a record of when and where the advertisement appeared.

(c) A lawyer shall not give anything of value to a person for recommending or publicizing the lawyer's services except that a lawyer may pay for the following:

- (1) the reasonable costs of advertisements permitted by this Rule;
- (2) the usual charges of a registered intermediary organization as permitted by RPC 7.6;
- (3) a sponsorship fee or a contribution to a charitable or other non-profit organization in return for which the lawyer will be given publicity as a lawyer; or
- (4) a law practice in accordance with RPC 1.17.

(d) Except for communications by registered intermediary organizations, any advertisement shall include the name and office address of at least one lawyer or law firm assuming responsibility for the communication.



Facebook Advertising

Good General Rules for Social Media Use

- Have separate personal and professional pages.
- Monitor content on both pages.
- Consider a social media disclaimer.

Legal Disclaimer

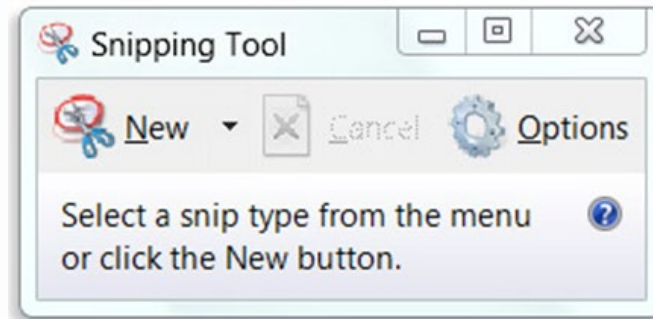


- All of the content presented here is general information only & shouldn't be construed as me giving you legal advice.
- Just because I'm giving this presentation to you, doesn't make me your attorney (that's a separate fee 😊).
- This presentation is purely for educational purposes & shouldn't be relied upon as your sole source of information concerning a specific issue or set of circumstances, though we may examine or discuss them.



Using Social Media as Evidence in a Case

- Use the Snipping Tool to Capture the Social Media Posts you need:



- How to Authenticate a Social Media Post:
State v. Burns, 2015 WL 2105543, at *10 (Tenn. Crim. App. May 5, 2015).
State v. Linzy, 2017 WL 3575871 (Tenn. Crim. App. Aug. 18, 2017)

Court to tackle social media in University of Tennessee rape case

Jamie Satterfield , Jamie.Satterfield@knoxnews.com

7:29 a.m. EST December 2, 2016



(Photo: Michael Patrick)

f 12 CONNECT
t TWEET
in 1 LINKEDIN
2 COMMENT
EMAIL
MORE

The battle between the rights of victims and witnesses and the accused is stitched into the very fabric of our judicial system, but the case of two former University of Tennessee football players charged with rape has moved it to an entirely new front in Tennessee - social media.

It's been two years since then-star UT linebacker A.J. Johnson and teammate Michael Williams were accused of raping a female UT student athlete at a party at Johnson's apartment in South Knoxville. They say it was consensual, and the evidence they need to show that can be found on the phones and

social media accounts of their accuser and her friends, key state witnesses. They want that social media information and say they have a constitutional right to it.

Prosecutors counter that the accuser and their witnesses have rights, too. Tennessee has a victims' rights law. And they insist that as prosecutors they have the right to step up and represent those women in trying to keep the former players from getting the evidence they seek.

The Tennessee Court of Criminal Appeals is set to hear arguments from both sides Dec. 20.

STORY HIGHLIGHTS

- Appellate court hearing set
- Battle shaping Tennessee's legal landscape

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The Gift They're Waiting for
Is Waiting on eBay

SHOP TOP TECH BRANDS

Peace. Love. Gadgets.

Discover Gifts →





State v. Johnson, 2017 WL 1364136 (Tenn. Crim. App. April 2017), appeal denied (August 16, 2017)

- At issue was the production of victim's social media information from Facebook, Instagram, Snapchat, and Twitter.
- The Court of Criminal Appeals held that the State does not have standing to object to production of a victim or witnesses' social media information.
- Lengthy discussion of discovery/production of social media information.
- *But see* the August 2017 issue of Knoxville Bar Association's "Dicta" – article by Dean Melanie Wilson

Although attorneys may contact an unrepresented person through social networking websites, they may not use a pretextual basis for viewing otherwise private information on social networking websites.

RULE 4.3: DEALING WITH AN UNREPRESENTED PERSON

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are, or have a reasonable possibility of being, in conflict with the interests of the client.

RULE 4.4: RESPECT FOR THE RIGHTS OF THIRD PERSONS

(a)(1) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person or knowingly use methods of obtaining evidence that violate the legal rights of such a person.



The background of the slide features a light blue world map. Overlaid on the map are several social media icons: Facebook (f), Pinterest (P), LinkedIn (in), and a stylized 'S6' logo. A thick, curved blue line sweeps across the middle of the slide, separating the title from the list.

Are there potential future effects on your career due to current social media use?

- Ethics Violations and Conflicts of Interest
- Elections and Appointments
- Future Employers' Review

Warning your Clients about Social Media

- Nothing posted on social media is private.
- Clients can destroy the attorney/client privilege through social media.
 - Consider having a social media discussion as part of your client intake process.
- Watch out for posts regarding mediation or settlement discussions!

Always remember: cameras are EVERYWHERE!

