Social Media Primer

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What is Social Media?

“Andreas Kaplan and Michael Haenlein define social media as ‘a group of Internet-based applications that build on the ideological and technological foundations of Web 2.0, and that allow the creation and exchange of user-generated content’”\textsuperscript{i}. It is only appropriate that this partial definition derived from the listing for “social media”\textsuperscript{ii} in Wikipedia, a persistent and recognizable social media site with which most everyone has at least a passing familiarity. Other familiar forms of social media include: blogs; wikis; social networking; bookmark, video and picture sharing sites; tagging; and review sites for movies, products, services, books, restaurants and more. Social media is not only about user generated content, it is about sharing information at a peer level where the middle man is at best a hindrance, and sometimes unwelcome. There are no gate-keepers to information sharing, no editorial process and no hindrances. Good or bad, Web 2.0 technology has enabled social media to plunge forward and lawyers need to be aware of it, harness it, and scrutinize it.

Law firms have many wondrous ways to open up communication and conversation. For instance, a blog allows for a more controlled environment, and focused audience. Read this tutorial\textsuperscript{iii} about starting a blog and this comparison of blog hosts/software\textsuperscript{iv}. It is easy – much more so than a website. The question is, who will keep it up to date? Come to think of it, that is the question to ask for any of the web activities. A stale Facebook fansite will do little to recommend the vibrancy of your law firm.

If you have a website, let your visitors do the work for you. Tools like ShareThis\textsuperscript{v} can be embedded to let your visitors blog about your site content – or tweet, add to Facebook, Digg, email and much more. It adds interactivity to your site with no labor on your part. If you choose to avoid adding a social component to your site, this will not necessarily inhibit the Netizens from talking about the firm – they will just do it behind your back through any number of tools from Google SideWiki to Customer Lobby to Yelp.

Social media is having a big impact on the law and lawyers. The public is self-serving on legal forms sites like Legal Zoom, drawn by quick turn-around and flat rates. They are accustomed to “do it yourself” on the Internet. They are often more inclined to seek information about the law before consulting with a lawyer, changing the relationship from one of a counselor-client relationship to a collaborative, teamwork-based approach to representation. Clients are finding lawyers in different ways too – using sites like Avvo, JDSupra and LawGuru to not only locate lawyers but ask questions in hopes of getting free legal advice. Lawyers should be aware of how clients seek legal help and the implications both pragmatically and ethically. The legal profession will adapt to this new culture or be left behind.

Overview of Online Social Networks

Online social networking, originally the bastion of teenagers, has exploded into a mainstream technology used by millions of individuals and entities to network, communicate, market, and advertise. In his blog post “The 4 Ps of the Internet”\textsuperscript{vi} Doug Cornelius writes about interacting with the Internet
being one, or some combination of: personal, private, professional, or public. As you investigate and participate in online social networks, keeping the four Ps in mind can help you separate what might be constituted as regulated public speech, advertisement, or solicitation, versus free speech and networking. The boom of social networking has led to the need for policies in the workplace, defamation issues, identity theft and security threats. While online social networking can be fun, educational, and advantageous, don’t forget the words of your friendly neighborhood Spiderman: “with great power comes great responsibility”.

The different social networks can be categorized as personal, professional, legal and microblogs. Within each category fall several popular social networking sites, each with its own culture, terms of use, benefits and pitfalls. If you are new to any social site, get to know the culture and the lingo through observation before jumping in with both feet.

**Personal**

Sites such as Facebook and Google+, as well as special interest networking sites can all be classified as personal or truly “social” networking sites. Of these Facebook is by far the most popular. While companies and organizations have set up “fan” pages, business pages, or groups, the primary activity that drives the popularity of Facebook is communicating with “friends” online, posting and reading status updates, playing games, taking quizzes, joining interest groups, accepting event invitations and socializing. Facebook is primarily a personal site and due to the open nature of sharing, despite privacy settings, lawyers should use caution in considering using their personal Facebook or other social-focused networking sites profile as a marketing or professional platform.

**Professional**

There are networking sites geared for professionals, including LinkedIn, TalkBizNow, and Plaxo. While attempting to co-opt some of the features that have made Facebook so popular, like status updates, these sites were built for and are primarily useful for professional networking. These sites are open to anyone, and the concept relies on the power of connections and leveraging people’s professional networks. Of these, LinkedIn is the most popular. In addition to your LinkedIn profile, law firms can create a firm or company page on LinkedIn. Facebook and Google+ also allow users to create business pages, the creation of which helps to create a clearer distinction between personal, protected speech and marketing the firm through social media.

