

Judges and Social Media

From Bar to Bench: So You Want to Be a Judge?

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November 4, 2009**

What is a Judge?



What is Social Media ?

Social media can be said to have three components;

1. Concept (art, information, or meme).
2. Media (physical, electronic, or verbal).
3. Social interface (intimate direct, community engagement, social viral, electronic broadcast or syndication, or other physical media such as print).

Common forms of social media;

- Concepts, slogans, and statements with a high memory retention quotient, that excite others to repeat
- Grass-Roots direct action information dissemination such as public speaking, installations, performance, and demonstrations.
- Electronic media with 'sharing', syndication, or search algorithm technologies (includes internet and mobile devices).
- Print media, designed to be re-distributed.

See Wikipedia – Social Media

What are the types of Social Media?

Examples of social media software applications include:

Communication Blogs: Blogger, LiveJournal, OpenDiary, TypePad, WordPress, Vox, ExpressionEngine, Xanga

Micro-blogging / Presence applications:

Twitter, Plurk, Tumblr, Jaiku, fmylife

Social Networking:

Bebo, BigTent, Facebook, LinkedIn, MySpace, Okut, Skyrock, Hi5, Ning, Elgg

Social Network Aggregation:

NutshellMail, FriendFeed

Events: Upcoming, Eventful, Meetup.com

Collaboration Wikis: Wikipedia, Pbwiki, wetpaint

Social bookmarking (or social tagging): Delicious, StumbleUpon, Google Reader, CiteULike

Social news: Digg, Mixx, Reddit, NowPublic

Opinion sites: epinions, Yelp

Multimedia Photo sharing: Flickr, Zoomr, Photobucket, SmugMug, Picasa

Video sharing: YouTube, Vimeo, sevenload

Livecasting: Ustream.tv, Justin.tv, Stickam, Skype

Audio and Music Sharing: imeem, The Hype Machine, Last.fm, ccMixer

Reviews and Opinions:

Product Reviews: epinions.com, MouthShut.com

Business Reviews: yelp.com

Community Q&A: Yahoo! Answers, WikiAnswers, Askville, Google Answers, Imgf.com

Entertainment Media & Entertainment

Platforms: Cisco Eos

Virtual Worlds: Second Life, The Sims Online, Forterra

Game sharing: Miniclip, Kongregate

Other Information Aggregators: Netvibes, Twine (website)

Texas Bar Blogs: Texas Bar Circle, Texas Bar Blogs

Some interesting Stats

- Facebook – growth this year up 198% , average user 1 hour per week
- “Some 19% of internet users now say they use Twitter or another service to share updates about themselves, or to see updates about others. This represents a significant increase over previous surveys in December 2008 and April 2009, when 11% of internet users said they use a status-update service.”
- "Internet users age 18-44 report rapid uptake of Twitter over the last nine months, whereas internet users ages 45 and older report slower adoption rates. For example, 37% of internet users age 18-24 use Twitter or another service, up from 19% in December 2008.
- The median age of a Twitter user is 31, which has remained stable over the past year. The median age for MySpace is now 26, down from 27 in May 2008, and the median age for LinkedIn is now 39, down from 40. Facebook, however, is graying a bit: the median age for this social network site is now 33, up from 26 in May 2008.”

More Stats

- According to a recent survey for LexisNexis, the legal database company:
 - 86% percent of lawyers ages 25 to 35 are members of social networks like Facebook, LinkedIn and MySpace, as opposed to 66% of those over 46.
- For those just out of law school, “this stuff is like air to them,” said Michael Mintz, who manages an online community for lawyers, Martindale-Hubbell Connected.

Everything and Everybody State Bar of Texas From their Facebook Page



Before taking the Bench

- Ask yourself the following:
 - Do I have a presence on the internet?
 - Check yourself out – Google/Bing
- Consider whether you should:
 - Webpages – shutter them
 - Facebook, Myspace, Twitter, LinkedIn, Youtube accounts – Suspend or Deactivate
- But are they gone?.....

Not so Fast....

Hi Steven,

If you deactivate, your account is removed from the site. However, we save all your profile content (friends, photos, interests, etc.), so if you want to reactivate sometime, your account will look just the way it did when you deactivated. If you do want your information completely wiped from our servers, we can do this for you.

However, you need to remove all profile content before we can do this. Once you have cleared your account, let us know and we'll take care of the rest.

Thanks for contacting Facebook,
Lucy
Customer Support Representative

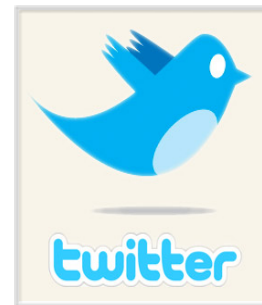


And did you know?

Browse through over 150 billion web pages archived from 1996 to a few months ago.

<http://web.archive.org>

JD Supra this week started an attempt to track lawyers using Facebook, much in the same way it is tracking lawyers on Twitter.



Texas Lawyer's Creed

IV. Lawyer And Judge

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

Texas Code of Judicial Conduct

CANON 3. Performing the Duties of Judicial Office Impartially and Diligently

B. Adjudicative Responsibilities.

(7) A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status against parties, witnesses, counsel or others. This requirement does not preclude legitimate advocacy when any of these factors is an issue in the proceeding.

