

WORKSHEET N
INTRODUCTION TO SOCIAL MEDIA/TECHNOLOGY

Worksheet N is intended to facilitate discussion about appropriate use of social media by lawyers, including ethical obligations, effective use for professional and practice development, and strategies to manage social media.

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- Discuss a lawyer’s ethical obligations while using social media, including the duty of competence that requires lawyers to stay informed about changes in substantive law and to maintain knowledge and awareness about technological changes that could impact the legal profession.
- Discuss the duty of client confidentiality and how this obligation requires lawyers to protect a client’s identity, including contact information. Discuss ethical obligations to maintain attorney-client privileged information or other information related to the representation of a client, even if the information is publicly available.
- Address how social media posts can create an attorney-client relationship.
- Discuss circumstances in which social media posts can be construed as advertising and subject to limitations contained in the [Ohio Rules of Professional Conduct](#). Consider how social media posts may violate the [prohibition against soliciting represented parties](#).
- Discuss the obligation to ensure that a social media post does not contain misleading statements. Explore how testimonials, endorsements, and ratings can violate the obligation to ensure that statements are not misleading.
- Discuss the ethical limitation of using social media to undertake “digital digging” on a client’s behalf and using friend requests to access an opposing party’s posts.
- Address the lawyer’s responsibility over all content posted on social media and the risks in delegating these responsibilities to non-lawyers.
- Share suggested social media “do’s and don’ts” with support staff and colleagues, and develop a clear policy about the use of social media.
- Address the importance of disclaimers and how they should be used on social media posts.
- Discuss how social media can be used to build professional relationships. Explore your mentee’s goals for using social media, including the type of social media platform used, such as LinkedIn, Facebook, blogging, etc. Explore the time commitment required to consistently use social media.

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- Discuss the importance of having consistent profiles across social media sites. Help your mentee explore ways to describe their practice and related experience.
- Discuss the propriety of using social media to discuss pending matters and work—even vague, innocuous statements about court appearances or client work can reveal client information or identity.
- Discuss the propriety of posting comments about other lawyers and judges.
- Discuss the propriety of posting details relating to an attorney’s own employment (criticism of firm/legal organization, complaining about difficult clients).
- Discuss the wide-ranging consequences of social media posts (scrutiny by disciplinary authorities, other regulators, opposing counsel, potential clients, current clients, potential employers, current employer).
- Discuss the nature and extent of your mentee’s historical posts and address the fact that, even if deleted, their posts are never truly gone. For example, you could discuss recent news stories of negative and insensitive posts made by athletes and celebrities as teenagers, and how those posts negatively impacted their careers.
- Help your mentee develop a strategy to respond inquires related to negative or unfavorable historical posts, including during employment interviews.