

Business Development and Marketing Your Practice (Consumer Cross-Over Panel)

Randy Nussbaum, Moderator

Nussbaum Gillis & Dinner, P.C.; Scottsdale, Ariz.

John R. Bollinger

Boleman Law Firm, P.C.; Hampton, Va.

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The Frutkin Law Firm, PLC; Phoenix

James Patrick Shea

Armstrong Teasdale LLP; Las Vegas

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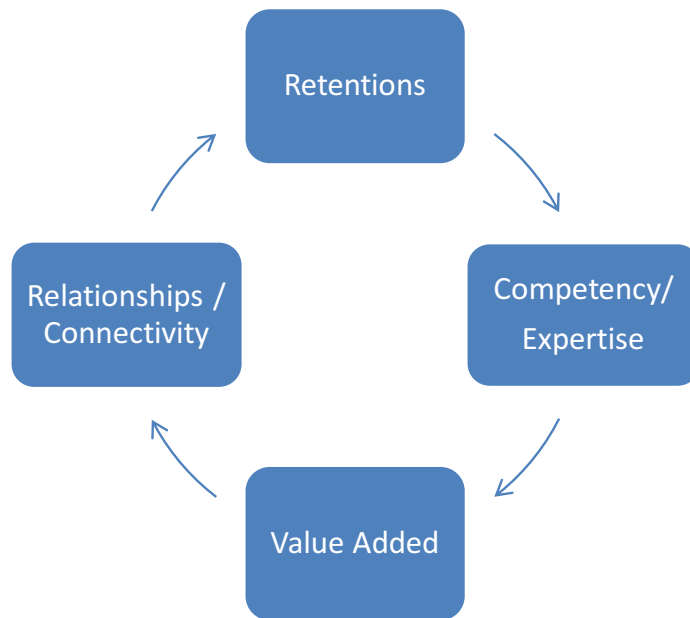
James Patrick Shea

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Three Reasons Most Clients Hire a Professional

- 1) Relationships / Connectivity
- 2) Value Added
- 3) Competency / Expertise

Execution Begets Opportunities



While there are many ways to refine the components of practice development, for me, they fall into four main categories: Retentions; Relationships; Competency; and Value Added. They form a cycle that allows each to feed the others. For example, Retentions. Each time you are retained you have the ability to build new relationships with the people involved in that case; you likely will learn or at least refine something new; being involved in a matter will add to your experience for matters involving such cases and add to your Credibility as a professional or an expert on matters within the industry. The Relationships you establish will help you to be Retained; can lead to you speaking or writing on a subject thereby increasing your knowledge and adding to your credibility you see this point.

Ideally, these four groups will continue to fuel each other. Until then, what do you do? How do you get onto this self-fulfilling merry-go-round? First and foremost, there is no magic formula. Make use of what resources you have at hand. If you have established relationships, don't forgo them to concentrate on one of the other areas. Jumping into the cycle by working on building relationships can be accomplished by joining organizations that you both enjoy and have some connection to what you seek to accomplish. Build expertise and Credibility by authoring and/or presenting. In this regard... don't dial it in. You might impress, or not, a prospective employer or referral source.

Don't rush it. If building an area of expertise was as simple as affixing your logo to a pen, it wouldn't be special. There are few shortcuts to devoting the time and effort necessary to become competent in a particular area of practice. While it might not take 10,000 hours of practice to become an expert, it will certainly require more than simply wishing it to be true.

80% of Success Is Just Showing Up

American Bankruptcy Institute
24th Annual Southwest Conference
September 8–10, 2016
Las Vegas
Randy Nussbaum

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“80% of Success Is Just Showing
Up”

Woody Allen



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Prefatory Thoughts

- ▶ Some Lawyers are Naturally Better Than Others at Marketing
- ▶ It is Hard to Truly Guarantee Marketing Success
- ▶ Be Honest About What is Marketing or Not
- ▶ Personalize Marketing Programs



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How Clients Choose Their Lawyers

- ▶ Client Service
- ▶ Comfortable Working with the Lawyer
- ▶ Will Not Threaten the Client Relationship with the Referring Attorney
- ▶ Advertising
- ▶ Firm Swag



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Client Referrals

- ▶ Responsive, Effective Representation Yields Opportunities for Client Referrals
- ▶ Continuing Contact with Clients After the Case is Closed
- ▶ Reciprocal Referrals

My Marketing Secrets

- ▶ Develop Niche Area of Practice
- ▶ Market to Non-Bankruptcy Attorneys
- ▶ Market to Other Bankruptcy Attorneys in a Non-Threatening Manner
- ▶ Regional Marketing

My Marketing Secrets (cont.)

- ▶ Focus Civic, Community, and Charitable Efforts to the Same Geographic Area
- ▶ Know How to Maximize the Cost Benefit of Your Marketing
- ▶ Promote Client Supported Causes
- ▶ Involvement in Law-Based Organizations


My Marketing Secrets (cont.)

- ▶ We Try to be Innovative and Fun in Our Marketing




My Marketing Secrets (cont.)

- ▶ Marketing Consistency
- ▶ Timing of Marketing
- ▶ We Promote the Organizations We Support



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What's the Deal with the SWAG?

- ▶ Swag Does a Phenomenal Job of Branding Your Firm
- ▶ It is Fun to Design and Select
- ▶ We Want the Recipient to Enjoy it as Much as We Enjoy Handing it Out



No One is Perfect

- ▶ Sponsorships that Lack Support
- ▶ Advertising that Misses the Target Audience
- ▶ Client Events not Well Attended
- ▶ SWAG That was Too Popular and Blew the Budget



Lessons Learned

- ▶ Marketing is Hard Work
- ▶ Marketing Must Be Innovative and Timely
- ▶ Separate Yourself From the Competition
- ▶ Spend Your Marketing Dollars Efficiently
- ▶ Deliver What You Promise
- ▶ Set Goals and Honestly Evaluate the Outcome

80% OF SUCCESS IS JUST SHOWING UP
Woody Allen



When I began practicing law 36 years ago, most lawyers paid little attention to any aspect of marketing. Lawyers apparently relied upon their expertise, reputation, and success to garner business, similar to other professions like doctors, and considered almost all forms of marketing to be distasteful. This is not to suggest that they did not engage in marketing, but they did so in such a subtle and low key manner so as to avoid any type of negative taint and to maintain their “professionalism.” However, this all changed when two rather innovative Arizona lawyers, Bates and O’Stein, fought the Arizona State Bar all the way to the U.S. Supreme Court and ultimately succeeded in convincing that tribunal to overturn the Arizona State Bar’s efforts to prevent most forms of lawyer advertising. Not surprisingly, this had a dramatic impact on all aspects of lawyer promotions to such an extent that today’s lawyers have little reason to be concerned about their advertising programs with very few exceptions.

