



The Revolution Will Be Live-Blogged

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All legal and other issues should be independently researched.

by Lisa Brown

As little as 10 years ago, the digital landscape looked far different than it does today: AOL CD-ROMs were ubiquitous, email had gone mainstream, and many of us had yet to trade in our pagers for cell phones. Today, AOL has all but gone the way of the buffalo, most of us are just as likely to communicate with friends, family, and coworkers through texting or Facebook messages than email, and smart phones have revolutionized the ways in which we think about communication, productivity, mobility, and modern life.

Social media has witnessed a similarly

striking evolution, from the days of Classmates.com and Friendster to the brave new world of MySpace and Facebook. A seemingly endless stream of new media outlets has hit the scene in rapid succession: YouTube, Flickr, Twitter, Tumblr . . . the list goes on and on.

But how has social media impacted the legal profession?

With Oscar buzz surrounding “The Social Network” and virtually every 2010 year-in-review news article or blog post making reference to social media, it’s simply a question that cannot be ignored. “History has proven that skepticism about new technologies is common, i.e. the belief that such advances as the print[ing] press, radio, and television were fads,” says Jamie Latta, director of social media for Red Rocket LA. “Social

media is no different. Everyone needs to learn how to use it and be part of the conversation—or not, and fade away.”

What You Don't Know Could Hurt You

Issues of relevance aside, social media has had a significant impact in the world of trial law. Whether or not your firm engages in social media, it's imperative that you be aware of current trends.

“Now, almost every other grandma has got a Facebook page; it's not just a youth movement any more,” says Aitken Aitken Cohn Partner and Orange County Bar Association (OCBA) Director at Large Darren O. Aitken. “Facebooking and the Internet have had a real effect, and the courts are just now catching on.”

The widespread prevalence of social media and ever-increasing Internet accessibility in the age of Wi-Fi and smart phones compels individuals—including jurors—to conduct independent research, explains Aitken, which you're not supposed to do in trial. He points to incidents of jurors using Google Earth to view crime scenes, “friending” or following lawyers and litigants on social media sites such as Facebook and Twitter, and even posting key facts from a trial online and asking others to vote on what the jury should do when it came time to deliberate on a verdict.

That last anecdote is particularly shocking, and it's something of which judges and lawyers alike ought to be aware moving forward.

Proceed With Caution

“Any person has to be careful about what they post to social media sites,” cautions Lanak & Hanna Associate and OCBA Young Lawyers Division Chair Mac W. Cabal. “I was an extern for the district attorney's office, and they used social media posts against [defendants].”

But the need to be mindful of one's social media presence and the message it conveys applies equally to lawyers. Specifically, Cabal points to unintended consequences and the type of information posted, with respect to opinion or personal advice as opposed to legal counsel. “Some of that can be minimized by the privacy settings on Facebook,” he adds, but there are simple steps one can take to mitigate the risk.

Prior to posting, Cabal recommends that you first consider your intended recipient and ask how he or she might rely on the information you provide. Similarly, a post made from

your personal account may be interpreted differently than the same post delivered through your firm's social media presence. Additionally, Cabal points out the need to be aware of the situations you're in when posting photos to social media sites, including Facebook, Twitter, LinkedIn, Tumblr, Flickr, and more. “Obviously, you don't want to compromise you or your firm's reputation,” he says.



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Making Social Media Pay

Yet despite the inherent risks, there are many benefits to be reaped from developing a solid social media presence. One of the primary advantages: cost.

“It's completely free as of now to set up a Facebook account, so you're getting potential free advertising, whereas with a webpage, you have to pay for development, hosting, and more,” says Cabal.

Another crucial boon of social media is the strategic combination of relationship cultivation and significant time savings. Says Stefanie Knapp, marketing coordinator at Allen Matkins Leck Gamble Mallory & Natsis LLP and former chapter administrator of the Legal Marketing Association's Southern California Chapter: “For the time-crunched lawyer, social networking is a must. It allows them to develop and nurture relationships in just minutes a day.

To help facilitate adequate time management with respect to social media and ensure that you remain actively engaged, Knapp recommends setting up automatic notifications to alert you when someone responds to something you've posted—a feature readily available on both Facebook and Twitter. “If you post an article and someone responds with a question or wants to know more of your thoughts on the subject, you need to be sure to respond,” she says. “If you don't, you've missed a great opportunity to make a connection with that person.”

Avoid the Urge to Constantly Advertise

What many fail to realize at first blush is that social media centers around communication, the dissemination of useful and/or interesting information, and the development of a vibrant, interactive community—not sales. To that end, Knapp cautions social media users to avoid the common pitfall of constant self-promotion. “You should be talking about your clients or about news in their industries that is important to them,” she says. “This makes you a go-to resource.”



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