

# Avoid Internet Risk, Keep Your Social Media Safe

By Roberta M. Gubbins

**R**ecently, two messages appeared on my Facebook page concerning social media and Internet safety. Both came from the world of education.

The first, from young Brandon, included a picture of himself stating, “Science Project, Social Media—how far will my picture travel in just five days. Please comment when you see me. Thank you, Brandon.” And the second, from a teacher in Scotland, also included a picture and said, “Our school is teaching Internet safety. Please share, to show the kids how far photos can go! Michelle.”

Their concern is the safety of the children from Internet predators.

Your concern when using social media to market your law firm is protection from the risks inherent in its use, and there are several. They can include inadvertently establishing an attorney-client relationship, creating unrealistic client expectations, or accidentally violating the Michigan Rules of Professional Conduct. Added to the burden is the worry that your malpractice carrier won't cover the costs of any resultant lawsuit and possible settlement.

How do you avoid expensive and distracting online shortcomings?

**1. Write only the truth.** Our ethics rules require us to avoid misrepresentation. That includes information on websites, blog comments, and other social media. Most dangerous from a professional liability view is listing areas that are not part of your practice or exaggerating your experience and abilities. Your malpractice carrier may not cover practice areas not listed on your insurance application.



**2. Don't mention clients or their matters without their consent.** Also run a conflict check if making comments about a pending legal matter to be sure your firm doesn't represent a party involved in the matter.

**3. Avoid answering legal questions.** Answering questions on social media sites can be dangerous. Individuals asking legal

questions may interpret your responses as legal advice from you, their “new lawyer,” whereas you don't view them as clients. Moreover, your advice may be inaccurate or considered the unauthorized practice of law if a consumer's matter pertains to an area outside of your licensure.

The SBM member directory has a feature that, if activated, allows prospective clients to send queries via a contact form. The form's instructions warn consumers not to include confidential information, and caution that sending the form does not create an attorney-client relationship.

Be aware that an initial consultation may result in formation of a client-lawyer relationship even if you decline to undertake representation. In addition, be mindful that even if a client-lawyer relationship is not created during an initial exchange with a prospective client, confidences imparted in good faith cannot be used to the disadvantage of the prospective client, as provided by MRPC 1.7(b) and 1.9.

**4. Keep sites up to date.** If you provide statutes, rules, and articles on your website, blog, or other media, make sure the information is accurate and current. Providing dated information makes your firm look incompetent.

Remember your ethical obligations when using social networking sites to protect yourself and your clients.

**5. Beware of what others say on your site.** It is easy to comment on posts. Lawyers should monitor and either block or remove defamatory posts. Several jurisdictions have held that lawyers are responsible for what is posted on their sites.

**6. Keep detailed records of what you post online.** Websites, profiles, and other Internet content you provide may technically constitute advertising. You are required to retain copies for two years, along with a record of where and when it was used. Your laptop or desktop operating system should include a screen capture tool.

On a Mac, it's called Grab. In Windows, it's called the Snipping Tool. These tools let you capture and save an image of your computer screen. You can also purchase a service from ZeekBeek.com called the ZB Web Archiver. ZeekBeek® automatically creates copies of your website, member profile, or other designated web pages and stores them until you need them.

Lastly, be aware that the Internet is a public and far-reaching thoroughfare. Assume that everyone who finds your site, whether accidentally or intentionally, can view everything you do or say on social media. As Brandon and Michelle may discover, their pictures and words travel far and wide, freely and openly. Like you, they have little control over their posts' ultimate destination.

Social networking sites can help you better serve your clients and bring in new business at a relatively low cost. But remember your ethical obligations when using these sites to protect yourself and your clients. ■



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## MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals on January and July of each year, from when the complaint was filed, and is compounded annually.

For a complaint filed after December 31, 1986, the rate as of July 1, 2015 is 2.468 percent. This rate includes the statutory 1 percent.

But a different rule applies for a complaint filed after June 30, 2002 that is based on a written instrument with its own specified interest rate. The rate is the lesser of:

- (1) 13 percent a year, compounded annually; or
- (2) the specified rate, if it is fixed—or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see <http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/interest.pdf>.

*As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.*

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