Texas Code of Judicial Conduct

CANON 3. Performing the Duties of Judicial Office Impartially and Diligently

B. Adjudicative Responsibilities.

8) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications or other communications made to the judge outside the presence of the parties between the judge and a party, an attorney, a guardian or attorney ad litem, an alternative dispute resolution neutral, or any other court appointee concerning the merits of a pending or impending judicial proceeding. A judge shall require compliance with this subsection by court personnel subject to the judge's direction and control.

Texas Code of Judicial Conduct

CANON 3. Performing the Duties of Judicial Office Impartially and Diligently

B. Adjudicative Responsibilities.

(10) A judge shall abstain from public comment about a pending or impending proceeding which may come before the judge's court in a manner which suggests to a reasonable person the judge's probable decision on any particular case. This prohibition applies to any candidate for judicial office, with respect to judicial proceedings pending or impending in the court on which the candidate would serve if elected. A judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This section does not apply to proceedings in which the judge or judicial candidate is a litigant in a personal capacity.

1st Amendment Issues

October 2002 Court Issues Amended Code of Judicial Conduct

Texas Supreme Court justices have issued revisions to the Texas Code of Judicial Conduct, which contains ethics rules for state judges. The Court struck a provision restricting campaign speech by judges and judicial candidates, after the U.S. Supreme Court held that ethical restrictions in Minnesota prohibiting judges and candidates from announcing positions on legal and political issues violated the First Amendment.

The Court noted that a more extensive study of Texas judicial ethical rules would be undertaken.

Justice Nathan Hecht, in a separate statement, expressed doubt that the revisions sufficiently comply with the First Amendment but agreed with the Court that immediate action was needed.

It's Not a Mirror but a Window

Facebooking Judge Catches Lawyer in Lie, Sees Ethical Breaches

Posted Jul 31, 2009, 03:16 pm CDT

By Molly McDonough

Galveston, Texas-area lawyers on Facebook may want to double-check their friends list, especially if they're about to appear before Judge Susan Criss.

That's because Criss, a state court judge who is learning to adapt to social media as a way to connect with long-lost friends and is leveraging Facebook as a judicial campaign tool, has also learned a few things she didn't expect.

Biggest surprise: Even lawyers don't fully grasp how public social media is, even when privacy controls are in place.

Criss recalled one time that a lawyer asked for a continuance because of the death of her father. The lawyer had earlier posted a string of status updates on Facebook, detailing her week of drinking, going out and partying. But in court, in front of Criss, she told a completely different story.



**A Legal Battle: Online Attitude vs.
Rules of the Bar
New York Times
September 12, 2009**



Florida Lawyer Sanctioned

State bar authorities in Florida have fined trial lawyer Sean Conway \$1,200 for criticizing judge Ft. Lauderdale Judge Cheryl Aleman on a blog. Among other remarks, Conway called the judge **an "evil, unfair witch."**

(Incidentally, the judge herself was sanctioned by a state panel for her **"arrogant, discourteous and impatient" manner**, according to *The New York Times*.)

The Florida Supreme Court recently upheld the decision to fine Conway. The judges didn't issue an opinion in the case and Conway had consented to the order.

Kristine A. Peshek

That penalty is light compared with the price paid by Kristine A. Peshek, a lawyer in Illinois who lost her job as an assistant public defender after 19 years of service over blog postings and who now faces disciplinary hearings as well.

According to the complaint by officials of the state's legal disciplinary body, Ms. Peshek wrote posts to her blog in 2007 and 2008 that referred to one jurist as “Judge Clueless” and thinly veiled the identities of clients and confidential details of a case, including statements like, “This stupid kid is taking the rap for his drug-dealing dirtbag of an older brother because ‘he’s no snitch.’ ”

Frank R. Wilson

Frank R. Wilson, a lawyer in San Diego, caused a criminal conviction to be set aside and sent back to a lower court because of his blog postings as a juror. According to a decision published recently in the California Law Journal and picked up by the Legal Profession Blog, Mr. Wilson, while serving on a jury in 2006, posted details of the case on his blog. Any juror who blogs about the details of a trial risks trouble and even civil contempt charges. But lawyers like Mr. Wilson also face professional penalties that can threaten their livelihood.

Mr. Wilson received a 45-day suspension, paid \$14,000 in legal fees and lost his job. He said that warnings not to discuss the case did not ban blogging; the bar disagreed. Mr. Wilson also had not disclosed during jury selection that he was a lawyer. In an interview, Mr. Wilson said he had not been working as a lawyer at the time and had only been asked his occupation.

Chief Judge Alex Kozinski

Chief Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit, in California, was investigated for off-color humor that was accessible on his family's Web server, though not intended to be public. He was cleared of wrongdoing, but a three-judge panel admonished him for not safeguarding the site, which they said was "judicially imprudent."