**Legal**

There are many networking sites specifically for the legal professional, including LawLink, Legal OnRamp, MH Connected and more. Legal OnRamp and MH Connected concentrate on building connections between in-house and outside counsel, whereas Lawlink focuses more on the broader legal community. Features and functions vary greatly with these sites. In addition to these national networks you will find state and local sites, such as the Chicago Lawyer’s Network or Texas Bar Circle. There may be more of a comfort level in using these sites to communicate with other lawyers, with a reduced concern for
unintended creation of attorney-client relationship or solicitation. However, never forget that anything that goes online has a very long life-span.

**Microblogs**

Another, more recent social medium is the microblog, including sites like Twitter, Tumblr, Jaiku, and Yammer. With the exception of Yammer, which was designed expressly for professional use, microblogs seem to have been designed for and adopted as much for personal use as professional and even legal use – on microblogs such as Twitter, there are plenty of individuals microblogging about personal topics, workers microblogging about professional topics, companies microblogging about their products and services, and lawyers microblogging about their services. In contrast, sites like Facebook and Myspace have been designed for and adopted mostly for personal use, sites like LinkedIn for professional use, and sites like Legal OnRamp for use by the legal profession.

Of these microblogging sites, Twitter is the most popular. The idea of the microblog is to post a message, described by Twitter as “what are you doing”, in no more than 140 characters. These messages or “tweets” can then be “followed” by other Twitter users. As a Twitter user, you can follow others’ “tweets”. Although users can set restrictive policies on who can follow them, generally users allow anyone to follow them, and as a matter of courtesy follow their followers. Get it? An entire lexicon has been built around Twitter, as well as abbreviations, codes and applications to help manage the communication stream. Twitter’s greatest strength is also its greatest weakness – it is the autobahn of the information super highway. Information is spread at the speed of light, as well as misinformation. Casual thoughts have become fodder for lawsuits, and rumors can be hard to squelch. However, many organizations use Twitter to share information with a wide audience, or as a bullhorn for their blogs.

**Social Networking Policies**

To get a sense of what is being included in these policies you can see actual policies for a number of different types of businesses, as well as templates, have been collected by the blogger Rex Gradeless at the Social Media Law Student blog. Also helpful may be this article with resources: “Developing a Law Firm Social Media Policy” from Washington State. These may provide insight on the provisions to be considered, especially when a law firm is using social media as part of an overall marketing/branding/communication strategy.

**Social Networks and Security**

When creating a profile in any social networking site, lawyers should be mindful of how much information they provide. By providing enough personal information a thief could easily steal your identity. Likewise, it is not necessary or wise to reveal details about upcoming travel, as it has led to burglary of a home. In addition, use strong passwords, and do not use the same password for your webmail accounts and social networking accounts.

Be mindful of scams, hacks, worms, and other things that go bump in the night on social networking sites. News comes out almost daily regarding exploits and bugs that could lead to identity theft and
more. A rule of thumb is always to scrutinize who you allow to become your “friend”, block access to unknown or suspicious followers in Twitter, and always be wary of deals that are too good to be true, or requests to view videos or links that seem to prey on your curiosity or vanity. Always use antivirus protection, antispyware, and a firewall that protects against incoming and outgoing internet traffic.

**Ethics and Social Networking**

There are no ethics opinions specific to lawyer’s participation in online social networking sites known to the author when this paper was written. However, that does not mean that existing ethics rules and opinions do not inform an attorney’s duties when participating in these sites. The ethics rules should be read carefully before embarking in the use of social networking sites, most specifically those networks like LinkedIn where interaction is generally deemed professional, and thus could be scrutinized as commercial. In addition to the overarching ethical responsibility to maintain confidentiality (ABA Model Rule 1.6), the rules regarding communication, solicitation, and advertising (ABA Model Rules 7.1 – 7.4) should be considered in this light. For instance, lawyers are required to avoid false or misleading communication about the lawyer or her services. It is easy to engage in hyperbole, exaggeration and off the cuff remarks in online social networks. This also includes being completely truthful in your profile. Attorneys must be extremely careful with these behaviors. If lawyers are embedding videos into social networking sites, like YouTube, are these considered real-time electronic contact, thus a prohibited solicitation? Or could the video be considered an advertisement that would need review in some states? In California testimonials must be accompanied with a disclaimer. If a LinkedIn connection submits a recommendation to your LinkedIn profile would that require a disclaimer, especially if the recommendation suggests your prowess and skill as a lawyer? In Illinois, lawyers are prohibited against listing specialties unless they have certification with entities listed in RPC 7.4. Does listing them on a profile run afoul of the rule? ARDC Chief Legal Counsel James Grogan suggests removing the risk by prefacing their listing with a statement drawing language from the rule.

