

## Law Firm Marketing: Legal Ethics Expert Weighs in On Social Media Regulations

By: Stephen Fairley

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Over the past couple of months I have blogged [here](#) and [here](#) about the Florida Bar's proposed new legal ethics in advertising rules. Not that I'm obsessed, but I just had to share another viewpoint (one that I heartily agree with) from an interview at [gjel.com](http://gjel.com) with legal ethics expert [Diane Karpman](#).

Here's an excerpt (the boldfaced parts are mine):

**GJEL:** Will the expanding use of social media by the general population have a permanent effect on attorney ethics guidelines?

**DK:** I'm not sure. There is a historic reaction against technological changes that the bar always takes. They always try to take the old rule and stretch it and see how it will encompass the new technological developments. The biggest problem with social media and lawyer guidelines is that at least in California, anytime a lawyer puts their name on anything, it's deemed to fall under regulations governing advertising. **Every state has very Byzantine regulations regarding lawyer advertising.** The overarching theme is that everything lawyers say in advertisements must be true, accurate and not confusing. **But these rules fail to take into consideration things like Twitter.** If you only have 140 characters you just can't comply with all the requirements.

People think that what's online is friendly, but that's not true when you are a professional. The main problem is that what's posted on the Internet is there forever. It has a permanent effect on attorney ethics guidelines.

Five states are obsessed with enacting stricter attorney advertising laws. Some of the most restrictive are Florida, Texas and Louisiana. Some states even have a requirement that before a lawyer does anything, it must be approved by the state bar.

**GJEL:** Are there free speech issues associated with social media regulation?

**DK:** **Putting regulations on social media is a violation of freedom of speech.** If you have to get pre-approval from the bar, how can you be blogging or tweeting? The social media platforms are stretching the ethical ideas way beyond what has been thought about before.

**GJEL:** I understand that a number of states have enacted additional guidelines for social media use. Do you think each state should enact specific regulations around use of social media?

**DK:** **Ethics rules are about 50 years behind the reality.** When emails started the question was on whether to encrypt messages or not. They realized that email is just like a phone call and it cannot be tapped without the same ethics guidelines. As soon as a rule is enacted it's almost obsolete. You have to take into consideration the overarching principles that guide the

profession. Special rules just look silly. **The type of regulation in Florida is just overkill. I almost think it's unconstitutional just because it's a prior restraint to freedom of speech.**

Amen. And hallelujah.

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Stephen Fairley is a nationally recognized law firm marketing expert and has helped more than 6,000 attorneys from hundreds of law firms across the country to discover the secrets of generating more referrals and filling their practice.

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