

Sustaining and Enhancing Online Professional Relationships

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Focus of Presentation

- ▶ Introduction and food for thought
- ▶ “Big Picture” rather than details
- ▶ Major issues rather than nuances
- ▶ Preventive approach: anticipate and avoid potential problems
- ▶ Interactive social media

Advantages and Limitations of Online Communications Media

▶ Advantages

- Convenience
- Ease of use
- Client preferences
- Allows more frequent, informal contact

Advantages and Limitations of Online Communications Media

▶ Disadvantages

- Time needed to learn tools
- May have undesirable, informal tone (depends on client preferences)
- Security
- Privacy

Identifying Problem Areas

- ▶ No definitive case law or ethics opinions specifically related to online contacts
- ▶ Is the communication “advertising” under ethics rules?
- ▶ Does the communication create an attorney–client relationship?
- ▶ Verifying identity
- ▶ Avoiding conflicts of interest

Concerns Regarding Clients

- ▶ Is client comfortable with the tools?
- ▶ Does client understand need for confidentiality?

Using Online Collaboration Tools with Clients

Example: Google Docs

- ▶ <http://docs.google.com>

- ▶ Allows groups to collaborate on:
 - Documents
 - Presentations
 - Spreadsheets
 - Forms

Using Online Collaboration Tools with Clients

Google Docs Example (continued)

Areas of concern:

- ▶ Ownership and use
 - Who owns or has rights to information?
- ▶ Read:
 - Terms of service (or terms of use)
 - Acceptable use policy (if separate document)
 - Privacy policy
- ▶ Privacy and confidentiality

Using Online Collaboration Tools with Clients

- ▶ **Google Docs Example (continued)**

- ▶ **Security**
 - Secure from outsiders
 - Access rights (using Google Docs terms)
 - Collaborator (can update document)
 - Viewer (can read document but not update)

- ▶ **Backups and recovery**

Keeping Records and Informing Clients and Prospective Clients about Privacy Issues

- ▶ Inform other party that you are recording/saving the communication
- ▶ Obtain their consent to record/save it
- ▶ Be prepared to answer client's questions about privacy and security

Protecting Attorney–client and Work Product Privileges

Follow your current practices plus:

- ▶ Limit access to your account on social media
- ▶ Use only private, secure areas for sensitive communications
- ▶ Avoid using public or shared computers
- ▶ Clients using their employers' communities?
 - May waive privileges
 - Depends on applicable state law

Mix of Online and Offline Communications

With client and considering ethical issues, you must decide:

- ▶ What communications will be done online?
- ▶ What communications will be done “offline”?
- ▶ Which method (online or offline) takes precedence in event of conflict?

Conclusion and Follow-up

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