The state disciplinary agencies have, at different times, reacted to new technologies, such as websites and blogs, with a zealous approach that many saw as a lack of understanding regarding the technologies. It would be best for lawyers to be cautious, and be able to justify their activities on social networks in light of, rather than despite of, the ethics rules. Common sense and restraint, separating personal and professional networks, and a knowledge of the rules will go a long way in helping attorneys show how participation in social networks and microblogs helps the public perception of attorneys. When examples like the recent attorney blogger who publically commented on confidential client information, as well as making denigrating remarks about judges, became a headline generating disciplinary action in Illinois, everyone suffers.

There are a few ethics opinions regarding lawyer’s use of online social networks for investigative purposes. The Philadelphia Bar Professional Guidance Committee addressed in Opinion 2009-02 whether it was permissible for an attorney to direct an investigator or third party to become Facebook friends with a non-party witness in order to obtain adverse information. The opinion held that that this action would be professional misconduct under Rule 8.4 that prohibits lawyers from “engag[ing] in
conduct involving dishonesty, fraud, deceit or misrepresentation”, as well as violating duties under Rule 5.3 (non-lawyer assistants) and Rule 4.1 (truthfulness in statements to others). San Diego County, New York City, and New York also promulgated opinions on use of social media for background and investigation.

Attorneys who are government employees have further legal and regulatory considerations regarding their participation in social networking sites. Compliance with the EGovernment Act of 2002 or the Hatch Act of 1939 or scrutinizing the Terms of Service regarding provision on indemnification and endorsement are just some of the additional responsibilities government lawyers might have to consider before jumping into social networking.

In addition to the number of missteps lawyers can make resulting in disciplinary actions and sanctions, there are a growing number of defamation and libel cases cropping up due to social network communications. Despite the fact that it may be “between friends”, consider how you would feel if your posts were echoed on the front page of the New York Times. Think before you type!

**Getting Started**

**Facebook**

Facebook is the dominant free social networking site, with more than 845 million users as of December 2011. It began as a social network specifically for Harvard students and quickly expanded to other universities, then high school students and then the world. When setting up a Facebook profile, lawyers need to think about what information they want to share, and recognize that while they may be participating purely from a personal standpoint, they are licensed members of the Bar at all times. In a Facebook profile, people have the choice of listing detailed contact information, religious and political views, groups, causes, work information, relationship status, and more. Consider how friends, colleagues, clients, potential clients – and strangers – may interpret the information you provide. Listing full date of birth, contact information, children and spouses’ names, etc., can lead to identity theft. Portraying religious and political affiliations may create unintentional friction. Be mindful of what you add, the effects, and what you allow others to see. Facebook also has business pages so that lawyers can present their firms in Facebook. Think about how you would keep these engaging, and if they would reach the audience you intend.

**LinkedIn**

LinkedIn is a free professional networking site, built on the concept of six degrees of separation. LinkedIn has over 60 million members, including executives from all of the Fortune 500 companies. It is a great business networking tool, and features communities of interest, status updates, as well as allowing users to create online profiles that include recommendations. When attorneys create a profile in LinkedIn, they are creating an online resume. Make sure that the information is not embellished in
any way and read applicable rules regarding use of testimonials and specialties. The LinkedIn profile can be made public, and you can link to it using a personalized URL.

**Twitter**

Twitter, a free micro-blogging site, describes itself as a “real-time information network powered by people all around the world that lets you share and discover what’s happening now”. Of all the social networks, Twitter can be one of the most confusing, as it has rules (140 character limit), lingo (hashtags, retweet, direct message) that is expressed in symbols (#, RT, DM), as well specific cultures. The culture of Twitter is actually subdivided by your followers and those who follow you. The good thing is that you can get a sense of how Twitter is used before you plunge in with an account by simply navigating to the homepage and searching for keywords or hashtags. In fact, it is an interesting search tool on its own, even without an account or any intention to participate. But, for those who want to be a Twitter subscriber you might want to check out Mashable’s Twitter 101 guide, which explains the lingo and how to use the tool. Since a Twitter profile is limited to 140 characters, it is unlikely that you will share too much information. You can customize the design of your page, but keep in mind that the busier it is to read, and people rarely will actually visit your page, but will keep up with your tweets in their streams instead.

