



WSSFC 2022

**Practice Management Track –
Session 8**

Social Media's Role in Your Practice

Thomas Burton, Catherine Tang

About the Presenters...

Thomas B. Burton is the founder and owner of Burton Law LLC, a law firm focusing on estate planning and business law. He received his undergraduate degree in Business Economics from the University of Wisconsin-Eau Claire, and his law degree from the University of Wisconsin Law School. Outside of the office he enjoys hiking, biking, and traveling.

Catherine Tang started her legal career in litigation at firms in Los Angeles, California. She then moved abroad and worked at one of the largest international corporate law firms in Asia before opening her own firm focused on assisting entrepreneurs with their business and trademark needs. In 2020, Ms. Tang moved to Verona, Wisconsin so that she may expand her practice back into litigation. Catherine is regularly asked to present at legal conferences where she speaks to law firm owners on various subjects. She is an active board member of the Westside Board Association, an organization that hosts CLE's with some of the biggest names in law, and is a Co-founder of LegalMe, a nonprofit dedicated to help entrepreneurs with their business, marketing, and legal needs. Catherine is licensed to practice law in California and Wisconsin. She is recognized by Super Lawyers a Top Women Lawyers in California and selected as Super Lawyers Rising Star every year since Catherine Tang Law opened. She is extremely dedicated and passionate about the practice of law.

Social Media's Role in Your Practice

Presenters: Catherine Tang, Catherine Tang Law LLC
Thomas Burton, Burton Law LLC

1. Social Media Networks

- Facebook, Twitter, Instagram, YouTube, LinkedIn, TikTok
- Multiple platforms with millions of users on each
- Consider what platforms you already use/versus learning a new platform
- Twitter=Short Posts, Instagram=Photos, LinkedIn=Business Networking, Facebook=Friends and Family, TikTok=Trending Sounds/Videos, YouTube=Videos
- Think about whether you want to use existing profile or build separate profile for your social media posts

2. Pick Your Social Media Network(s)

- Once you have decided what network to focus on, create strategy to reach your target audience
- Social Media allows you to interact with potential clients before they even meet you and allows you to leverage your time to reach a wider audience
- You can post information about your practice and your life, or just your practice
- Many clients are already on social media so it can help introduce you to them as a lawyer in a non-threatening way, 24/7 through the use of your social profiles
- Social media can be used to share firm announcements, blog posts, and legal information to a wider audience
- If you are brand new to social media, it is best to learn and focus on one network before starting to use another network
- Important for you to feel authentic for you when using the platform you choose, so choose the network(s) that match your personality and your strengths
- Think about where the audience for your practice is likely to be spending time on social media and focus your efforts there

3. Lawyer Review Site(s)

- Avvo, Justia, SuperLawyers, among others
- Many sites allow clients to leave reviews of lawyers and also allow you to post biographical information about you and your practice
- A client may leave you a review here whether you ask for it or not
- Important to review these sites to ensure your information listed there is accurate
- If you use these sites, be aware that clients may use them to contact you
- These sites can allow you to post links to blog posts, articles, content you have created

4. Communications Regarding Services

I. [Wisconsin SCR 20:7.1](#) Communications concerning a lawyer's services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: (a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading; (b) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law; or (c) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or (d) contains any paid testimonial about, or paid endorsement of, the lawyer without identifying the fact that payment has been made or, if the testimonial or endorsement is not made by an actual client, without identifying that fact.

- i. Ensure any posts on social media are a true reflection of the services your firm provide consistent with the Rules of Professional Responsibility.

II. [Wisconsin SCR 20:7.2](#) Advertising (a) Subject to the requirements of SCR 20:7.1 and SCR 20:7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

- i. If you have staff assist you with social media posts, you need to make sure you are reviewing them in advance to ensure compliance with the Rules of Professional Responsibility.
- ii. Important to establish a schedule of reviewing proposed posts for your firm if you are having a nonlawyer assist with preparing and posting social media content for you

