

Is Facebook "Friending" Grounds for Judicial Recusal?

By [Donald Scarinci](#)

Judges are people too, so it's no surprise that they use social media sites like Facebook and Twitter to connect with friends, family and co-workers. But what if their "friends list" includes a juror, witness or party to a case over which they are presiding?

Courts across the country are increasingly being asked to address whether [Facebook](#) relationships can taint judicial proceedings and serve as grounds for recusal or even a new trial. As the law surrounding social media continues to evolve, courts are delivering mixed results.

In [Clore v. Clore](#), a divorcing Alabama spouse unsuccessfully argued that the trial judge's social-networking connection to the parties' adult daughter warranted the grant of a new trial and the recusal of the trial judge. The trial court, in explaining his decision to deny the motion, stated, in pertinent part:

"This [Facebook] is a social networking site where the word 'friend' is used [in a way] that doesn't have anything to do with the way before this Facebook.com ever existed — the way we used the word 'friend.'"

"So just because a person is connected to me on here in this manner doesn't have anything to do with a personal relationship. I don't have a personal relationship with this friend. We all live in a small town. I have heard both of you all's names. I've heard [the daughter's] name before we came in here today. But the establishment of an electronic friend over Facebook has absolutely no impact on what I have done and what I'm going to do."

On appeal, the Court of Civil Appeals of Alabama agreed, highlighting that the wife "offered nothing beyond the bare status of the parties' daughter as a 'friend' of the judge." It further held that the issues could and should have been raised during the initial trial.

Other courts, however, take social media relationships more seriously. In [Domville v. Florida](#), a Florida appeals court disqualified a judge based on a Facebook "friendship" with the prosecutor. The court relied heavily on an opinion of the Judicial Ethics Advisory Committee, which concluded that the Florida Code of Judicial Conduct precludes a judge from both adding lawyers who appear before the judge as "friends" on a social networking site and allowing such lawyers to do the same. The reasoning was that a judge's activity on a social networking site may undermine confidence in the judge's neutrality.

The Model Code does not take a similar position, only requiring judges to "maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives." So while [judges need not be banned from Facebook](#), these cases highlight that members of the judiciary have additional concerns to consider when interacting on social media.

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