

Young Lawyers



BY GUEST COLUMNIST LEE H. GORLIN, ESQ.

USING SOCIAL MEDIA IN THE LEGAL PROFESSION

“One of our main goals this year was to increase the section’s social media presence. In light of that goal, the Young Lawyers Section (YLS) appointed Lee Gorlin to spearhead its Communication Committee. Throughout the year, Mr. Gorlin has done an outstanding job of providing timely information to young lawyers about events happening in the legal community. On behalf of the YLS, I would like to formally thank Mr. Gorlin for his dedication and service to furthering this goal.”

— Jordan Davis, Chair of the Young Lawyers Section

Social media platforms, such as Twitter and Facebook, have become such an important part of life and practice in the 21st century that many attorneys, legal support staff and even clients cannot remember a time without it. Social media, like any other medium, presents both opportunity and risks.

The opportunities are obvious. Lawyers and other practitioners have the ability to get messages out to the masses with little to no overhead. More traditional media required high fees as well as time and labor necessary to craft a message that both sounded and looked just right, so that the investment in the ad space or air time wasn’t a poor one.

The risks should be equally obvious. However, it appears that they aren’t as obvious to many as we would like to believe. For attorneys, the main risk involved with the use of social media is putting out content that violates professional ethics rules, damages the speaker’s reputation or scares off potential clients.

So, should practitioners avoid social media? Not at all. Social media, as previously stated, is a powerful tool. For example, the Young Lawyers Section maintains a social media presence on Facebook and Twitter, and has relied on its social media presence to reach people who are not members of the section. That said, what can practitioners do to reap the benefits of social media while avoiding the common pitfalls?

First, practitioners should (and most already do), have a strong working knowledge of the Nevada Rules of Professional Conduct. In a world where anyone can send a global message, 280 characters at a time, practitioners

shouldn’t post content without taking the time to ask themselves, “Is this ethical?”

Second, while posting interesting content can help draw the desired eyeballs, the trick is to strike a balance between amusing, funny, entertaining and even provocative, and informative. While we would never suggest that people must remain “politically correct,” perhaps if the poster believes that the content is likely to anger or offend, then it may be best to either delete it or, at the very least, run it by another set of eyes before posting. For example, the Young Lawyers Section shares information about educational and volunteer events, but it will not share information about political events.

Another great example of entertaining and engaging social media presence is the Twitter feed of the Vegas Golden Knights: @GoldenKnights. However, the Golden Knights’ Twitter account also contains a few examples of content that may have crossed a line. *See, e.g.*, “Alec Gearty, Golden Knights issue an apology for tweet insulting Nashville media,” *Sporting News* (Dec. 9, 2017)¹ Long story short, the person running the account tweeted that members of the Nashville media were actively cheering for the Nashville Predators in the press box. Not only is such behavior considered to be unprofessional for members of the sports media, but it appears that it was meant to be a joke and thus untrue. The team later issued a public apology via its Twitter account.

A policy of restraint is also wise for clients. As most members of the bar are well aware, our statements can find a way to come back and bite us at the worst times. An extreme example is the case of *Holmes v. State*, 129 Nev. 567, 306 P.3d 415 (2013). Although not an example of

social media, *Holmes* featured a criminal defendant who wrote rap lyrics while in jail. *Id.* at 570, 306 P.3d at 417. The prosecution sought to introduce those lyrics at trial, and the lyrics were admitted. *Id.* The lyrics, despite their use of hyperbole or other exaggeration, described the crime for which *Holmes* was charged. *Id.* at 573, 306 P.3d at 419. The Nevada Supreme Court affirmed the district court’s decision to admit the lyrics as relevant admissions of a party opponent. *Id.* at 579, 306 P.3d at 423. Although this ruling applied to rap lyrics written in a jail cell, it is entirely possible that a client’s social media statements could be admitted against him or her at trial.

In conclusion, social media is a tool to be embraced, but not abused. While tweeting our innermost thoughts at the push of a button is possible, and sometimes far too easy, we need to ensure that we do not forget to use our common sense while doing so. Moreover, as attorneys, we need to be the voice of reason and do our best to make sure that our clients use social media responsibly. **NL**

1. <http://www.sportingnews.com/nhl/news/golden-knights-issue-apology-for-insulting-nashville-media-predators-vegas-golden-knights/1ohf8pns2rtun1gkqelz7rdc6r>.

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