Now, in a highly competitive environment, the ability to generate business is as important, if not more vital, than other professional skills. Yes, you need to know what you are doing since incompetence will frustrate even the most brilliant marketing program, but

recognizing, designing, and implementing some type of marketing program is an important tool for any lawyer seeking to advance in private practice.

War stories and personal experience are normally frowned upon in most presentations of this type, but when it comes to marketing, “imitation is the sincerest form of flattery.”

So, what has worked for the author of this article, what has not, and what general lessons have been learned?

A few prefatory thoughts are appropriate and necessary.

PREFATORY THOUGHTS

A) Some lawyers are naturally better than others at marketing

Certain individuals have a gift for marketing. It may be genetics or how they were raised, but some lawyers generate business with very little effort. Fine tuning such individuals can convert them into super rain makers.

Many people have certain quirks which make it almost impossible for them to become proficient at marketing. Over the years, I have learned that little true return is generated by working with these lawyers.

The majority of attorneys possess some marketing ability, which needs to be refined. These individuals are normally the ones that can benefit the most by devoting time and energy to learning marketing strategies.

B) It is hard to truly guarantee marketing success

Quantifying your marketing success is very difficult. It can be done in some instances, but I'm a believer in not devoting too much energy painstakingly tracking your marketing efforts. You will quickly reach a point of diminishing returns if you do so.

Marketing is more an art than a science. Marketing experts will tell you that is not the case, but they are trying to sell you their services. Even if you buy into the concept that it is a science, it is an inexact one.

C) Be honest about what is marketing or not

Be totally honest with yourself when you spend dollars on alleged marketing projects. There is absolutely nothing wrong with donating a large sum of money to a worthy cause, but if the true reason you are doing so is because it is a deserving cause and not for potential marketing benefits, admit this from the onset. It is important to be honest with your partners and your firm. As importantly, it is crucial to your firm's marketing success to make sure that dollars are available for marketing, which is not the case if substantial charitable dollars are misidentified as marketing dollars. Over the years I have talked to a number of professionals who have told me that they don't bother with marketing because of failure because they don't recognize that the supposed "marketing" dollars they have spent are not really for marketing purposes.

D) Personalize marketing programs

Finally, and most importantly, marketing programs either have to be individualized for the subject lawyer or designed for a firm based on its personalities and philosophies. You may find this to be an obvious comment, but matching marketing to the individual or firm requires the lawyer or firm to be introspective and recognize inherent strengths and weaknesses.

Before discussing specific marketing strategies, I will spend a moment analyzing this issue from the perspective of the potential client.

HOW CLIENTS CHOOSE THEIR LAWYERS

It's difficult to successfully market if you don't understand which marketing efforts produce new clients. As importantly, identifying the client types you are seeking is just as crucial since certain marketing is far more effective with targeted potential client classes.

Every article I read on this topic recognizes that a high percentage of individuals seeking lawyers search for those lawyers on the Internet. This is a given. It is also an inherently risky way of selecting a lawyer unless you are an extremely sophisticated consumer. However, regardless of other steps you may take as a practitioner to bring in business, you have to accept, recognize, and address the reality that all types and classes of potential clients do look on the Internet.

This still leaves a percentage of individuals who consider other means to find their lawyers, including other types of advertising, word of mouth, specific referrals, or one on one contact. Because the consumer has so many options, how do those individuals reach a final decision?

On a personal level, what I have learned is relatively intriguing. Most of my clients, regardless of the referral source, ultimately meet with me because they have been advised that I am the appropriate lawyer for their specific issue. My retention is normally not based upon traditional criteria considered when individuals are seeking lawyers on the Internet. Price is rarely a concern, though of course the potential client wants to make sure he can trust your charges are fair. I have also discovered that I have a reputation for being proactive and responsive, which attracts discriminating clients. Finally, clients oftentimes hire me because of commonality that I have with their lives. They feel as though they can connect with me, which is why I spend so much time creating opportunities for what I call "connectability."

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I probably draw more referrals from lawyers than non-lawyers. Not surprisingly, prospective clients are very comfortable selecting a lawyer based on another lawyer's referral. This aspect of marketing is oftentimes overlooked and underrated. I continuously ask lawyers who refer me business why they do it. Over the course of my career, I have discerned that they send me work for the following reasons.

1. They know I will serve the client well. This may be obvious, but the attorney sending me the case has reason to know that they have nothing to worry about regarding my expertise and competence.

2. The client will like working+ with me. This is crucial because even if I was doing a good job, if the client did not like me, the relationship could be impaired. Referring professionals are confident that the client will find me pleasant to deal with, which is very important.

3. I will not steal business from the referring lawyer. Many years ago, a national leasing company, which had been referred to me by a large Phoenix law firm because of a bankruptcy issue, asked me to take over all of their business matters in Arizona because the client wanted to change a number of perceived shortcomings with their other firm, which I knew I could avoid. I told the client that I was uncomfortable speaking with it about the other business unless it first addressed its concerns with the referring law firm. The client refused to do so, fired its existing firm, did not send me the business, and went elsewhere.

4. I will never bad mouth, for any reason, the referring lawyer. You may be wondering why this is even an issue. It's an issue because over the years I have had a number of situations in which the referring lawyer sends me a matter because the client is now facing a serious financial problem which I may have recognized was the fault of the referring lawyer. If

the client asks about the previous lawyer's handling of the case and there may have been problems, I will candidly tell the client that I'm not comfortable responding.

5. Our swag.

CLIENT REFERRALS

I am very sensitive to the need to generate referrals from existing clients. I utilize customary strategies like taking clients out to lunch or other social events and I always thanks them by letter for sending me business. I also will "no charge" certain work and if appropriate, will discount a client's bill. I also recognize that in the end, providing high quality and responsive representation is the best way to generate future referrals.