Law Professor Blogs

Law Prof Blog Rankings

Below are the updated quarterly traffic rankings (visitors and page views) of the Top 35 blogs edited by law professors with publicly available SiteMeters for the most recent 12-month period (April 1, 2008 - March 31, 2009)

		Visitors		Page Views
1	InstaPundit	110,238,947	InstaPundit	114,992,752
2	Hugh Hewitt	13,169,895	Hugh Hewitt	15,979,578
3	Volokh Conspiracy	10,892,343	Volokh Conspiracy	14,805,337
4	Althouse	6,766,392	Althouse	12,290,832
5	TaxProf Blog	2,563,646	Patently-O	3,638,610
6	Leiter Reports: Philosophy	2,105,444	Leiter Reports: Philosophy	3,479,042
7	Patently-O	1,842,755	TaxProf Blog	3,473,503
8	Concurring Opinions	1,255,281	Jack Bog's Blog	2,433,170
9	Jack Bog's Blog	1,006,267	Concurring Opinions	1,897,767
10	Balkinization	1,005,163	Balkinization	1,793,386
11	Sentencing Law & Policy	931,953	Sentencing Law & Policy	1,601,976
12	Leiter's Law School Reports	927,047	PrawfsBlawg	1,428,395
13	PrawfsBlawg	826,037	Leiter's Law School Reports	1,314,545
14	Workplace Prof Blog	446,183	Workplace Prof Blog	625,062
15	Discourse.net	439,613	Opinio Juris	615,413
16	Conglomerate	393,394	Discourse.net	583,745
17	White Collar Crime Prof Blog	383,904	White Collar Crime Prof Blog	580,839
18	Opinio Juris	355,552	Conglomerate	561,595
19	The Right Coast	355,245	The Right Coast	514,885
20	Wills, Trusts & Estates Prof Blog	272,047	ImmigrationProf Blog	391,917
21	ImmigrationProf Blog	266,258	Wills, Trusts & Estates Prof Blog	388,405
22	Religion Clause	232,152	The Faculty Lounge	373,123
23	CrimProf Blog	228,310	Sports Law Blog	355,158
24	Sports Law Blog	223,792	Religion Clause	341,875
25	The Faculty Lounge	222,496	CrimProf Blog	294,287
26	Mirror of Justice	181,347	Mirror of Justice	276,993
27	Ideoblog	181,012	Election Law Blog	276,087
28	Election Law Blog	175,049	Legal Profession Blog	264,933
29	Is That Legal?	173,676	Ideoblog	251,782
30	Legal History Blog	173,546	Chicago Faculty Blog	249,323
31	Legal Profession Blog	173,501	Legal History Blog	245,934
32	Empirical Legal Studies	161,678	Empirical Legal Studies	235,798
33	Chicago Faculty Blog	160,573	Is That Legal?	219,691
34	MoneyLaw	154,036	MoneyLaw	202,078
35	ContractsProf Blog	144,235	Antitrust & Comp. Policy Blog	199,583

How many legal Blogs?

To learn more about one of the following Law & Legal blogs, click on the blog's thumbshot image or the name of the blog. BlogCatalog features 2,122 Law & Legal blogs for you to browse. Have a Law & Legal blog that isn't part of the BlogCatalog Directory?

<http://www.blogcatalog.com/directory/society/law/law-legal/>

Directory of Legal Blog Topical Categories

Compiled by Ian Best at [3L Epiphany](#)

Available at:

http://3lepiphany.typepad.com/3l_epiphany/2006/09/directory_of_le.html

Jurors and the Internet

As Jurors Turn to Web, Mistrials Are Popping Up (New York Times March 19,2009)

Last week, a juror in a big federal drug trial in Florida admitted to the judge that he had been doing research on the case on the Internet, directly violating the judge's instructions and centuries of legal rules. But when the judge questioned the rest of the jury, he got an even bigger shock.

Eight other jurors had been doing the same thing. The federal judge, William J. Zloch, had no choice but to declare a mistrial, a waste of eight weeks of work by federal prosecutors and defense lawyers.

"We were stunned," said a defense lawyer, Peter Raben, who was told by the jury that he had been on the verge of winning the case. "It's the first time modern technology struck us in that fashion, and it hit us right over the head."

It might be called a Google mistrial. The use of BlackBerrys and iPhones by jurors gathering and sending out information about cases is wreaking havoc on trials around the country, upending deliberations and infuriating judges.

1st Amendment

What Judges Ate for Breakfast

A fascinating blog is written by Ron Sylvester who writes for the Wichita Eagle in Kansas

His blog is at <http://blogs.kansas.com/courts/>

Ron has been allowed to

- tweet Federal Court trials
- Post daily articles from Courts in Kansas with Videos

<http://www.abanow.org/2009/08/judges-all-atwitter-over-new-media>

Ron Sylvester

Using a keyboard and cell phone, which together are smaller than a legal pad, Sylvester tweets closing arguments and jury verdicts for trials in real time. He is able to link to other source material, making more information available to his readers and making the process more transparent at the same time. His daily blog. Called “What the Judge Ate for Breakfast,” posts two-minute videos on different aspects of courtroom procedure as well as interviews with prosecutors, deputies and others in the court about their everyday work lives as a way of educating the public.