**Google+**

When Google announced the rollout of Search Plus Your World the Internet buzzed briefly with a mix of awe and suspicion. Why? Because Google delves further into customizing search results based on what it knows about you to even show hits in Google+, the new Google driven social network. All that aside, Google+ does have some interesting features that bring together functionality from Twitter and Facebook, as well as Flickr, Skype and Oovoo. In other words you can share just about anything, as well as engaging in real time communications. For many individuals having yet another social network to manage was a bitter pill to swallow, though the granular sharing functionality made Google+ much more transparent – and easier to use – than Facebook. However, now that Google+ opened pages up to business it just makes sense to get one. Google+ pages for business are not complicated to set up, and look much like an individual’s page. However, you can get analytics and of course lots of buttons to promote your Google+ presence. So, how to manage Twitter, Facebook, your blog and now Google+ too? Considering that your Google+ results will be showing up in Google search, and there are ways to push Google+ content to Facebook and Twitter, it might be worth the time. There are plenty of pointers on the web as people figure out how to leverage Google+ pages for business – and law firms.

**Social Media Management Tools**

**Post Once, Update Many Simultaneously**

Social media tools can be a great way to communicate, collaborate, share and connect with clients and colleagues. Many lawyers are starting to see real implications for networking and client development.
tools, and have added social media to their marketing arsenal. However, many are also overwhelmed by the time commitment, and the occasional writers block. Below are some tools and tips to use to effectively manage your time commitment on social media.

**What To Say?**

One of the reasons people will follow you, friend you, like you, link in with you, etc. is that we are all looking for help with getting useful information, at the right time. Those most successful in social media are those who give more than they take. Keeping this fundamental in mind, there are many ways to easily gather and share content through your social media channels. Many sites you visit have “share this” icon or a button to add a link to Twitter, Facebook, Digg, etc. One click and you’ve just shared an article, as a matter of course in your daily current awareness reading. If you haven’t started using an RSS feed reader, such as iGoogle, Bloglines, or Alltop, check out our article and a video tutorial on using iGoogle to get up and running. RSS feed readers let you create a place where all the news of interest to you is filtered into one location, rather than you going out and checking multiple websites. Other tools add more social media to the mix, such as Paper.li (in alpha), which lets you view the hyperlinks referenced by your tweeps (or lists or hashtags) or Facebook friends and pages in one spot, organized in a friendly “newspaper” format.

**Tool Box**

TweetDeck is social media dashboard that allows you to view and interact with your Twitter, Facebook, LinkedIn, Foursquare, and other accounts all on one screen. And it is free! Tweetdeck has a desktop version (Windows, Mac and Linux), and also a Google Chrome application, a web version (beta), and apps for Android and iPhone. HootSuite is a similar, and similarly free, program.

Ping.fm uses the tagline, “post from anywhere to anywhere.” This free web-based tool provides an option to create a message that can be distributed to many channels—Facebook, Twitter, LinkedIn, FriendFeed, WordPress, TypePad, Blogger, Google Reader, and the list goes on. To maximize Twitter posts, which are limited to 140 characters, the service has a character counter and will automatically shorten long hyperlinks. You can create posting groups, thus sending a message only to LinkedIn and Twitter, or only to Facebook and your blog. You can also send posts from e-mail, text/SMS, RSS feeds, or Google Reader. Of course, there is the requisite suite of mobile apps for you to take the tool on the road.

**Keep it Simple**

Without using any external applications or websites you can still take advantage of the “post once, update many simultaneously” concept. You can selectively send tweets to Facebook by using the Selective Tweets Facebook app and then add #fb to send selective tweets to your Facebook personal or business page. Likewise you can also post LinkedIn status updates to Twitter, and selective Twitter
updates to LinkedIn by adding #li or #in to your tweets. You can follow these easy instructions from LinkedIn’s blog.

Remember that a tweet that is part of a Twitter conversation will look rather one-sided on LinkedIn or Facebook, and that tweets full of hashtags look a little out of place when they appear in other social media. The same holds true from truncated Facebook posts or blog post updates in Twitter.

Are you a blogger? You can use TwitterFeed to send new blog posts to Twitter or Facebook using your blog’s RSS feed. This tool also lets you track click-throughs to get a sense of what people like, re-tweet, and click on.

Social media can be fun and rewarding, but requires some time to be successful. Think of the audience you intend to reach when using each of these tools, what looks most professional and most useful. While there are plenty of tools to make managing all of these accounts easier, it does require some care and feeding to put you in the best light possible. Also remember, if you are linking up, friending or tweeting with colleagues and clients time management is essential, as they are likely not to be favorably impressed when you tweet about how beautiful the weather is on the golf course when you still haven’t responded to their last voicemail.