So what marketing has worked for me that is unusual or may not be used by other practitioners?

MY MARKETING EFFORTS

For a number of reasons, many fellow lawyers assume I don't have a strategy for my marketing. I have been accused of using a shotgun approach and much worse. I've been called irresponsible, offensive, directionless, and probably the most accurate of all, immature. Yet, I live by some basic guidelines in all of the marketing that I originate. They are as follows.

1. Develop niche areas of practice to market – I deal with individuals facing a hybrid of legal issues. Only a couple of bankruptcy lawyers in Arizona focus extensively on working with folks divorcing and needing bankruptcy advice. To do so, I generally follow trends in domestic relations law, whereas the other individual is married to a divorce lawyer, which provides him an advantage. I also work extensively with individuals or companies which have inadequate insurance coverage and need independent representation. I follow general trends in

insurance and coverage law so I can be of assistance in this area. We focus on representing professionals, such as doctors, accountants, and lawyers, both as debtors and creditors. This has been successful in separating us from other highly qualified law firms.

At one point we represented the debtors in a large number of restaurant bankruptcy cases. Because the sheer number of them in Arizona triggered aggressive marketing tactics by other firms, we no longer handle a large percentage of these cases, but can easily do so when asked.

2. Market to non-bankruptcy lawyers – My firm and I are well known among divorce lawyers for the work we do. Many of the insurance lawyers have worked with us and recommend us as well. Similarly, we have relationships with many lawyers doing personal injury work or major commercial litigation.

3. Market to other bankruptcy lawyers in a non-threatening manner – Between 2008 and 2012, when record breaking numbers of bankruptcies were being filed, we referred to other bankruptcy lawyers many smaller cases. Many of those lawyers would then send us larger cases. This trend has changed since many of the lawyers who were only handling simple cases will now take anything that comes in the door and won't refer anything out; at one point this strategy was highly effective in ensuring that most of the cases we were referred justified our involvement.

4. Regional marketing – Almost all of the major law firms handling bankruptcy matters are on Central Avenue in Phoenix or on the 24th Street and Camelback Road corridor. Our firm is in north Scottsdale / Phoenix, and the only firms with the ability to handle complex bankruptcy matters are located approximately 10 miles south of us in old Scottsdale. We therefore have concentrated our firm advertising and promotion to our immediate geographic area. An unscientific survey disclosed that our potential client base is about a million citizens and interestingly enough, the vast majority of Phoenix area individuals with great wealth are in

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our geographic area as well, which increases the chances that we receive more complex bankruptcy work. We are also in the Airpark corridor, which is the major tech and business center in the Phoenix metropolitan area.

5. Focus our civic, community, and charitable contributions and involvement to the same geographic area – The firm probably spends 90% of its marketing dollars for organizations in the north Phoenix / Scottsdale area. Obviously, a lot of this support leaks out into other geographic areas, but we rarely try to match up with national and international firms promoting their practices out of Phoenix. As a result, the Nussbaum Gillis & Dinner firm, which also handles business, real estate, transactional, construction, and estate planning and probate, is very well known in our geographic area.

6. Know how to maximize the cost benefit of your marketing – My firm rarely targets contributions for opportunities in which we are dwarfed by other sponsors or have to share sponsorships. A \$5,000 commitment is a big deal for a 13-lawyer firm and we have no interest in putting ourselves in situations in which the competition is many times 5 to 10 or 50 times our size. We have done a good job at ensuring the dollars we spend make a noticeable impact.

7. Promote client supported causes – We will rarely turn down a solicitation request from any organization in which a client is involved, which our clients appreciate. The extent of this support oftentimes has a relationship to the size of the client, but not always. If the cause otherwise meets the firm's criteria, we may spend 5 to 10 times more on that cause in comparison to bigger client's causes which don't meet our criteria.

8. Involvement in law based organizations – We discourage our lawyers from becoming involved in organizations unless they are committed to the cause. Consequently,

many of our lawyers have taken on leadership positions with the different organizations they support, which is recognized by the legal community.

9. We try to be innovative and fun in our marketing – Many of our written pieces have created a positive buzz in the community. At the end of this article are some of the pieces we have run since we were formed in July 2008. We did not copyright or protect the “Super Lawyer” piece, so at least two of our sponsors stole it and it has now become extremely popular with a variety of businesses.

10. Marketing consistency – We have owned a page in the Scottsdale Airpark News from the day we started and the audience has come to learn to expect to see it every month. We also run a feature article in the Airpark News as well and we try to make sure it is timely and not offensive to the reader. I have attached the article I wrote a few months ago for the Airpark News.

11. We also promote the organizations we support – Oftentimes when we purchase space in magazines or papers, we use it specifically to promote causes we believe in. When we sponsor shows at the Scottsdale Center for the Performing Arts, we normally utilize our page in the Airpark News to specifically promote that show.

12. When we were a major sponsor of Scottsdale Leadership’s 25th Anniversary Party featuring Kurt Warner, we got permission from Kurt Warner to run ads with his profile in them to not just help boost attendance for the event, but take advantage of Kurt Warner’s relatively recent appearance in the Super Bowl. As a result, many citizens thought we were directly associated with Kurt Warner, who is well regarded because of his charitable work in the community.

13. Timing of marketing – We have been successful in the timing of our marketing so it is pertinent in nature and is related to current events.

We have an Internet presence, which is obviously necessary in today's society, but a more in depth discussion of that area will be left to another speaker.

I will now devote a separate section to our swag.

WHAT'S THE DEAL WITH THE SWAG?

Simultaneously with forming my own firm in the summer of 2008, I began utilizing swag to promote the firm. Because my old firm and I had agreed on a six-month transition to ensure it went smoothly, I ordered the swag even before my new firm started because the NCBJ was coming to Phoenix in the early fall of 2008 and I wanted it available for the judges and other guests when they came to town.

Our inaugural swag was first aid kits which have now gone through three generations of changes.

I will admit, in the spirit of full disclosure, that I don't anticipate generating direct business by these giveaways. Instead, I have found the swag to be invaluable for three distinct reasons: 1) swag does a phenomenal job of branding your firm; 2) it's a lot of fun to design and select; and 3) we want the recipient to enjoy it just as much as we enjoy handing it out.

