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### Georgia Bar CLE 2014: Social Media



## American Bar Association

ABA Commission on Ethics 20/20 - review of the ABA Model Rules of Professional Conduct and the U.S. system of lawyer regulation in the context of advances in technology and global legal practice developments.

- Lawyers' Use of Internet Based Client Development Tools (Sept. 20, 2010)

Center for Professional Responsibility focuses on legal and judicial ethics, professional regulation, professionalism, and client protection.

Model Rules of Professional Conduct

- State Adoption of Model Rules

ETHICSearch - a research service for lawyers and law students to help locate citations to relevant ABA rules, ethics opinions, and other ethics resources.

There is no charge for an initial question and basic research.

Lawyer's Manual on Professional Conduct - subscription publication, available on Bloomberg BNA, Lexis, and Westlaw

Legal Technology Resource Center - Social Media for Lawyers

## Ethics Opinions

### Investigation and Research

- Philadelphia Bar Association, Professional Guidance Committee Opinion 2009-02 (*Mar. 2009*)
- San Diego County Bar Association Legal Ethics Opinion 2011-02 (May 24, 2011)
- *Obtaining Evidence from Social Networking Websites*, New York City Bar Association, Committee on Professional and Judicial Ethics Opinion 2010-2 (Sept. 2010)
- New York State Bar Association Committee on Professional Ethics Opinion 843 (Sept. 10, 2010)
- New York County Lawyers' Association, Committee on Professional Ethics Formal Opinion 743 (May 18, 2011)
- *Jury Research and Social Media*, New York City Bar Association Formal Opinion 2012-2
- *Accessing Information about Third Parties Through a Social Networking Website*, Oregon State Bar Formal Ethics Opinion No. 2013-189 (Feb. 2013)
- *Social Media Contact with Witnesses in the Course of Litigation*, New Hampshire Bar Association Ethics Committee Advisory Opinion #2012-13/05 (July 20, 2013)
- *Lawyer Reviewing Jurors' Internet Presence*, ABA Standing Committee on Ethics and Professional Responsibility Formal Opinion 466 (April 24, 2014)

### Marketing of Legal Services

- State Bar of California, Committee on Professional Responsibility and Conduct Formal Opinion 2012-186 (Dec. 21, 2012)
- *Listing in Social Media*, New York State Bar Association Ethics Opinion 972 (June 26, 2013)
- *Ethical Obligations for Attorneys Using Social Media*, Pennsylvania Bar Association Formal Ethics Opinion 2014-300 (Sept. 2014)
- South Carolina Bar Ethics Advisory Opinion 09-10 (2009)

### Advice to Clients

- *Advising a Client Regarding Posts on Social Media Sites*, New York County Lawyers Association Ethics Opinion 745 (July 2, 2013)
- *Advising a Civil Litigation Client about Social Media*, North Carolina State Bar 2014 Formal Ethics Opinion 5 (July 25, 2014)

### Judicial Conduct

- New York Advisory Committee on Judicial Ethics Advisory Opinion 08-176 (Jan. 29, 2009)
- N.C. Judicial Standards Comm., Inquiry No. 08-234 (Apr. 1, 2009)
- S.C. Advisory Committee on Standards of Judicial Conduct Opinion No. 17-2009 (Oct. 2009)



## Social Media in Evidence in Georgia

Twenty-three opinions include reference to Facebook or MySpace. Generally the opinions discuss how parties communicated or located each other or how police investigators learned about events or initially identified suspects. In general the use of a social media service was not dispositive of any issue in the case.

*Burgess v. State*, 292 Ga. 821 (2013) (Documents from electronic sources such as the printouts from a website like MySpace are subject to the same rules of authentication as other more traditional documentary evidence and may be authenticated through circumstantial evidence.)

*Lacy v. Lacy*, 320 Ga. App. 739 (2013) (Judge did not err in placing a restriction upon the parties' behavior on social networking websites)

*Watson v. State*, 293 Ga. 817 (2013) (Evidence of social media exchanges was insufficient to convict defendant of solicitation of sodomy)

*Dillard v. State*, 319 Ga. App. 299 (2012) (Use of Facebook photographs in probation revocation)

*Stephens v. State*, 305 Ga. App. 339 (2010) (Court viewed MySpace account of witness, found no exculpatory evidence and ruled the account was not subject to disclosure)

## Additional Resources

### Additional Reading

- *Attorney Ethics Limitations on the Internet How the New ABA Model Rules Affect Marketing for Lawyers* Attorney Profit (2012) (free ebook)
- *Social Media Guide for Lawyers* Meritas (2011) (free PDF) - instructions on creating and using LinkedIn, Facebook, and Twitter accounts; sample social media policies
- *Guidelines for Networking Sites*, Florida Bar Standing Committee on Advertising (Apr. 16, 2013) (free PDF)
- John C. Browning, *Keep your "Friends" Close and your Enemies Closer* *Walking the Ethical Tightrope in the Use of Social Media*, 3 St. Mary's J. L. Mal. & Ethics 204 (2013)

### Blogs

- ABA Blawg Directory Legal Ethics
- Legal Ethics Forum
- Real Lawyers Have Blogs

### PRESENTATION

- ABA House of Delegates Resolution 105A (Aug. 6, 2012)
- ABA Formal Opinion 462 *Judge's Use of Electronic Social Networking Media* (Feb. 21, 2013)
- *Chaney v. Fayette County Pub. Sch. Dist.*, 2013 U.S. Dist. LEXIS 143030, 2013 WL 5486829 (N.D. Ga. Sept. 30, 2013)
- *Florida Bar v. Conway* - Florida State bar fines a trial lawyer Sean Conway \$1,200 for criticizing a judge in a blog post, calling her "evil, unfair witch."
- *The Future of the Practice of Law and Access to Justice in Georgia: "An Open Forum"* (Sept. 2013)
- Georgia General Assembly, HB643
- Internet Archive, Wayback Machine - stores more than 150 billion pages stored in the archive. Type in a website address (URL), limit by date, to view an archived version of the site. Save Page Now feature "Capture a web page as it appears now for use as a trusted citation in the future". Facebook pages are not archived.
- *Lawyers, Judges, Jurors and Social Media*, materials prepared for Section 6 of the 2013 Georgia Bar Media & Judiciary Conference
- *Twitter as a search engine* - twitter.com/search
- *Social Media Policy*, Faegre Baker Daniels (Apr. 19, 2011)
- **Confidentiality**  
In the Matter of Skinner, 292 Ga. 640 (2013)

