Learning Objectives

- Explore the 4 C’s of professionalism and their relation to technology.
- Discuss the different forms of social media and the benefits of usage.
- Examine the common pitfalls encountered when using social media.
- Consider ways to maintain a positive online reputation.
- Highlight the Best Practices for Effective Electronic Communication.

4 C’s of Professionalism

- Character
- Competence
- Commitment
- Civility
Technology and Competence

**Rule 4-1.1 Competence**
- A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

The amendment would add: “Competent representation may also involve the association or retention of a non-lawyer advisor of established technological competence in the field in question. Competent representation also involves safeguarding confidential information relating to the representation, including, but not limited to, electronic transmissions and communications.”

Technology CLE Requirement
- Currently 30 CLE credits per 3 year cycle.
- 5 CLE credits dedicated towards ethics, professionalism, substance abuse, mental illness awareness, or bias elimination.
- Proposal 3 CLE credits on technological competence, totaling 33 CLE credits per cycle.
What is Social Media?

Key Features:
- Online or mobile technology that promotes communication, collaboration, and sharing of content between users.

Includes:
- Social networking sites, location-based networking, blogs, micro-blogs, wikis, photo-sharing sites, video-sharing sites, and document sharing sites.

Social Media

Popular Examples
- Facebook
- LinkedIn
- Twitter
- Instagram
- YouTube
- Google+

Legal Industry
- Martindale Connected
- Avvo
- Legal OnRamp
- LexBlog Network
Social Media Benefits

Using social media to your benefit:
- Promote services
- Recruit talent
- Introduce yourself to a new market
- Network

Common Pitfalls Encountered When Using Social Media

Pitfall 1: Distinguishing between Personal and Professional Use

- Easy to blur the lines when casually commenting on day-to-day activities.
- Statements made through social media that promote a lawyer or a lawyer’s legal practice may constitute advertising. These pages must therefore comply with Rule 4-7.11-4-7.21.
Pitfall 2: Solicitation
Invites sent directly from a social media site via IM to a third party to view or link to the lawyer’s page on an unsolicited basis for the purpose of obtaining or attempting to obtain legal business are solicitations & violate Rule 4-7.18(a), unless the recipient is:
- The lawyer’s current client,
- former client,
- Relative,
- has a prior professional relationship with the lawyer,
- or is another lawyer.

Pitfall 3: Creating Attorney-Client Relationship
- Attorney-client relationships can be formed over the Internet.
- Extreme caution warranted when engaging non-lawyer users in substantive conversations or when discussing the possibility of forming a lawyer client relationship.

Pitfall 4: Disclosing Privileged Information
- Use caution with all posts to make sure that no confidential or privileged information is displayed.
- Savvy social media users can use multiple outlets to compile information.
Pitfall 5: False or Misleading Statements

Any communication made by a lawyer must refrain from fraud, deceit, dishonesty, & misrepresentation.

See Rule 4-7.13, 4-7.14 and Rule 4-8.4(c)

Pitfall 6: Friending Judges

- Chace v. Loisel, 39 FLW D221a (Fla. 5th DCA Jan. 24, 2014)

- Domville v. State, 103 So. 3d 184 (Fla. 4th DCA 2012), rev. denied, State v. Domville, 110 So. 3d 441 (Fla. 2013)

Ripped from the Headlines
Ripped from the Headlines

Sun-Sentinal.com 4/22/10
“Facebook Poem Gets Prosecutor in Hot Water”

Ripped from the Headlines

ABC News, 9/14/12
“Florida Lawyer Fired for Posting Client’s Leopard-Print Underwear”

Ripped from the Headlines

The New York Times
9/12/09, “A Legal Battle: Online Attitude vs. Rules of the Bar”
• The Florida Bar v. Conway, 996 So.2d 213 (Fla. 2008).
Maintaining a Positive Online Reputation

Check your Current Online Reputation
- Search your name on the Internet.
- View your “hits” from the perspective of a potential employer, client, or organization.
- Consider what you can do to promote your online reputation.

Maintain a Professional Profile
- Professional Headshot
- Avoid poor spelling and grammar
- Share thing that are positive
Respond Rather than React

- Take the high road
- Stay neutral – respond rather than react

Best Practices for Effective Electronic Communication

Cellphone Reminders

- Keep voice low
- Turn phone off
- Keep private matters private
- Inform caller
- Respect calling hours
- Speaker phone awareness
### Responding via Text

**Lawyers Sending Information to Clients via Text Messages**

- **Regularly or Occasionally**: 34%
- **Never**: 46%

*AM Journal, January 2014*

### Text Message Reminders

- Keep text short
- Informal
- No lingo or shorthand
- Don’t assume
- Consider phone call
- Not temporary
- Permission
- Respect time

### Laptop/Tablet Usage in Public

- Use VPN
- Keep your laptop/tablet secure
- Update software
- Turn off sharing
- Be aware of your surroundings
- Consider using privacy screen
Response Time to Emails

Email Reminders

Cloud Storage Options & Reminders
- Dropbox
- Google Docs
- iCloud
- Clio
- Evernote
**Cloud Storage Usage**

**Metadata**
- Metadata is information about a particular document or data set that describes how, when, and by whom it was created, modified and formatted. It helps users revise, organize and access electronically created files.

**Metadata Reminders**
- Before sending opposing counsel documents be sure it has been washed of compromising metadata.
- Avoid sending opposing counsel documents with the “track change” feature on.
Communicate and Maintain Expectations

Technology Challenge

Practice Resource Institute

PRI staff are available to assist Bar members in all aspects of practice management including:

- Office technology
- Financial management
- Marketing
- Opening a firm, closing a firm, or mergers
- Client relations and communications
- Business planning
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