There is actually a "method to the madness" to the Nussbaum Gillis & Dinner swag. First of all, we insist that anything we give out is high quality. Inexpensive or cheap giveaways send the wrong message since our firm is not price competitive.

We require that it be useful. When this firm sponsored whale watching at a winter conference in California a few years ago, we purchased high quality binoculars for the attendees.

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Our first aid kits normally include sun tan lotion for visitors from other parts of the country coming to Arizona. The casino chips with our firm name on it included a two gig drive built into the chip. A few years ago, we purchased workout bags with separate compartments so the user would have someplace to put their dirty gym clothes separated from the rest of the contents. The small books containing multi-colored post-its were durable and the new version is of reduced size for convenience. We copied the design used by the Ritz Carlton for our pens and we were the first firm that I know of to put stylists on them when everyone was getting i-phones. The miniature flashlights attached to our key chains were designed to last for years without burning out.

Every year we come up with a new item to compliment the old ones which are oftentimes revived depending upon popularity.

So what does all of this cost separate and apart from man hours and brain damage in trying to come up with ideas?

We probably spend an average of \$5,000 a year, though there have been certain years where I know we spent more. We actually have a storage room in which we keep our swag at the office and we try to have two or three different types in our inventory at all times.

We give it away at major conferences like the ABI Southwest, or whenever any member of the firm does any type of presentation, for tournaments that we sponsor, and oftentimes I use it in place of a business card. I normally keep some on me at all times and I always have it in my car. I actually try to give some thought as to which type of swag to have available depending on the event I am attending. I also consider whether I will be interacting with bankruptcy lawyers, lawyers generally, prospective clients or non-lawyers generally. I am very sensitive about not

handing out swag at an event being sponsored by another law firm unless I have that firm's permission.

Does it generate business for the firm? Probably not direct business, but it's enjoyable, harmless and many times useful and is a top notch conversation starter.

I will now discuss marketing efforts which have either been or bordered on fiascos.

NO ONE IS PERFECT

My favorite debacle was a travel kit for travelers which contained a variety of items that most individuals could use when flying. It included essential items like Scotch tape, a stapler, and also a set of scissors. The scissors were just large enough so you could not take the kit through security at the airport. When too many recipients understandably complained about being stopped at security, we quit distributing them.

The workout bags were wildly successful because of their quality. Because they were the most expensive item we have ever ordered at \$25 per bag, we only wanted to distribute them in very specific situations. However, we started receiving requests for them from both lawyers and non-lawyers alike and meeting the demand would have blown away our budget, so we quit featuring them. We were victims of our own success.

On two occasions, we have sponsored shows at the Scottsdale Center for the Performing Arts, which for a variety of reasons clients were not really interested in attending.

We have run full page ads in the ABI Journal, but because we really don't do a lot of national work, it's questionable whether doing so really benefits a local firm like ours. On the other hand, doing so endeared us with the ABI, which doesn't hurt.

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All too often we have purchased tables for major fundraisers and had difficulty filling the table. We have never done a good job of marketing that involvement to our clients and therefore really have not been able to take advantage of that type of support.

I'm happy to report, though, that all things being considered, we have suffered very few disasters in our marketing efforts.

So what are the takeaways from all of this?

LESSONS LEARNED

Regardless of how skilled you are at it, in the end, marketing is hard work and takes a lot of time.

It helps if you have some natural people skills, though even if you do, you can definitely fine tune those abilities.

Marketing is most effective when it's innovative and sends a clear message. It also has to be directed to the right people at the right time.

You have to separate yourself from the competition. You also have to know how to spend your money efficiently.

In the end, you have to deliver on what you promised. All of your marketing will be for naught if in the end your services are deficient.

Finally, select a goal and be totally honest with yourself as to whether the marketing effort is achieving it. Don't be afraid to alter your strategies, but you also have to be unbelievably patient.

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*Randy Nussbaum
Founding Shareholder*

GIVING BACK

This month's column will discuss the importance of giving back to the Scottsdale community. Whether it be involvement with your church, support of the cultural community, or assisting the less fortunate, Scottsdale has a proud heritage of generosity. This month's writing explains why that involvement is crucial to Scottsdale and the dividends received by such participation.

If you travel anywhere in the USA, everyone you meet will identify Scottsdale, Arizona, not just as a recreational hot spot, but a cultural Mecca as well. This reputation has not only drawn tourists to our fine city, but businesses and retirees as well. Your support of the arts therefore maintains a vibrant economy, but there is a more important reason for that giving.

Cities are judged by their culture. A city without true culture is a city without heart. Visitors and those considering relocating to Scottsdale are attracted to our community because the city truly embraces the arts. These individuals want to reside here because of that artistic diversity and the city's emphasis on furthering those endeavors.

A vibrant cultural climate makes Scottsdale a much more pleasant place to live. You may not agree with every artistic option or attend every performance, but the very fact that those opportunities are available makes the city exciting.

Similarly, citizens' unabashed support of their religious options creates a solid family environment while promoting a strong moral philosophy, which benefits all facets of our daily life.

Finally, numerous community resources helping those less fortunate derive a substantial percentage of their support from Scottsdale citizens. Citizens should be proud of this attitude and this elevates Scottsdale even higher.

But there is another reason why those who have been fortunate in life need to recognize the necessity of helping out. The rewards you reap from doing so are incalculable. You may help out your church, the arts community, or charities because it is the right thing to do, but oftentimes there are unexpected rewards from doing so.

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The lifeblood of your business, your clients, are appreciative if the people they conduct business with are community stewards. Your new client may not specifically acknowledge you were hired because of your altruism, but oftentimes your generosity is recognized. You may not realize it, but the customer's decision to choose you over a highly qualified competitor may be because of your firm's philosophy in this area. Furthermore, if you truly are a caring and concerned individual, a surprisingly high percentage of the public wants to interact with that type of individual.

For many volunteers, interacting with others with a similar attitude may actually improve one's outlook on life and turn you into a more effective business person. If you are fulfilled and satisfied with your personal life, this could translate into more professional success.

This of course leads to my personal experience in this area.

