

Social Media Guide



for Lawyers v. 2.0

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INTRODUCTION

In our first edition of the *Social Media Guide for Lawyers*, the 2010-2011 Leadership Institute proclaimed that “the world is changing.” Nothing could be closer to the truth, but not in the way one might expect. A recent study entitled “2012 In-House Counsel New Media Engagement Survey,” conducted by Greentarget, Zeuhauser Group and *Inside Counsel*, illustrates how the generational gap for social media use is closing as Facebook, Twitter, and LinkedIn are no longer exclusively utilized by up-and-coming lawyers. In fact, lawyers in the 40-year-old to 60-year-old range are rapidly adapting to social media to complement their traditional marketing efforts and to build and strengthen relationships. In-house counsel and potential clients alike are increasingly using social media as a 21st-century way to select lawyers and outside counsel.

The first edition of the *Guide* featured a “Best Practices Guide” on how law firms and individual lawyers can use social media to add value and generate business. The *Guide* also provided step-by-step instructions for effectively using the “Big Three”—LinkedIn, Facebook, and Twitter—and sample social media policies for law firms as they established parameters for social media use within their firms. Basically, that first edition served as a “Social Media 101.” We have incorporated the majority of that text within this edition for those just diving into the social media pool.

With this second edition, the 2010-2011 Leadership Institute elevates Meritas to the second level of social media use. It shows lawyers and law firms how to harness social media to their advantage by integrating “traditional” media with these new technologies to further expand visibility and exposure. As with the first edition, the goal is not to convince lawyers that social media is the only tool for business development, but rather to demonstrate how social media can serve as yet another tool in a lawyer’s marketing toolbox. Accordingly, version 2.0 of the *Guide* features:

- A list of Facebook’s new features, including Timeline and the new privacy settings,
- Step-by-step guides for creating and using LinkedIn Groups and Twitter Lists, and
- Tips for effectively using social media to share “traditional” marketing materials.

We hope you enjoy the *Social Media Guide for Lawyers v. 2.0*, and we welcome any feedback.

The 2010-2011 Leadership Institute

Sample Social Media Policies



RESTRICTIVE SOCIAL MEDIA POLICY ¹

Introduction

Social media encompasses a broad sweep of online activity, all of which is trackable and traceable. These online networks include not only the blogs you may write and those to which you comment, but social networks such as Facebook and MySpace; professional networks such as LinkedIn; and the live blogging tool, Twitter. This policy is directed primarily at social media participation when acting on behalf of the Firm, participating in a manner that is directly linked to the Firm, or when using Firm equipment or the Firm domain. It is important to note that any online conduct by members of the Firm may reflect, both positively and negatively, on the Firm. Even if you participate in social media using a personal email address and there is no reference to the Firm, anything you publish can easily be tracked to the Firm.

Purposes of Policy

As a Firm, we believe that while access to certain online tools on Firm computers is allowed, the work we do for our clients is our utmost priority. Therefore, employees should limit time spent on social and business networking sites to appropriate times, avoid uses which do not have a legitimate business purpose, and strive to avoid uses which conflict with the professional image or policies of the Firm. While the Firm recognizes social media may be used as a supplementary marketing tool, if improperly or carelessly used it can result in negative consequences such as:

- unintended attorney-client relationships
- disclosure of sensitive client/Firm information
- defamation
- alienation of a client/potential client
- damage to professional image

The following policies are designed to provide reasonable guidance for online behavior by attorneys at our Firm while keeping these consequences in mind. These guidelines augment and enhance existing Firm policies, including the Firm's technology and confidentiality policies.

¹ This policy is offered as a sample only and should be reviewed for compliance with applicable local laws and regulations before implementing.

Your Online Identity

When your online activity is conducted with a Firm email address and/or in a manner which can be traced back to the Firm's domain you must abide by Firm policies, including the following:

