

9-2019

## **Bar Bytes: Social Media Benefits, Risks, and Best Practices**

Eve Ross

Follow this and additional works at: [https://scholarcommons.sc.edu/law\\_facpub](https://scholarcommons.sc.edu/law_facpub)

 Part of the [Law Commons](#)

---

# BAR BYTES

## Social Media Benefits, Risks and Best Practices

By Eve Ross

Social media has been around for more than two decades. Of the major social media sites in use today, LinkedIn launched in 2003, Facebook in 2004, Twitter in 2006, and Instagram in 2010.

Social media is relevant to law practice. More than 4,800 South Carolina lawyers—more than one in three members of the state bar—are using LinkedIn.<sup>1</sup>

Justice John Few of the South Carolina Supreme Court is active

on Twitter (@Justice\_Few), and the Risk Management Director of the SC Bar, Nichole Davis, is active on Instagram (@theanxiousattorney).

When Comment 8 to Rule 1.1 of the ABA Model Rules of Professional Conduct states that “a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology,” it follows that basic social media awareness is part of that responsibility.

which is also released when you see smiling faces or receive peer recognition.<sup>3</sup> Some lawyers find it easier to network in person with other lawyers at lunch or after work. But for lawyers in remote areas or who have schedule conflicts, social media may provide a helpful stopgap allowing them to maintain connections until they are able to meet again in person.

### Know the risks

#### *Your Clients’ Privacy*

There is significant privacy risk in using social media. Free social media sites make money by exploiting user data in ways users often don’t expect. Rule 1.6, amended by the S.C. Supreme Court in June 2019, provides this takeaway: lawyers must post nothing on social media about any client representation, unless the client gave informed consent.<sup>4</sup>

#### *Others’ privacy*

Different ethical risks arise when searching social media for information about others. “Just looking” at publicly available information can accidentally turn into communicating with a represented person<sup>5</sup> when LinkedIn tells a user who has viewed their profile. It may be tempting to send a friend request to gain access to someone’s friends-only posts. But Rule 4.2 prohibits communicating with an opposing party who is represented, Rule 8.4(c) prohibits misrepresentation such as using a false name,

### Know the benefits

#### *Current Conversations*

One benefit of social media is the opportunity to observe or participate in conversations in the legal field. One can start by following institutional social media accounts such as those of the SC Bar (@SCBAR), practice area groups, law schools, or legal news publishers. No social media account is required to Google search hashtags like #lawtwitter, #legaltech, or #palmettoprobono which provide rapidly updated, crowdsourced information on topics of interest.

#### *Community Connections*

Feeling like part of a community, especially in a field where many feel isolated, is another benefit of social media presence. This goal may take time and participation to realize. To start small, create a profile, add a professional photo, and begin “liking” others’ posts. “Likes” on social media cause the brain to release the chemical dopamine,<sup>2</sup>

## OFFICES FOR RENT

Liberty House is offering for rent an office suite of approximately 1,270 square feet that includes 4 offices and a large administrative/reception area. Landlord will consider reconfiguring the space. An adjacent office (168 sq. ft.) is also available if required. Phones, high-speed internet & surface parking provided.

Liberty House is located at the corner of Assembly and Calhoun streets in Columbia’s Central Business District so tenants can access District amenities including free Uber-style transportation within the District. The building is in walking distance of the Federal and Richland County courthouses and has easy vehicle access (one traffic light) to both I-20 and I-26.

**Call Sam Phillips at  
(803) 606-5694 if interested.**

and Rules 5.3 and 8.4(a) prohibit getting a paralegal to do what the rules of professional responsibility forbid a lawyer to do.<sup>6</sup>

#### Further ethics reading

Social media can impact more rules than have been mentioned here, including rules on advertising, diligence, and lawyer-client relationships. For more detail, here are three overviews of how social media and professional responsibility interact. Each one is available for free online and is worth reading in full.