**Social Media Search**

For researching what people are doing, saying, and revealing about themselves, searching social media sites is imperative. Blogs, YouTube, Twitter, Facebook, LinkedIn, Bebo, MySpace, Plaxo, and most other popular social media sites offer built in search tools. Lawyers should not forget these as valuable places to search, though they must be careful to avoid “pre-texting” or using means to coerce or deceive someone into giving access to a private social media profile. Google’s primary search engine will pick up some social media content, primarily blogs and public LinkedIn information, as do Bing and other search engines. Google’s new Search Plus Your World adds content from your Google+ streams, if you are logged into Google. However, there are other ways to search multiple social sites en masse which may offer different and possibly better results.

While aggregate social media search engines are in their infancy, there are a few out there to explore. One is Whos Talkin, which aggregates search from many popular social networking sites. Another is Social Mention, offering a similar search function, and is significantly speedier and more effective than Who’s Talking.

For more focused social media searching sites like YourOpenBook (note: quote including profanity from Marc Zuckerburg on this page) that searches Facebook information that is not marked private, gives a deeper dive into Facebook. Similarly Twazzup and Topsy search Twitter, and Blinkx searches video content in Hulu, YouTube, as well as news and media outlets (note: adult filter is on by default).
Other sites offer people searches, and focus on finding people results in white pages, public records, business records and social media sites. These search sites include ZoomInfo, PiPL, YoName, Folowen, Snitch.name and Spokeo. Keep in mind that you will need to do additional research, as these directories match against name only, which is an inexact science. Additionally, similar “reality checks” need to be followed if you choose to use any of the public records searches available with some of these tools.

**Social Media Monitoring**

Social media management tools like Hootsuite, Social Oomph, and TweetDeck will help you monitor activity by keywords and account names in multiple social media channels. However, if your monitoring needs are infrequent or changeable, there are a number of social media search tools that offer alerts via email or RSS. In Addictomatic you can do a keyword search, and results are displayed in boxes for each of the social media outlets. You can even rearrange the boxes to put the sites you are most interested in at the top. Then simply bookmark the page in your browser and visit it again to see updated results. Currently searches only Facebook and Twitter, and offers an RSS feed for your saved searches. Social Mention offers alerts, and Whos Talkin has an iGoogle gadget.

**Backing Up Social Media**

While there are many ways to get back into social media content, the information is vast and fleeting. You may have a need to capture and keep social media content, either for your firm, or your client, as backup, as a record of interactions, or to ensure compliance with a social media policy. You may have heard of the “Wayback Machine” aka The Internet Archive, which records pages of certain webpages and archives them. The problem with this site is that it is inconsistent as to which sites it archives, and for how long. For lawyers who want to take control of monitoring and storing webpage content, enter Iterasi. This tool bills itself as a corporate compliance, litigation protection, compliance, and brand heritage tool. It is not free, but for lawyers and companies who need this type of service, it can be invaluable. It is a web archiving tool that will “scrape” the screens of even complex websites, as well as capturing RSS feeds, topics discussed in social networks, and any website the user happens to visit. The company provides several discrete products, one web archiving tool, a social media monitoring application, and a “notary” tool to archive individual pages on the fly. Similar to Iterasi, NextPoint’s Preservation Cloud crawls and archives specific web properties – blogs, social media sites, webpages. You can tag, export, and search the data collected. Like Iterasi, this is a “cloud” tool, so the data is stored on external servers, which does introduce some risk in using the service, while making it easy to sign up and get going as there is no installation or configuration.

**Conclusion**

Whether or not you are using social media as marketing or networking tool, lawyers can’t ignore the vast amount of information stored in these portals. Whether your needs are fact gathering, monitoring,
or current awareness there are plenty of tools in the social media ecosystem to help you stay on top of the game.

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iii http://www.abanet.org/tech/ltrc/fyidocs/fyiblogs.html

iv http://www.abanet.org/tech/ltrc/fyidocs/blogchart.html

v http://sharethis.com/


vii http://socialmedialawstudent.com/social-media/social-media-policies/

viii http://www.nextadvisor.com/blog/2008/03/04/6-tips-to-protect-your-identity-on-facebook/


x http://new.abanet.org/sitetation/Lists/Posts/Post.aspx?ID=411

xi http://blogs.zdnet.com/feeds/?p=288


xiii http://press.linkedin.com/about


xv http://mashable.com/guidebook/twitter/