I am an unabashed supporter of Scottsdale Leadership, the Scottsdale Center for the Performing Arts and its sister organizations, and the Scottsdale Chamber of Commerce. Each has had a significant impact on my life personally, and as importantly, in my development as a business owner in Scottsdale. I now have a 26 year history with Scottsdale Leadership and have developed scores of close personal and business relationships on account of that outstanding organization. Every hour devoted to it has been returned by it a hundred fold. If you want to help out or apply for next year's class, go to www.scottsdaleleadership.org.

For 15 years I have volunteered at the Scottsdale Center for the Performing Arts and also served on the Board of the Cultural Council. Through that involvement, I have met and befriended many of the icons in the Arizona cultural community, including individuals like Laura Grafman and Ellen Andres-Schneider. I consider the Scottsdale Center for the Performing Arts my second home and everyone there a true friend, ranging from individuals in the box office to security to the marketing management and development staff. I volunteer because I love everything from the programming to the very brick and mortar of that cultural masterpiece. For further volunteer opportunities, go to www.scottsdaleperformingarts.com.

My recent involvement with the Scottsdale Chamber of Commerce was sparked when I realized it was comprised of employees and volunteers who genuinely cared about my business and me. When the Scottsdale Chamber honored my firm with a Sterling Award in 2014, we knew we had arrived. All of us in Scottsdale are blessed to have such an innovative and interactive Chamber of Commerce. Go to www.scottsdalechamber.com for more information.

Many times over the years I have been rewarded for my volunteerism and commitment to a variety of causes. I may not have expected nor was seeking any benefit for my contributions, but I attribute much of my success, both professionally and personally, from participation in Scottsdale cultural, civic, charitable, and religious activities.

Randy Nussbaum is a founding shareholder and the managing partner of the law firm Nussbaum Gillis & Dinner. His legal practice includes complex bankruptcy law, real estate, construction and contract law. Nussbaum is a certified specialist in bankruptcy law by the Arizona Board of Legal Specialization and is also a certified specialist in business bankruptcy law by the American Board of Certification. Nussbaum can be reached at (480) 609-0011 or rnussbaum@ngdlaw.com.

The content of this article is for informational purposes only and should not be construed as providing legal or tax advice. If you have any questions regarding the topics discussed in this article, you are advised to contact an attorney or tax adviser.

Social Media & Press Conferences

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ABI Southwest

September 2016

Las Vegas, NV

I. Overview of Brand

A. What is “Brand”?

1. What does it mean for a law firm?
2. What does it mean for an individual lawyer?

B. Extensions of Brand

1. Messaging
2. Third Parties
3. Relationship with People

II. Social Media

The purpose of social media is to connect your brand to your clients and potential clients.

A. Types of Social Media

1. Facebook
2. Twitter
3. YouTube
4. LinkedIn
5. Google+
6. Vine
7. Instagram
8. SnapChat
9. Blogs
10. Classmates

B. Gamification. There has been a fundamental shift in how people are creating and nurturing relationships.

C. Paid v Free

III. Traditional Press Coverage

The purpose of traditional press coverage is to enhance your brand in the minds of your clients and potential clients.

A. Types of Outlets

1. TV
2. Radio
3. Print
4. Internet / Blog

B. Needs of each type of media outlet

C. How to attract media coverage

1. Use of agencies

2. Creation of stories
3. Media training

D. Use of Media

1. Website
2. YouTube
3. Client News

Ultimately the point of media coverage is to find a way to connect with your current and potential clients. Let's face it: most people like to be around famous people. But more importantly, media coverage demonstrates that at least someone believes that you know what you're talking about. A reporter or producer is not really going out there to evaluate who is the "best lawyer". However, that is how it is perceived.

Remember, very few people are actually watching television or listening to the radio anymore. If you expect the phone to ring as the result of a television appearance ... well, you'll be waiting an awfully long time.

But, when people come to your website, they're impressed that you are considered an expert. And the truth is you'll have an enormous edge over any one of your competition. The consumer of legal services, whether it is a business owner or a regular guy off the street, doesn't know many lawyers. Referrals remain our largest source of business. But having a YouTube channel and some clips on your bio page doesn't hurt one bit!

Business Development and Marketing Your Practice
(Consumer Cross-Over Panel)

John R. Bollinger

Boleman Law Firm, P.C.; Hampton, VA

Blast from the Past—Evolving Isn't Easy

Times are changing, in the world of consumer bankruptcy. While marketing budgets have diminished, the costs associated with obtaining clients has steadily increased. Ten years ago, back in the olden days, a typical firm spent 10-15% of their annual budget on marketing. Most consumer practitioners turned to the yellow pages or yellow book, billboards, and television to advertise to their prospective clients. The costs were very high and tracking the costs per client was critical to a successful marketing campaign. Marketing trends shifted regularly and staying on top of the numbers was crucial to running a successful practice. Fast forward to today, and there is significant debate as to whether these “old fashioned” marketing tools are still effective.

The Boleman Law Firm ceased advertising in the yellow pages and billboards about eight years ago. It was a difficult decision at the time, our numbers were good, and we didn't want to fix something that wasn't broken. The decision became somewhat easier when we invested a significant amount of time and effort in tracking our return on investment per source.

Today, we continue to track the origin of our cases; after all, tracking the source of client referrals is the first step in marketing success. For us, our primary marketing sources are: current and past clients, the online search engines; social media advertising; and direct website leads. We manage our marketing internally, although we effectively utilize consultants. We have a marketing director (manages the budget, researches hosting providers, continuously monitors trends on the internet and our website) and we have a part-time outreach coordinator (assists with setting up speaking engagements, assists with updating on-line marketing tools such as AVVO, Twitter, Linked-In, and Martindale.) Having the right people in place to direct your firm is essential to building and maintaining your brand and your marketing plan.

Internet Marketing—The Dawn of a New(ish) Era

Entering the world of internet marketing is much like getting to use a calculator in middle school algebra for the very first time: at first it feels like the dawn of a new era, where a machine will do all the hard work for you, only to realize that it's still math and the answers are still difficult to find. The trick to marketing online is to not rely too heavily on the machine. The foundations of an old school marketing plan still apply: What is your firm good at? How do you sell it? Who do you sell it to? How much do you charge? While most people think that a solid marketing plan is the construction of a creative mind, ultimately it comes down to the numbers. The most important number is the amount of money you can devote to online marketing. Below are some key questions you should ask yourself when determining where to put your time and money.