5. Online Reviews

- I. [Wisconsin SCR 20:7.2\(b\)](#): A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may: (1) pay the reasonable cost of advertisements or communications permitted by this rule; (2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority; (3) pay for a law practice in accordance with SCR 20:1.17; and (4) refer clients to another lawyer or nonlawyer professional pursuant to an agreement not otherwise prohibited under these rules that provides for the other person to refer clients or customers to the lawyer, if (i) the reciprocal referral arrangement is not exclusive; (ii) the client gives informed consent; (iii) there is no interference with the lawyer's independence of professional

judgment or with the client-lawyer relationship; and (iv) information relating to representation of a client is protected as required by SCR 20:1.6. (c) Any communication made pursuant to this rule shall include the name and office address of at least one lawyer or law firm responsible for its content

- II. Generally permissible for clients to leave a review. Google, Facebook, and Avvo among others allow clients to leave a review for your firm whether you ask for the review or not.
- III. Consider asking satisfied clients to leave a review. You can provide a link directly to the page where they can leave the review to make it easier for them. Many clients are used to using reviews when determining where to eat or shop and will be happy to leave short feedback about your services.
- IV. [New York State Bar Social Media Ethics Guidelines](#) excerpt below:

“Guideline No. 5.E: Maintaining Client Confidences and Confidential Information

Subject to the attorney-client privilege rules, a lawyer is prohibited from disclosing client confidences and confidential information relating to the legal representation of a client, unless the client has provided informed consent. Social media activities and a lawyer’s website or blog must comply with these limitations.

A lawyer should also be aware of potential risks created by social media services, tools or practices that seek to create new user connections by importing contacts or connecting platforms. A lawyer should understand how the service, tool or practice operates before using it and consider whether any activity places client information and confidences at risk.

Where a client has posted an online review of the lawyer or her services, the lawyer’s response, if any, shall not reveal confidential information relating to the representation of the client. Where a lawyer uses a social media account to communicate with a client or otherwise store client confidences, the lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure or use of, or unauthorized access to, such an account.”

- V. [Wisconsin SCR 20:1.6](#) Confidentiality
 - (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, except for disclosures that are

impliedly authorized in order to carry out the representation, and except as stated in pars. (b) and (c).

(b) A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent the client from committing a criminal or fraudulent act that the lawyer reasonably believes is likely to result in death or substantial bodily harm or in substantial injury to the financial interest or property of another.

(c) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent reasonably likely death or substantial bodily harm;
 - (2) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
 - (3) to secure legal advice about the lawyer's conduct under these rules;
 - (4) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
 - (5) to comply with other law or a court order; or
 - (6) to detect and resolve conflicts of interest, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.
- (d) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

6. Responding to Online Reviews

- A. You want to respond but how and what should you say?
- B. With negative reviews consider whether a response is warranted or not, if you decide to respond, the below guidance from the Pennsylvania Bar provides a very useful outline and structure.
- C. Excerpt from [New York State Bar Social Media Ethics Guidelines](#):
 - a. "A lawyer is permitted to respond to online reviews, but such replies must be accurate and truthful and shall not contain confidential information or client confidences. Pennsylvania Bar Association Ethics Committee Opinion 2014-300 (2014) opined that "[w]hile there are certain circumstances that would allow a lawyer to reveal confidential client information, a negative online client review is not a circumstance that invokes the self-defense exception."

- b. “Pennsylvania Bar Association Ethics Committee Opinion 2014-200 (2014) provides a suggested response for a lawyer replying to negative online reviews:
“A lawyer’s duty to keep client confidences has few exceptions and in an abundance of caution I do not feel at liberty to respond in a point-by-point fashion in this forum. Suffice it to say that I do not believe that the post represents a fair and accurate picture of events.””
- c. Review Wisconsin SCR 20:1.6 above before responding to ensure your proposed response is in compliance with the rules. For a negative review, consider not responding for a few days to allow you time to think about your response, if any, before posting.
- d. Review [Wisconsin Formal Ethics Opinion EF-21-02](#): Working Remotely released on January 29, 2021 for a recent discussion of many of the rules governing use of technology, confidentiality of client information and working remotely using online tools.
- e. Monitor Wisconsin Lawyer for latest articles on the subject and watch for ethics opinions and guidance in this area as social media and technology is continually evolving and changing

7. Questions/Comments/Case Scenarios:

- A new lawyer is opening their own firm and trying to decide what social media networks to focus on. They would like advice on how to get started.
- An established lawyer has a busy practice, but little to no social media presence. They are wondering if it is worth their time to begin using social media in their practice. What advice would you give them?
- A sponsor reaches out about sponsoring your channel. What are some considerations to think about when considering how to respond?