- If you identify yourself with the Firm in any way in a particular social medium, you should regard all communications within that network as you would your communications in any professional setting and must abide by this policy.
- Be aware of the differences between your personal and professional appearances on social media. They are not mutually exclusive domains, and your personal content will intersect with your professional content. The general rule: if there is anyone, anywhere, who you would not want to see it, do not put it on the Internet.
- You are responsible for what you post. You are personally responsible for any of your online activity conducted with a Firm email address, and/or which can be traced back to the Firm's domain, and/or which uses Firm assets. When using a Firm email address or Firm assets to engage in any social media or professional social networking activity (for example LinkedIn and Facebook), all actions are public, and you will be held fully responsible for any and all said activities.
- Outside the workplace, you have certain rights to privacy and free speech for online activity conducted on your personal social networks with your personal email address. However, what you publish on such personal online sites should never be attributed to the Firm and should not appear to be endorsed by, or originated from, the Firm. If you choose to list your work affiliation on a social network, then you should regard all communication on that network as you would in a professional network. Online lives are ultimately linked, whether or not you choose to mention the Firm in your personal online networking activity. What you say and do reflects on you, and ultimately, on the Firm.
- Obey the law. Don't post any information or conduct any online activity that may violate applicable laws or regulations. Follow the terms and conditions of use that have been established by each site used for your social networking activities.
- Never be false or misleading in your online credentials. You **MUST** maintain complete accuracy in all of your online bios and ensure there is no embellishment.

Confidentiality, Privacy, and Ethics

All social media activities should comply with applicable Rules of Professional Conduct and the Firm's established policies.

- Online conduct is subject to all of the Firm's policies including those related to appropriate workplace conduct. Unlawful harassment and discrimination are prohibited by Firm policy. The Firm's employment policies should be followed online as in other contexts.
- Care must be taken to avoid violating any of the Rules of Professional Conduct. Two areas that are particularly susceptible to violation within the realm of social media are rules related to confidentiality and the Client-Lawyer Relationship:
 - ▶ Client confidentiality must be maintained. No social media communication should include client-specific information unless the client has first provided an appropriate written consent. Never use a client's name in a blog posting, unless you have written permission to do so.
 - ▶ Never disclose proprietary or confidential information of the Firm or any client in any form of online media. Sharing this type of information, even unintentionally, can result in loss of the trust of others and legal action against you, the Firm, and/or the client.
 - ▶ Protect Firm confidentiality. Do not comment on confidential Firm information such as the Firm's financial performance, business plans, or employment issues.
 - ▶ Avoid creating unintended attorney-client relationships. Do not give legal advice online and avoid writing any content that could be construed as legal advice. Confidential information must not be solicited or received. Do not recommend a course of action. Be cautious about inadvertently creating an attorney-client relationship by giving advice or answering legal questions online; instead, focus on supplying information only. There is sometimes a fine line between legal advice and information. Responses can create a legal advice context.
 - ▶ The rules of professional conduct may prohibit solicitation of legal work without a previous relationship. Do not ask for legal work without establishing a prior relationship.

Guidelines for Creating/Managing Social Media Content

- Be direct, informative, and brief.
- Do not disparage Firm clients, your current and former colleagues, other Firms, or their attorneys.
- Credit appropriately and obey copyright and fair use laws. Identify all copyrighted, quoted, or borrowed material with credit, and, if available, citations and links. When publishing any material online that includes another's direct or paraphrased quotes, thoughts, ideas, photos, or videos, always give credit to the original material or author, where applicable.
- Fact-check your posts. Always evaluate your contribution's accuracy and truthfulness. Before posting any online material, ensure that the material is accurate, truthful, and without factual error. Correct errors promptly; grammar and spell check everything.
- Get approval before starting a professional blog. If you would like to create a professional blog, you must receive approval from the Firm.
- When posting to a blog, refrain from posting about controversial or potentially inflammatory subjects, including politics, sex, religion, any matters related to issues where the Firm is representing clients, or any other non-business related subjects. Keep the tone of your comments respectful and informative, never condescending or "loud." Use sentence case format, not capital letters. Stick to this maxim whenever you are contributing to any blogs or social and professional networks.
- Avoid personal attacks, online fights, and hostile communications. Do not spread rumors or gossip. Write reasonably, factually, and with good humor. Avoid any communications that could result in personal, professional, or credibility attacks.
- When using social networks with your Firm email and professional identification, do not "friend" anyone whom you either do not actually know and/or with whom you have not previously corresponded.
- Do not forget your day job. You need to make sure that your online activities do not interfere with your job and your commitments to your colleagues and the Firm's clients.

Above all, remember that the Internet is public, permanent, and pervasive. What you write can be copied, forwarded, and used by anyone, anywhere, anytime, even in contexts you may not have intended. If you would not say it face to face with our most important client, do not say it online.

