

**Ethics & The New Media: Strategies for the Digital Age  
Course Supplement**

Suggested Reading

- “A Legal Battle: Online Attitude vs. Rules of the Bar” (New York Times, 9/12/09)  
<http://www.nytimes.com/2009/09/13/us/13lawyers.html>  
As blogs and social networking websites become more popular, many legal professionals have used them to convey ideas and opinions that are traditionally unacceptable in the legal field. This article provides specific examples of attorneys and judges who have fallen into this “inevitable” trap.
  
- “Too Much Information: Blogging Lawyers Face Ethical and Legal Problems” (ABA Journal, 9/14/09)  
[http://www.abajournal.com/news/article/too\\_much\\_information\\_blogging\\_lawyers\\_face\\_ethical\\_and\\_legal\\_problems/](http://www.abajournal.com/news/article/too_much_information_blogging_lawyers_face_ethical_and_legal_problems/)  
A Texas lawyer gets involved in a defamation lawsuit after anonymously blogging about another lawyer. Other examples of legal professionals falling victim to the internet are cited as well.
  
- “Facebooking Judge Catches Lawyer in Lie, Sees Ethical Breaches” (ABA Journal, 7/31/09)  
[http://www.abajournal.com/news/article/facebooking\\_judge\\_catches\\_lawyers\\_in\\_lies\\_crossing\\_ethical\\_lines\\_abachicago/](http://www.abajournal.com/news/article/facebooking_judge_catches_lawyers_in_lies_crossing_ethical_lines_abachicago/)  
A Texas judge has learned that the openness of social networking websites has resulted in many legal professionals revealing private information that they wish had remained private.
  
- “When Lawyers Spy Through Facebook: the Ethics of ‘Regional Network’ Changes” (Lawyerist.com, 7/8/09)  
<http://lawyerist.com/lawyer-ethics-spy-facebook/>  
Is changing one’s “regional network” on Facebook in order to investigate a case or person a form of deceit? A Twitter conversation reveals that the answer is not so simple.
  
- In the Matter of: KRISTINE ANN PESHEK (Filed 8/25/09)  
<http://www.iardc.org/09CH0089CM.html>  
Here is a case of an Illinois attorney that lost her job over blog postings.

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This short article gives a few examples, warnings, and tips regarding the use of social networking while being in the workforce.

- “Facebook Entry Gets Office Worker Fired” (CNET News, 2/26/2009)  
[http://news.cnet.com/8301-17852\\_3-10172931-71.html](http://news.cnet.com/8301-17852_3-10172931-71.html)  
A worker is fired after posting on her Facebook status that her job was boring. Her company’s website said, “We follow a zero tolerance social accountability standard.”
  
- “Trial Judges Impose Penalties for Social Media in the Courtroom” (Citizen Media Law Project, 3/3/2010)  
<http://www.citmedialaw.org/blog/2010/trial-judges-impose-penalties-social-media-courtroom>  
This article discusses state and federal courts continue to struggle with the use of social media in courtrooms and courthouses.
  
- “Cell Phones, Laptops in Courtrooms Worry Judges” (The Orlando Sentinel, 2/6/2010)  
<http://www.wenatcheeworld.com/news/2010/feb/06/cell-phones-laptops-in-courtrooms-worry-judges/>  
Judges across the country are wrestling with ways to cope with instant communication — cell phones that can transmit pictures from court, Twitter and Facebook updates, blog posts and even Google searches. This article highlights some of the problems as well as the efforts deal with them in the courtrooms.
  
- “New York Judge Jails Entire Courtroom over Ringing Cellphone” (Now Public, 11/28/2007)  
<http://www.nowpublic.com/culture/new-york-judge-jails-entire-courtroom-over-ringing-cellphone>  
A judge who jailed 46 people who were in his courtroom when a cellphone call interrupted proceedings was removed from the bench by a state commission.
  
- “How to Hide From Friends You Don’t Like” (New York Times, 8/13/2010)  
<http://gadgetwise.blogs.nytimes.com/2010/08/13/how-to-hide-from-friends-you-dont-like/>  
This article tells Facebook users how to keep your updates and posts private from those you don’t wish to see them.

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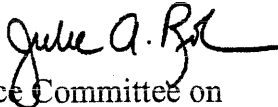
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January 28, 2010

MEMORANDUM

To: Judges, United States District Courts

From: Judge Julie A. Robinson   
Chair, Judicial Conference Committee on  
Court Administration and Case Management

RE: JUROR USE OF ELECTRONIC COMMUNICATION TECHNOLOGIES

At its December 2009 meeting, the Judicial Conference Committee on Court Administration and Case Management (CACM) endorsed a set of suggested jury instructions that district judges should consider using to help deter jurors from using electronic technologies to research or communicate about cases on which they serve. The suggested instructions are included as Attachment 1.

The CACM Committee developed these instructions to address the increasing incidence of juror use of such devices as cellular telephones or computers to conduct research on the Internet or communicate with others about cases. Such use has resulted in mistrials, exclusion of jurors, and imposition of fines. The suggested instructions specifically inform jurors that they are prohibited from using these technologies in the courtroom, in deliberations, or outside the courthouse to communicate about or research cases on which they currently serve.

The Committee believes that more explicit mention in jury instructions of the various methods and modes of electronic communication and research would help jurors better understand and adhere to the scope of the prohibition against the use of these devices.

If you have any questions or comments regarding these instructions, please contact Abel Mattos, Chief, Court Administration Policy Staff, at (202) 502-1560 or via email to *Abel Mattos/DCA/AO/USCOURTS*.

Attachment

**Proposed Model Jury Instructions  
The Use of Electronic Technology to Conduct Research on  
or Communicate about a Case**

Prepared by the Judicial Conference Committee on  
Court Administration and Case Management  
December 2009

**Before Trial:**

You, as jurors, must decide this case based solely on the evidence presented here within the four walls of this courtroom. This means that during the trial you must not conduct any independent research about this case, the matters in the case, and the individuals or corporations involved in the case. In other words, you should not consult dictionaries or reference materials, search the internet, websites, blogs, or use any other electronic tools to obtain information about this case or to help you decide the case. Please do not try to find out information from any source outside the confines of this courtroom.

Until you retire to deliberate, you may not discuss this case with anyone, even your fellow jurors. After you retire to deliberate, you may begin discussing the case with your fellow jurors, but you cannot discuss the case with anyone else until you have returned a verdict and the case is at an end. I hope that for all of you this case is interesting and noteworthy. I know that many of you use cell phones, Blackberries, the internet and other tools of technology. You also must not talk to anyone about this case or use these tools to communicate electronically with anyone about the case. This includes your family and friends. You may not communicate with anyone about the case on your cell phone, through e-mail, Blackberry, iPhone, text messaging, or on Twitter, through any blog or website, through any internet chat room, or by way of any other social networking websites, including Facebook, My Space, LinkedIn, and YouTube.

**At the Close of the Case:**

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.