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**Cynthia Sharp, Esquire**  
Business Development Expert

# MAKING THE CASE FOR SOCIAL MEDIA

by Cynthia Sharp, Esq.

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Making the Case for Social Media

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Cynthia Sharp

Cynthia Sharp ([cindy@thesharperlady.com](mailto:cindy@thesharperlady.com)) is Director of Attorney Development at The Sharper Lawyer located in Philadelphia, Pennsylvania. As a professional CLE instructor and attorney business coach, Cindy has established a national presence as an author and speaker on topics of ethics in the context of practice management, social media, and technology, lecturing extensively to law firms, bar associations, and other legal organizations.

Are you ethically obliged to take a greater interest in social media?

By now, most attorneys have developed at least passing familiarity with social media applications—even if they haven't jumped on the bandwagon. Attorney websites are relatively commonplace now, and a significant number of lawyers maintain blogs.

Over the past decade, we have witnessed the warp speed evolution of social networking sites such as Facebook, LinkedIn, Twitter, Pinterest, YouTube, and the newest kid on the block: Vine (owned by Twitter), which allows users to post six-second video clips. The potential implications for the modern practitioner and ultimately the client are unlimited. Yet many remain reluctant to create an online presence and/or participate in the rapidly expanding social media conversation.

Many lawyers hold back, believing the social media world to be irrelevant (and thus a waste of time) in large part due to the perception of useless chatter, neglecting to realize that we all filter out useless information thrown our way every single day. Developing a "cyber filter" is relatively easy, once you discover who offers information valuable to you. Simply filter out data and noise not pertinent to you and develop a strategy for "cyber socialization" so that time is in fact not wasted. By the way, the amount of time to commit on a daily or weekly basis is an individual choice. The most important point is to use the time in an efficient manner.

Some feel overwhelmed by the whole concept and don't know where to begin. This is particularly true with the "digital immigrant," which includes me and others born before the onset of digital technology. As with all new material, there is definitely a learning curve. However, with consistency and persistence, any lawyer can become reasonably proficient in using the tools for the benefit of his or her practice. After all, you made it through law school and passed the bar. Start by taking advantage of one of the many *free* webinars offered online or, better yet, attend CLE presentations offered at ABA Conferences.

The topic is covered in detail in several excellent books published by the ABA and GPSolo as well as other publications routinely featuring up-to-date articles and columns.

Despite the opinions of the naysayers, the number of attorneys embracing social media continues to escalate. For example, according to The 2013 Legal Technology Survey Report (as reported in the June 2013 issue of the *ABA Journal*), 55.8 percent of surveyed lawyers use LinkedIn compared with 36.4 percent in 2011. Legal topic blogs drove business to 38.1 percent of those surveyed. It's time to join the club! Social media is not only a powerful marketing and networking tool, but it also has gained widespread use for case investigation for lawyers who wish to leave no stone unturned. It is also a valuable research tool. It has even earned its place in the courtroom. Future columns will be devoted to discussion of the myriad ways that lawyers can benefit from a social media presence and exploration of the accompanying ethical issues.

The most compelling reason cited by many lawyers for shying away from the social media revolution is a concern about ethical implications. Indeed, the door has been opened to new, unexplored, and perhaps unexpected issues. After all, *any* online post that an attorney makes may be a form of communication and/or advertising governed by the ethics rules in most jurisdictions. However, becoming conversant with the rules and using common sense should help obviate that concern.

Amendments to the Model Rules of Professional Conduct adopted by the ABA House of Delegates in August 2012 address issues relating to technology and client development and confidentiality. A close reading of the new rules (including the comments) will shed insight onto proper behavior. Although they are not directly applicable to a practitioner until adopted in the state of licensure, they are relevant in that they provide significant guidance and insight into new frontiers.

Notably, Comment 6 to Model Rule 1.1 (competence), which previously stated that “a lawyer should keep abreast of changes in the law and its practice and skill,” has been amended to specifically include knowledge of “the benefits and risks associated with technology” within this obligation. It therefore appears that an attorney choosing to stay behind the times may risk ethical exposure. According to a survey completed by the American Academy of Matrimonial Attorneys in 2010, 81 percent of the organization's members have seen an increase in the use of social media in the fact finding and discovery process. (I suspect that the number will be higher when the survey is conducted again.) If your firm fails to take advantage of social media tools—available to all—are you in fact living up to your ethical obligations?

Next time we will explore marketing and ethics in the social media arena.