PERMISSIVE SOCIAL MEDIA POLICY ²

Introduction

Internet social and professional networking sites and communities (“social media”) may play a role in marketing for attorneys. These sites include social networks such as Facebook, professional networks such as LinkedIn, and blogging sites such as Twitter. In addition, blogs to which you write or on which you comment are also aspects of social media. This policy is directed primarily at social media participation when acting on behalf of the Firm, participating in a manner that is directly linked to the Firm, or when using Firm equipment or the Firm domain. It is important to note that any online conduct by members of the Firm may reflect, both positively and negatively, on the Firm. Even if you participate in social media using a personal email address and there is no reference to the Firm, keep in mind that anything you publish can easily be tracked to the Firm.

Purposes of Policy

As a Firm, we believe that when used appropriately in accordance with this policy, social media may support business development efforts. While social media may be used as a supplementary marketing tool, if improperly or carelessly used, it can result in negative consequences such as:

- unintended attorney-client relationships
- disclosure of sensitive client/Firm information
- defamation
- alienation of a client/potential client

The following policies are designed to provide reasonable guidance for online behavior by attorneys at our Firm while keeping these consequences in mind.

² This policy is offered as a sample only and should be reviewed for compliance with applicable local laws and regulations before implementing.

Your Online Identity

You are always personally responsible for your online activity. When your online activity is conducted with a Firm email address and/or in a manner which can be traced back to the Firm's domain you must abide by Firm policies, including this one.

Similarly, attorneys may create profiles within social media identifying their affiliation with the Firm. If you identify yourself with the Firm in any way in a particular social medium, you should regard all communications within that network as you would your communications in any professional setting and must abide by this policy.

Firm Policies and Ethics Rules

As a basic rule, the Firm's established policies and the Rules of Professional Conduct apply to social media.

- Online conduct is subject to all of the Firm's policies including those related to appropriate workplace conduct. Unlawful harassment and discrimination are prohibited by Firm policy. The Firm's employment policies should be followed online as in other contexts.
- Care must be taken to avoid violating any of the Rules of Professional Conduct. Two areas that are particularly susceptible to violation within the realm of social media are rules related to confidentiality and the Client-Lawyer Relationship:
 - ▶ Take appropriate precautions to avoid creating unintended attorney-client relationships. Confidential information must not be solicited or received, and legal advice should not be given, without first conducting a conflicts check and opening a file in accordance with Firm procedures. Do not give legal advice on a social media web site, and be mindful that individuals may wrongfully construe your advice as legal in nature based upon your profession.
 - ▶ The Rules of Professional Conduct may prohibit solicitation of legal work without a previous relationship. Be careful not to ask for legal work without establishing a prior relationship.
 - ▶ Client confidentiality must be maintained. No social media communication should include client-specific information unless the client has first provided an appropriate written consent.

Guidelines for Creating/Managing Social Media Content

- Take care to protect client confidentiality. Be careful not to post any information that might divulge client-specific information. The simple fact that a client has engaged the Firm is a confidential matter not subject to disclosure. For example, it may be tempting to post a congratulatory message for a member of the Firm regarding a successful result, or to post a congratulatory message for a client on a successful transaction. Check with the partner in charge of the matter first. Also, if a hypothetical based on a client situation is presented in a post, it should not include information that would enable the client or a third party to identify the parties involved in the matter.
- Protect Firm confidentiality. Do not comment on confidential Firm information such as the Firm's financial performance, business plans, or employment issues.
- Use disclaimers. Make it clear that your representations are representative of your views and opinions and not necessarily the views and opinions of the Firm. At a minimum in your own blog, you should include the following disclaimer: "The postings on this site are my own and do not necessarily represent the Firm's opinions, positions, or strategies." If appropriate, you should also disclose that your comments and statements are not legal advice, and that the reader should consult with an attorney.
- Be thoughtful. The content you create, post, and publish will be around for a long time, perhaps in perpetuity. Consider your content carefully and be judicious when disclosing information. If you have any questions or concerns about publishing a statement or opinion, first discuss the issue with the Marketing Department.
- Be yourself and be transparent. Do not use the Firm's name to post anonymously. Be upfront and provide a disclaimer that any opinions expressed are not the views of the Firm.
- Respect and obey copyright and fair use laws. Do not use content from another source without attribution, especially when blogging. If you use images or illustrations, make sure you comply with any licensing requirements.
- Get approval before starting a professional blog. If you would like to create a professional blog, you must receive approval from the Firm. Additionally, the Marketing Department may consult with you about content, audience, protocols, and the public relations value for the Firm.
- Get approval before posting Firm-related images. Before publishing photographs or videos of Firm employees, partners, or events, you must receive approval from the Marketing Department. Any video or photographs you post should be in good taste and support a positive personal brand.