Before You Start

It is important to understand that the online portion of your marketing efforts should integrate into your current marketing plan. The “who” you are trying to reach may be the same as it was before the advent of online marketing, except now, you are not trying to reach them at their physical home, but where they “live” online.

Identifying which websites your target market uses the most is the first step. Figuring out how they search for information is the second. Do they rely on ratings or online customer reviews? Do they pick the first firm that pops up on a search engine? Do they respond to direct online marketing through social media?

Knowing your perfect client will go a long way to figuring out where to put your money.

First Things First—Search Engine Optimization

If ever there were a time to break out the middle school algebra it is when computing the amount you can afford to pay per client. Understanding your limitations, and picking the appropriate forum begins with an honest conversation with yourself and your business partners. Begin with the average amount you charge your client, take away your average costs, including overhead, and calculate how much profit you need in order to feel comfortable. The room in the middle is how much you can afford.

Search Engine Optimization (“SEO”), or where and when your firm’s website appears in organic search results, can cost you an arm and a leg, with mixed results, however it is a very important tool. Search engines are the primary method of navigation for most internet users, with the most common search engines being Google, Yahoo!, and Bing. Controlling where your website appears in the results is vital to online success. Being in the top 10 search results means that web traffic will be driven to your website, any lower and you are inconsequential.

Monitoring how you are spending your money is vital in SEO, and tracking your rate of return is the very important. Organic traffic, or non-paid traffic, is the gold standard in online marketing, it means that your website generating business. To improve your firms SEO you must utilize both the technical and creative elements to improve your rankings in search results and drive traffic to your website. Organic results are driven by many different elements such as:

- The number of words on your website
- The number of individual pages on your website
- The newness of the content
- The number of other websites that have linked your site
- Even the structure of your website can make it achieve a higher ranking

Basically, search engines are designed so that the more popular the website, the more relevant it is in search results. The search engines use mathematical algorithms to determine results and then rank them by popularity. Ranking factors, or the factors considered in the algorithm, comprise hundreds of variables. There is a reason most law firms hire outside consultants to manage and increase their SEO. The simplest way to explain it is to boil it all down to the one common denominator. All search engine traffic is generated by one thing: the search query, or the words the end user types in. They carry extraordinary value and your site needs to contain the words your target market types when looking for the services you provide. Ultimately, it is up to you to determine the content you need to have on your website to generate the most client traffic.

Not all leads are created equally.

One major problem with utilizing organic traffic, is that it does not weed out the clients that you may not be able to help. The client types in “bankruptcy firm” into their favorite search engine, and pick the firm that appeals to them from the results. How do you know that this is the client you are looking for?

To avoid casting the net too far, a service to sift through the large number of leads could be beneficial. There is a reason that Google is a free search engine. They know a lot about you. They know what you search for and when you search for it., using services such as Google Ad Words, a paid service, increases the likelihood that the traffic that is driven to your site generates leads that you want. This is not cheap. After all, you are now paying for a SEO consultant, paid search engine advertising and that website (that you likely paid someone to build and to host).

Google Knows My Name, Now What? Utilizing Social Media Websites

Once you have your snazzy website up, and you are successfully driving traffic to it from search engines, you can step up your internet presence by innovative marketing tools. Social media sites such as Facebook, Instagram, Snapchat, Linked In, You Tube, Vine, and a host of other sites are where your clients go to relax. Targeting clients when they have time to browse the internet is a great way to drive business to your website. Currently, there are more than 1.6 billion social media users worldwide.¹

In 2016, 68.3 percent of internet users were social network users and these figures are expected to grow.² Social networking is one of the most popular online activities, 59 percent of internet users use social media. In 2016, more than three quarters of the United States population had a social media profile.³ Overall, U.S. users spend more than 216 minutes per week on social media

¹ <https://www.statista.com/markets/424/topic/540/social-media-user-generated-content/>

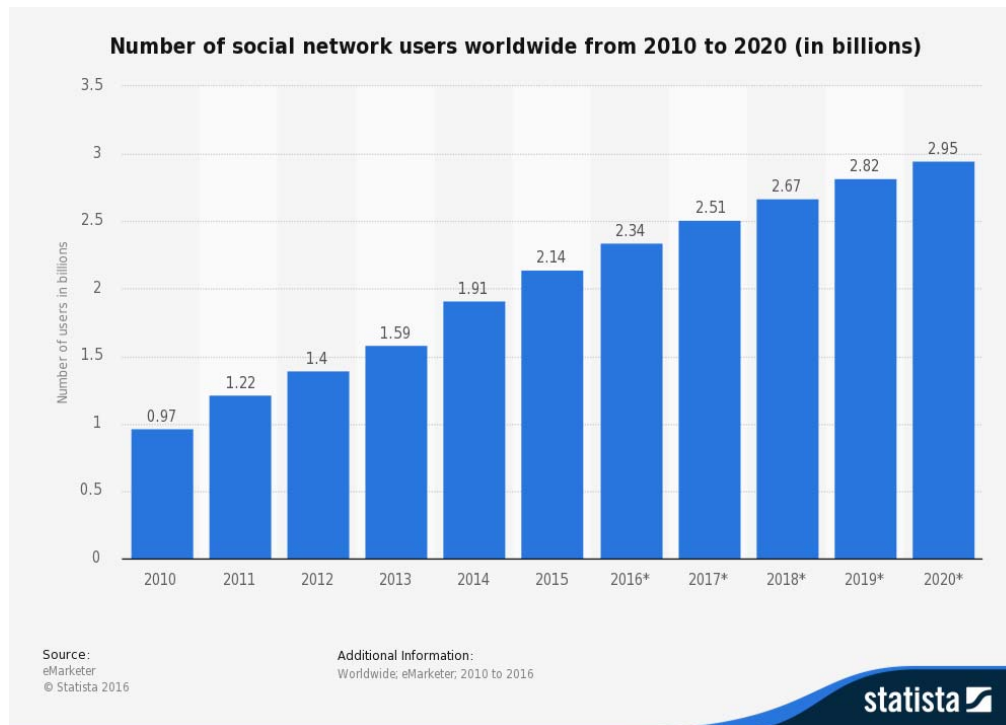
² <http://www.statista.com/statistics/278414/number-of-worldwide-social-network-users/>

³ *Id.*

via smartphone, 53 minutes per week via PC, and 50 minutes per week on social networks via tablet devices.⁴

In short, social media is big business, and it is only going to get bigger. Social media sites are a great way to stretch your marketing budget.

