

facebook



FOLLOW US ON
twitter

Google

Pinterest

LinkedIn

Friends
and
Followers:
an Attorney's
Ethical Use of
SOCIAL
MEDIA



Instagram

You
Tube

Rules of Professional Conduct

- **1.1 (Competence)**
- **1.6 (Confidentiality)**
- **3.3 (Candor)**
- **3.4 (Fairness)**
- **3.5 (Impartiality & Decorum)**
- **3.6 (Trial Publicity)**
- **4.1 (Truthfulness)**
- **4.2 (Communication)**
- **4.3 (Unrepresented Persons)**
- **5.3 (Responsibilities regarding Nonlawyer assistants)**
- **7.1 (Communications)**
- **7.3 (Solicitation)**
- **7.4 (Fields of Practice & Specialization)**
- **8.2 (Judicial & Legal Officials)**
- **8.4 (Misconduct)**



RPC 1.1

Competence 1



Social Media Explained:

twitter

I'm eating a #donut.



facebook



I love donuts – they taste so amazing!



Blogger

This is where I write interesting things about donuts.



Instagram

Here's a photo of some delicious donuts.



You Tube

Here's a video of me eating a donut.



LinkedIn

My skills include donut-eating.

Pinterest

Here's a donut recipe.



**Rules of
Professional Conduct
(RPC) 1.6:
Confidentiality of
Information²**



facebook

Home

Profile

Friends

Settings Logout

Anya Citron Stern

Wall

Info

Photos

Boxes

Notes

Write something...

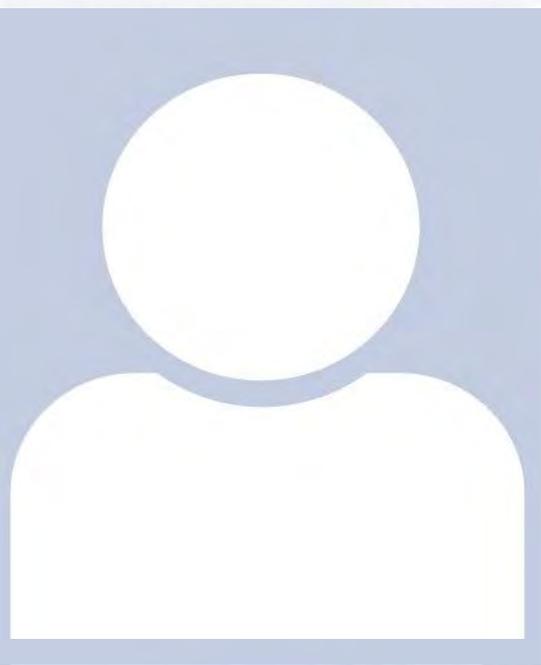
“Proper attire for trial.”

Share

Filters



Saturday at 3:11am · Comment · Like · Share



View Photos of Anya

View Videos of Anya

Send Anya a Message

Poke Anya



Blogger

Sign in to use Blogger with your Google Account

Username (Email):

Password: (?)

[Forgot your username or password?](#)

SIGN IN

[Use a different account](#)

Create a blog. It's free



Your blog



Ability to personalize

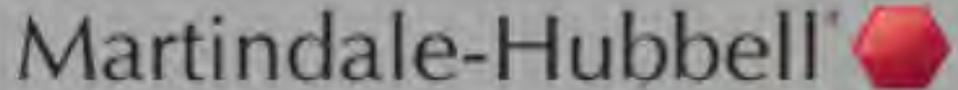
themes, gadgets, and more,

Don't reveal client confidences online.³

Blogs of Note

[Overland Wannabe](#)

Online Reviews

The Google logo, featuring the word "Google" in its characteristic multi-colored font (blue, red, yellow, blue, green, red).The Martindale-Hubbell logo, consisting of the text "Martindale-Hubbell" in a grey sans-serif font next to a red hexagonal icon.

Find us on:
facebook®

The Avvo logo, featuring the word "Avvo" in a bold, black, sans-serif font. To the right of the text is a blue icon consisting of two overlapping triangles forming a square shape.

Online Advertising

ADVERTISEMENT

***DO YOU NEED
A LAWYER?***

***LEGAL SERVICES
AT VERY REASONABLE FEES***



- Divorce or legal separation--uncontested
(both spouses sign papers)

\$175.00 plus \$20.00 court filing fee

**RPC 7.1:
Communications
concerning a
Lawyer's Services⁴**

facebook

Email or Phone

Password

Log In

Keep me logged in

[Forgot your password?](#)

Hensley Legal Group, PC
is on Facebook.

To connect with Hensley Legal Group, PC, sign up for Facebook today.

**Lawyer's social media profile
primarily used for law
business is subject to
attorney advertising rules.⁵**



399 likes

86 visits

HLG

June 2 at 1:07pm

Rice lawsuit settlement sets framework for
Syngenta Corn Lawsuit



Stephanie Baker-Brown — A wonderful
group to work with! Very friendly and profession
al! I highly recommend Hensley Legal Group!