- Understanding and use of privacy settings. Understand and use the privacy settings of any social media you are using in order to guard against your information being available to others outside of your trusted network.
- Use the Front Page Rule. Do not post anything you would not want published on the front page of the local newspaper. Even privacy settings are not absolute protection against dissemination of social media communications.
- Use good judgment when using Firm resources. The Firm owns its desktop computers, laptops, software, servers, remote access servers, internet access, smart phones, and email systems. The Firm has chosen not to block the use of social media sites on Firm equipment, and expects attorneys to use good judgment in making use of the Firm's equipment. For example, social media activities during work hours should be held to a reasonable level so as not to interfere with regular legal work. Activities that use significant internet bandwidth (such as playing video or uploading or downloading multimedia files) should be kept to a minimum and done during work hours only when absolutely necessary. Attorneys should have no expectation of privacy when it comes to the use of these Firm-owned systems as the Firm may periodically monitor its systems and equipment.
- Use good judgment when responding to or making "friend" requests. If you get a "friend" request on Facebook, or a similar invitation on another social media site, think carefully prior to accepting if the request is made by a person with whom you have a professional association. Be aware that in certain circumstances, these connections can be problematic under professional responsibility principles (e.g., social media contacts with judges or witnesses in active litigation matters) or human resources policies (e.g., personal contacts with law students who are being actively recruited by the Firm).

Things to Avoid

- Do not give or receive legal advice on a social media web site.
- Do not violate Firm policies when acting on behalf of the Firm or in any situation where it could be perceived you are acting on behalf of the Firm.
- Do not disparage Firm clients, your current and former colleagues, other Firms, or their attorneys.
- Do not identify clients or reveal client confidences.
- Do not create unintended attorney-client relationships.
- Be careful about "friending" attorneys junior to you or staff members. In the workplace, sometimes people in subordinate positions will feel pressured to accept the invitation.

Conclusion and Next Steps



The Meritas Leadership Institute hopes that the *Social Media Guide for Lawyers v. 2.0* serves as a helpful handbook for lawyers and law firms who want to use social media to effectively promote their practice. The next steps will depend on each reader's personal and professional goals and interests for using social media in his or her career. We recommend the following three steps as a good place to start:

1. Determine the Right Social Media Platform for the Lawyer or Law Firm

There is no one-size-fits-all approach to selecting the appropriate social media platform(s). We suggest lawyers set aside an hour on their calendar one afternoon to visit the three main social media sites and see what they have to offer. They should ask their contemporaries about the social media sites they use, consider how each site can benefit them or their firm, and then sign up for one. Social media is still in its infancy and will continue to grow steadily, so lawyers who come on board now will have an advantage as social media continues to gain momentum.

2. Consider Whether Your Firm Should Adopt a Social Media Policy

The Leadership Institute believes the benefits of social media outweigh the concerns, as long as the sites are used appropriately. Law firms may already have a policy in place to govern social media use by lawyers and staff. If not, the social media policies suggested in this *Guide* can serve as a good template for forming the policy that works best for each firm. Lawyers can share this *Guide* with their managing partner or human resource director to see if our suggested policies are right for their situation.

3. Still Undecided? We Recommend Lawyers and Firms Begin with LinkedIn

LinkedIn is a great starting place for a lawyer's or firm's social media presence because it is "less social and more networking." Business leaders and lawyers alike generally feel most comfortable using LinkedIn because it is a trusted place for interacting with business leaders without the fear of others posting unwanted content on the profiles. LinkedIn is user-friendly and allows lawyers to create a professional profile with a minimal investment of time. If they're still skeptical about the benefits of social media, we suggest lawyers search for their colleagues on LinkedIn and see for themselves who is already connecting with people they know through social media.

If readers have any questions about the *Guide*, or how they can incorporate social media into their practice, they are welcome to contact their nearest 2010-2011 Meritas Leadership Institute class member, listed on the following page. Leadership Institute members can serve as a helpful social media resource and are available for speaking engagements and social media demonstrations.

Happy Tweeting!

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