Take a look at the future projections:



So how do you know which social media site to advertise on, and how do you effectively use those sites? Here is some information on some of the more popular social media sites:

Facebook

Facebook is by far the most popular social media website, with more than 1.1 billion monthly active users.⁵ In mid-2013, Facebook accounted for more than half of all social media site visits in the United States, placing it first among the most popular social network ranking, followed by YouTube and Twitter.⁶

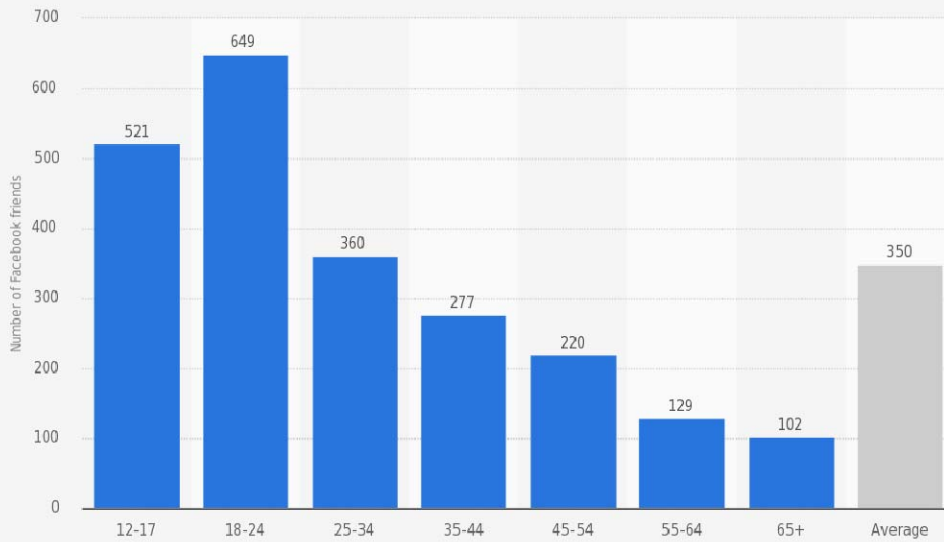
It offers users the ability to keep up with the daily lives of their closest 400 friends and family members. The average number of friends among Facebook users is 350 people.

⁴ <https://www.statista.com/markets/424/topic/540/social-media-user-generated-content/>

⁵ <https://www.statista.com/markets/424/topic/540/social-media-user-generated-content/>

⁶ *Id.*

Average number of Facebook friends of users in the United States as of February 2014, by age group



Source: Edison Research; Triton Digital © Statista 2016

Additional Information: United States; Edison Research; Triton Digital; January and February 2014; 2,023 Respondents; 12 years and older

statista

So is Facebook the gold standard? The answer is...it depends on who you are trying to reach. Younger generations of Facebook users are looking to other social networks. After all, it's not really cool to hangout with your friends at the same place your grandma and grandpa hangout with their friends.

The greatest benefit of advertising on Facebook is your ability to advertise directly to members of your target demographic. Facebook amasses a ton of information on its members. It knows where its members work, where they went to school, if they are married, how long they have been married, their age, their race, the number of children they have, the city they live in, what they do for a living, what they like based on "likes" and "follows." Essentially, they offer a pretty painless way of targeting to your perfect client, if that client is on Facebook.

Twitter

It seems like most of the worlds press releases start with Twitter. Twitter differs from Facebook in that it is for more steam-of-thought content. It is a much faster paced

Facebook Demographics

Among internet users, the % who use Facebook

	Internet users
Total	72%
Men	66
Women	77
White, Non-Hispanic	70
Black, Non-Hispanic (n=85)	67
Hispanic	75
18-29	82
30-49	79
50-64	64
65+	48
Not established online	74

Twitter Demographics

Among internet users, the % who use Twitter

	Internet users
Total	23%
Men	25
Women	21
White, Non-Hispanic	20
Black, Non-Hispanic (n=85)	28
Hispanic	28
18-29	32
30-49	29
50-64	13
65+	6
High school grad or less	19
Some college	23
College+	27
Less than \$30,000/yr	21
\$30,000-\$49,999	19
\$50,000-\$74,999	25
\$75,000+	26
Urban	30
Suburban	21
Rural	15

Source: Pew Research Center, March 17-April 12, 2015.

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environment than Facebook. Tweeters are limited to a speedy 140 characters to expound their views, and you are too! Marketing on Twitter is all about linking interesting content, and then getting your “followers” to retweet, or share it, with their followers. Most law firms use this as a way to share their successes and charitable outreaches. Tweeting aids in promoting top-of-the-mind awareness and lends creditability to your firm. Your followers see your name, even if you are not generating original content, just sharing news updates puts your name in front of them. The more followers, the better your chances of generating leads.

Snapchat

Snapchat is the new age version of instant messaging and the most popular mobile messaging app. Now instead of kids leaving witty “away messages” on their AIM accounts, they post pictures and videos for their friends to see. The videos and pictures are meant to be temporary. The user controls how many times an end user can watch a video, or how many seconds they can view a picture. Snapchatters can also send pictures and videos privately to their friends. Like, OMG, I can’t imagine how people lived before it! As the graphic to the right illustrates it is very popular with the younger audience. The key to Snapchat success? Well, companies are still figuring this one out. It’s much like Twitter, it’s all about amassing “friends” and then generating fun content. Snapchat’s focus is accessibility: they get to know the fun side of your firm and can feel connected to individual attorneys.

Mobile Messaging Apps Particularly Popular Among Young Adults

Among smartphone owners, the % who use messaging apps and apps that automatically delete sent messages

	Messaging apps	Auto-delete apps
<i>Total</i>	36%	17%
Men	37	17
Women	36	18
White, Non-Hispanic	34	18
Black, Non-Hispanic	N/A*	N/A*
Hispanic	N/A*	N/A*
18-29	49	41
30-49	37	11
50+	24	4
High school grad or less	30	19
Some college	34	20
College+	45	13
Less than \$50,000/yr	37	18
\$50,000+	36	17
Urban	42	22
Suburban	37	15
Rural (n=99 smartphone owners)	22	13

Source: Pew Research Center, March 17-April 12, 2015.