1. Julie C. Jackson-Bailey, student of Nathan M. Crystal (2012), *Proceed with Caution: The Ethical Issues Lawyers and Judges Face When using Social Media*.
2. Pennsylvania Bar Association Formal Opinion 2014-300, *Ethical Obligations for Attorneys Using Social Media*.
3. Jessica Weltge & Myra McKenzie-Harris, ABA Section on Labor and Employment (2017), *The Minefield of Social Media and Legal Ethics: How to Provide Competent*

#### Representation and Avoid the Pitfalls of Modern Technology.

#### Use best practices

##### Review a help page

Lack of familiarity with an interface can lead to rookie mistakes, so use Google to find instructions for social media tasks. Appearance, functionality, and policies of social media sites can change dramatically, with little notice, but current information will be found on the help page:

**Facebook:** <https://facebook.com/help>

**Instagram:** <https://help.instagram.com>

**LinkedIn:** <https://linkedin.com/help>

**Twitter:** <https://help.twitter.com>

##### Be your best professional self

Many lawyers find the benefits of a social media presence can outweigh the risks, given some thought and effort. Respect and civility are key to unlocking the conversational and community benefits. Staying up-to-date on

social media functionality and the rules of professional responsibility will help mitigate the risks.

*Eve Ross is a reference librarian at the University of South Carolina School of Law and is currently responsible for @UofSCLawLib on Facebook, Twitter and Instagram. She is a member of the SC Bar Technology Committee.*

#### Endnotes

<sup>1</sup> Based on a July 23, 2019 search of “People” on LinkedIn.com, with every available South Carolina metro area selected, and the query “lawyer OR attorney” in the Title field.

<sup>2</sup> Trevor Haynes, *Dopamine, Smartphones & You: A Battle for Your Time*, SCIENCE IN THE NEWS (May 1, 2018), <http://sitn.hms.harvard.edu/flash/2018/dopamine-smartphones-battle-time/>.

<sup>3</sup> *Id.*

<sup>4</sup> Confidentiality, Rule 1.6, RPC, Rule 407, SCACR.

<sup>5</sup> Communication with Person Represented by Counsel, Rule 4.2, RPC, Rule 407, SCACR.

<sup>6</sup> Karen Rubin, *Lawyers on Hot Seat After Using Paralegal to Friend Opposing Party*, THE LAW FOR LAWYERS TODAY (May 6, 2016), <https://www.thelawforlawyerstoday.com/2016/05/lawyers-on-hot-seat-after-using-paralegal-to-friend-opposing-party/>.

## South Carolina Legal Research

by the National Legal Research Group

Contact us for the highest quality of research, writing, and analysis. Since 1969, we've been helping South Carolina attorneys win cases and have a life.



There are lots of things you could do after work besides **MORE** work.

*“Mark Rieber has always been there for us. His thoughtful analysis, thorough research and innovative approach to overcome litigation hurdles immeasurably improves our ability to deliver the very best legal services to our clients.”*

ANDREW J. SAVAGE III,  
CHARLESTON, SC

More than **1,597 South Carolina** attorneys have used National Legal Research Group.

[www.nlrg.com/sc](http://www.nlrg.com/sc) • 1-877-689-6432 • [ad@nlrg.com](mailto:ad@nlrg.com)

*Briefs, Motions,  
Trial Memos,  
Legal Research*

**FREE HOUR**  
of Legal Research for New Clients

Use only the free hour, or apply the free hour to a larger project.

Includes a Westlaw Computer Search

## HAYNSWORTH SINKLER BOYD



**Costa M. Pleicones**

Certified Federal Court Mediator  
Certified Circuit Court Mediator and Arbitrator

Business Disputes  
Contracts  
Medical Malpractice

Nursing Home Disputes  
Personal Injury  
Prisoner Litigation

1201 Main Street, 22<sup>nd</sup> Floor, Columbia, SC 29201  
803.540.7910 | [cpleicones@hsblawfirm.com](mailto:cpleicones@hsblawfirm.com)  
[www.hsblawfirm.com](http://www.hsblawfirm.com)