



## Facebook Friends and Judicial Ethics

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Last December, another legal ethics commission addressed the question of whether a judge may become a “friend” on a social networking site with attorneys who appear as counsel in the judge’s courtroom. The Ohio Supreme Court Board of Commissioners on Grievances and Discipline opined that a judge may “friend” attorneys as long as the judge takes care to protect the integrity and impartiality of the judiciary.

Given the explosion of social networking sites over the last decade, it is surprising that relatively few ethics committees have addressed the issue. (The paucity of opinions on the topic suggests that social networking misconduct is not a huge problem. To date, only one North Carolina judge has been publicly reprimanded for misusing his Facebook account.) Ohio is only the fifth state to issue an opinion regarding judges’ use of social media and the fourth to favor content-based restrictions over media-based restrictions. Like Ohio, ethics committees in Kentucky, New York, and South Carolina concluded that judges may participate on social networking sites. The Kentucky and New York committees qualified their opinions by stating that judges should be mindful of whether online connections, alone or with other facts, amount to a close social relationship that should be disclosed or that requires recusal. Florida is the only jurisdiction to opt for a bright-line rule against judges “friending” attorneys who may appear in the judge’s courtroom.

The Ohio Board’s December 3, 2010, decision may be an early signal that critical mass is forming around content-based restrictions on Internet use. The well-reasoned





decision applied settled rules and canons to social networking. The single thread running through the Board's pronouncements is that the judiciary must be and appear to be impartial. Otherwise, public confidence will erode, diminishing the prestige and strength of the judiciary. To that end, the Board urged judges to "maintain dignity" and to disqualify themselves when social networking relationships create bias or prejudice. The Board further instructed judges not to foster communications that erode confidence in the judiciary, not to comment on matters pending before the judge, not to use social networking sites to gather information about matters before the judge, and not to give legal advice.

Other state ethics committees surely will have more to say on this issue. Technology is increasing exponentially as is the speed of technological change (think Moore's Law). Now more than ever before, it's important for our legal institutions to keep pace.

*Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.*

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