* Because some questions were given to half the respondents, there are not enough cases to allow sufficient statistical analysis for these groups.

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Youtube

Youtube is a place where people post videos of themselves doing weird/stupid/informative/amazing/funny things. Successful YouTubers generate content that fits into one of the aforementioned adjectives. According to YouTube, it has over a billion users, which is almost one-third of all people on the Internet.⁷ Both the main internet site and YouTube mobile, individually reaches more 18-34 and 18-49 year-olds than any cable network in the U.S.⁸ Furthermore, once users are on YouTube, they spend an average of more than 40 minutes viewing content.⁹ In the first quarter of 2015, more than 80 percent of global internet users had visited YouTube in the last month.¹⁰ In the United States, it is the

⁷ <https://www.youtube.com/yt/press/statistics.html>

⁸ *Id.*

⁹ *Id.*

¹⁰ <http://www.statista.com/topics/2019/youtube/>

second largest social media website after Facebook, accounting for over 22 percent of social media traffic.¹¹ Add those amazing statistics, to the fact that it is a free resource for direct marketing, what's not to love about it? Well YouTube doesn't really know a lot about its viewers. They know that younger visitors tend to spend more time on the site: In March of 2015, YouTube drew 31.8 million users aged 18 to 24 (98.3 percent of U.S. Internet users in that age bracket) who spent an average of 10 hours, 15 minutes on the site.¹² Meanwhile, the platform attracted 19.4 million visitors 65 and older (74.4 percent of Internet users in that demo) who spent an average of 3 hours, 54 minutes using the video-streaming service.¹³

Instagram

This is the place where everyone posts pictures of their kids, cats, and exceptionally prepared meals. While social media sites like Facebook rely on linking other internet sites, Instagram relies on user created content. Instagram is for the social media minimalist. Perhaps this is why the younger generations are so drawn to it. Millennials have been advertised to in loud voices since they were infants. Places like Instagram offer a softer approach. The savvy marketer must offer visual pleasing content if they want to be successful. Many individual lawyers have very successful Instagram pages that allow clients and prospective clients to engage with them. Instagram is about accessibility and is a great way to encourage top-of-the-mind awareness and encourage referrals from past clients. Firms can also pay to advertise on Instagram.

LinkedIn

A LinkedIn profile is the new business card/resume. LinkedIn is great place to list your speaking engagements, publications and professional associations It serves two main functions: (1) It generates referrals from connected professionals, and (2) it lends legitimacy to your competency when clients are researching you. The key to utilizing LinkedIn effectively is to actually use it.

Instagram Demographics

Among internet users, the % who use Instagram

	Internet users
Total	28%
Men	24
Women	31
White, Non-Hispanic	21
Black, Non-Hispanic (n=85)	47
Hispanic	38
18-29	55
30-49	28
50-64	11
65+	4
High school grad or less	25
Some college	32
College+	26
Less than \$30,000/yr	26
\$30,000-\$49,999	27
\$50,000-\$74,999	30
\$75,000+	26
Urban	32
Suburban	28

LinkedIn Demographics

Among internet users, the % who use LinkedIn

	Internet users
Total	25%
Men	26
Women	25
White, Non-Hispanic	26
Black, Non-Hispanic (n=94)	22
Hispanic (n=99)	22
18-29	22
30-49	32
50-64	26
65+	12
High school grad or less	9
Some college	25
College+	46
Less than \$30,000/yr	17
\$30,000-\$49,999	21
\$50,000-\$74,999	32
\$75,000+	41
Employed	32
Not employed*	14
Urban	30
Suburban	26
Rural	12

Source: Pew Research Center, March 17-April 12, 2015.

*Not employed includes those who are retired, not employed for pay, disabled, or students.

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¹¹ *Id.*

¹² <http://digiday.com/platforms/demographics-youtube-5-charts/>

¹³ *Id.*

AVVO, Lawyers.com, Martindale Hubbell, and Other Legal Review Sites

Legal review sites are the new yellow pages. They target people searching for attorneys and collect client and peer reviews for your prospective clients to consider when choosing an attorney. They typically are one of the top search results when someone either searches for an attorney by name or searches for a generic term such as “bankruptcy attorney.” These types of sites usually offer a free and a paid service. Usually, on the free versions you can list some basic information about yourself and receive client and peer reviews that will increase your ranking on that particular website. Usually, the paid versions guarantee that your name appears in their results when clients search for an attorney in your practice area.

Blawgs/Blogs

Most legal blogs are hosted on individual firm’s websites, although there are some standalone Blawgs such as abovethelaw.com, which serve as informal news sources and mostly feature op-ed pieces. Website hosted Blawgs are a great way to answer basic client questions, which can reduce phone calls and emails, and break through the barriers to entry to filing a bankruptcy. Blawgs are also a great way to gain legal referrals. Offering insight to industry specific issues may bolster your credibility in the local market and encourage other lawyers and professionals to refer business to you.

Ethical considerations

The move into online marketing has created some gray areas as far as ethical considerations are concerned. After all, a message from a prospective client on Facebook is functionally the same as if you received a telephone call, an email, or a letter. Do you now have a duty to this “client?”

Some of the pitfalls the modern day attorneys must avoid are:

- Remembering to add a disclaimer when commenting on case results or pending trials.
- Criticizing other members of the bar or bench on social media and generally exposing your firm to claims of defamation claims.
- Unintentionally, revealing privileged or confidential client information.
- Sending messages through social media sites that can appear to be legal advice, which can create unintended attorney-client relationships. Giving legal advice to others, including friends, may create unintended lawyer-client relationships. At the very least, it can create confidentiality and conflicts issues.
- Violating ethics rules against solicitation of legal work. Statements made online, especially on social media sites, may be subject to your states ethical advertising rules.
- Practicing law in a jurisdiction where you are not licensed.
- Failing to treat messages via social media sites with the same degree of care as messages from traditional methods.

Keep in Mind: The internet is forever!!!!