February 14, 2013 · 83 Reviews

**RPC 7.4:
Communications of Fields
of Practice and
Specialization⁶**



Attention HR Executives - Promote Job Openings On 300+ Social Networks. Fi



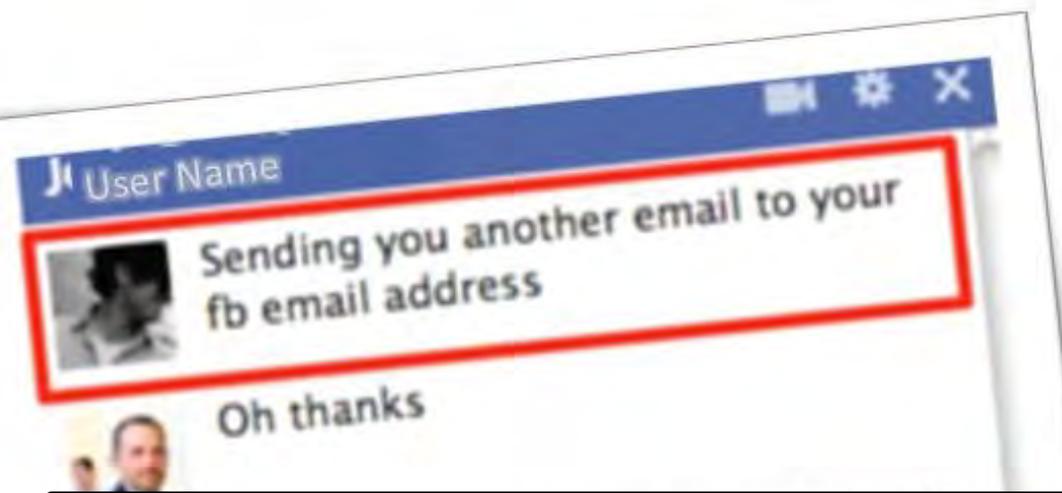
David A. Barrister, Esq.

Specialist in Civil Litigation

Lawyers shall not advertise areas of practice under headings that include the term “specialist” unless the lawyer is certified.⁷

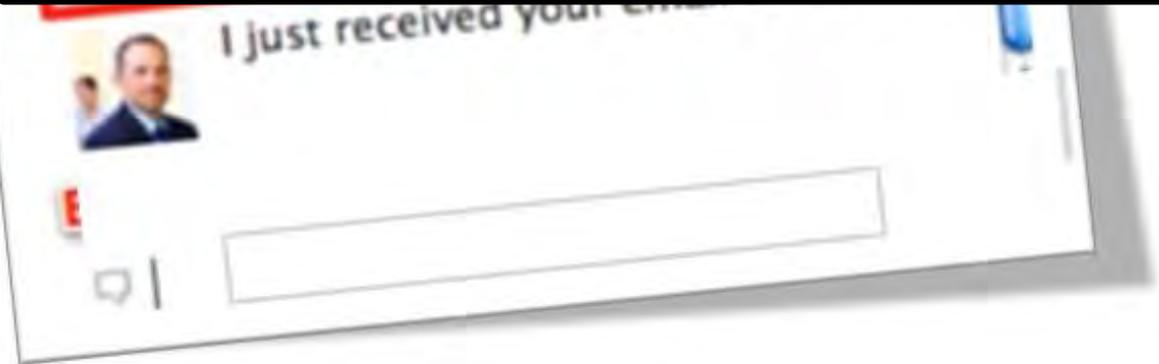
May 2000 – Present, Greater Boston Area general practice lawyer and civil litigation attorney – Complaint drafting, drafting responses and objections to discovery requests, motions to amend complaint, motions to compel discovery, motions submitted under Superior Court Rule 9A, motions to disqualify attorneys, motion to take audiovisual deposition, deposition practice, motions in limine, motions for emergency orders regarding discovery, motions to dismiss, motions for attorneys fees, motions for summary judgment, motions for bifurcation and summary adjudication, motions for real estate attachment, motions for ex-parte attachment, motions for protective orders, trial memorandum drafting, Daubert motion practice, oral argument and trial advocacy, discovery to aid in enforcement of judgment, settlement agreement drafting, motions for reconsideration.

**RPC 7.3:
Solicitation of Potential
Clients⁸**



AIM
Google Talk
Facebook Chat
Instant
Messenger

Attorney shall not “solicit” business from the public through instant messaging and chat rooms.⁹





Attorney's Use of Social Media

RPC 4.2: Communication with Represented Person¹⁰



Lawyers
may access
public
portions of
social media
accounts.¹¹



RPC 4.3: Dealing with an Unrepresented Person¹²



RPC 8.4

Misconduct¹³





George Washington is preparing to Nationalize the PA Militia

Wall

Info

Photos

Boxes

Write something...

Attorney may request permission to view non-public portions of an unrepresented person's website or profile. However, an attorney may not use dishonesty, trickery, deception, false pretenses or an alias.¹⁴

Mt. Vernon, VA

Friends



Alex



John



TJ



Martha



Marquis



Knox



go to war in Europe. That is their business. We have to much on our plates to get involved

May 28, 1793



Alexander Hamilton to George Washington The New Bank is open for business. I hope it helps us secure the money to pay back our loans from

May 23, 1791



George Washington I am happy to serve as the President under what appears to be the most well thought, and democratic of governments ever created.

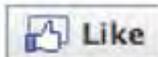
April 4, 1789

RPC 5.3: Responsibilities Regarding Nonlawyer Assistants¹⁵





A Friend of a Friend



Small Business [Edit Info](#)

Wall

A Friend of a Friend · Top Posts ▾

Share: [Status](#) [Photo](#) [Link](#) [Video](#)

Lawyer Profile

Lawyers shall not order or direct an agent (i.e. investigator, legal assistant, secretary or client) to engage in conduct or with knowledge of the conduct, ratify it, where such conduct if engaged in by the attorney would violate the ethics rules.¹⁶

RECENT ACTIVITY

- A Friend of a Friend joined Facebook.
- A Friend of a Friend edited their Founded, Website and Products.

About [Edit](#)

I am not an attorney in disguise.

0 people like this

Add to My Page's Favorites
Share



A lawyer may advise a client as to what content may be maintained, made private or “taken down” on social media, as long as there is no violation of common law, statute, rule or regulation regarding preservation of information.¹⁷



Jurors and Social Media



RPC 3.5: Impartiality and Decorum of Tribunal¹⁸





Sleepy Juror

was 😞 feeling bored at Macomb County Circuit

Court.

May 28 🌐

Rochester Hills

A lawyer may view the public portion of the social networking profile of a juror or potential juror but may not communicate directly with the juror or jury panel member.¹⁹



Sleepy Juror

May 28 🌐

This is brutal! Wow, gotta stay awake. At Jury duty and watching movies on my phone, but keep dozing off. C'mon lunch break!!

A photograph of the Tennessee Supreme Court building, a grand neoclassical structure with tall columns and a pediment. In the foreground, there is a dark grey sign with white text. A large yellow text box with a black border is overlaid on the center of the image.

[TN] Judges may participate in social media but must do so with caution.²⁰

TENNESSEE SUPREME COURT

Tennessee Supreme Court

Court of Appeals

Court of Criminal Appeals



Joe Lawyer

Wall Info Photos Boxes Notes

Attorneys may not use social media to influence judges.²¹

Joe is now a fan of Game of Thrones and Breaking Bad · Comment · Like

- View Photos of Joe Lawyer
- View Videos of Joe Lawyer
- Send Joe Lawyer a Message
- Poke Joe Lawyer



Facebook No one wants spam on their favorite Pages, so we've launched new filters for Page admins to help improve the quality of posts you see. If you run a Page, be sure to like the Facebook Pages page for more updates.



Improving Page Content on Your Wall

Facebook Pages are intended to help people engage and interact with high quality content from their favorite brands and celebrities...

By: Facebook Pages

Saturday at 3:11am · Comment · Like · Share

BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

FORMAL ETHICS OPINION 2015-F-159

May an attorney ethically store confidential client information or material in "the cloud"?

OPINION

A lawyer may ethically allow confidential client information to be stored in "the cloud" if the lawyer takes reasonable care to assure that: (1) all such information or materials remain confidential; and (2) reasonable safeguards are employed to ensure that the information is protected from breaches, loss, and other risks. Due to rapidly changing technology, the Board doesn't attempt to establish a standard of care, but instead offers guidance from other jurisdictions.

DISCUSSION

Technological advances have changed the way lawyers and law firms may store, retrieve and access client information. An inquiry has been made regarding whether a lawyer can ethically store confidential client files and information in "the cloud".

Cloud computing is technology which allows a lawyer to store and access software or data through the cloud—a remote location which is not controlled by the lawyer but by a third party which provides the storage or other computing services. It is the use of a network of remote servers, hardware and/or software to store, manage, transmit, process and/or retrieve data off the lawyer's premises, rather than on a server or personal computer on the lawyer's premises.

The services, which may be long-term storage of confidential client information or shorter-term storage or services to enable data processing or web-based email, are typically purchased from a provider on a subscription fee basis. The service provider assumes the responsibility for new technology and software updates. The lawyer's computing device is simply a way of accessing the information stored in the cloud from any location with Internet access.¹

¹ Ala. Ethics Op. 2010-02 (2010); Alaska Ethics Op. 2014-3 (2014); Ariz. Ethics Op. 09-04 (2009); Cal. Ethics Op. 2010-179 (2010); Conn. Informal Op. 2013-07 (2013); Fla. Ethics Op. 12-3 (2012); Iowa Ethics Op. 11-01 (2011); Ky. Ethics Op. E-437 (2014); Me. Ethics Op. 207 (2013); Mass. Ethics Op. 12-03 (2012); N.H. Adv. Ethics Op. 2012-13/4 (2013); N.Y. Ethics Op. 842 (2010); Nev. Ethics Op. 33 (2006); N. C. 2011 Formal Op. 6 (2012); Ohio Informal Ethics Op. 2013-13 (2013); Or. Ethics Op. 2011-188 (2011); Penn. Formal Ethics Op. 2011-200 (undated); Va. Legal Ethics Op. 1872 (2013); Wash. Advisory Op 2215 (2012).

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