

# SOCIAL MEDIA: ETHICS IN A CHANGING WORLD

Presented by

## **PUPILAGE GROUP 5**

Jim Crowell, Gary Efron, Gary Hastings, Craig Humphrey,  
Karen Krause, Robert Lutz, Rochelle Schneider, Jeff Bolender,  
DeAnn Chase, David Simon, Rob Keese and Jonathan J. Udewitz

# OVERVIEW

- 1. Impact on Legal Profession**
- 2. Social Media for Lawyers**
- 3. Lawyer Advertising**
- 4. Attorney-Client & Work Product Privileges**
- 5. Social Networking & Judicial Cannons**

# IMPACT ON LEGAL PROFESSION

- **What is Social Media?**
  - Internet and mobile based technologies
  - Transmit and record information
  - Instantaneous exchanges and interactions
  
- **What is Social Networking?**
  - Online behavior
  - Two or more individuals (or groups)
  - Meet, communicate, express, interact, and share

# IMPACT ON LEGAL PROFESSION

INN OF COURT



# IMPACT ON LEGAL PROFESSION

## ▪ **Types of legal issues and disputes**

- Fraudulent and criminal acts
- Privacy rights, security breaches
- Intellectual property, fair use
- Commercial speech
- Rights of employers, employees
- Freedom of speech, assembly
- Discovery of personal data
- Tortious publications

## ▪ **Collection of evidence in litigation**

## ▪ **Interactions with clients, witnesses, and judges**

## ▪ **Marketing of lawyers and legal services**

# SOCIAL MEDIA FOR LAWYERS

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**Lisa A. Wilson, Esq.**



CALIFORNIA

# SuperDuperLawyers

2012

## **SOCIAL MEDIA** *for* **LAWYERS**

*profile on*  
**Lisa A. Wilson, Esq.**

*also inside*

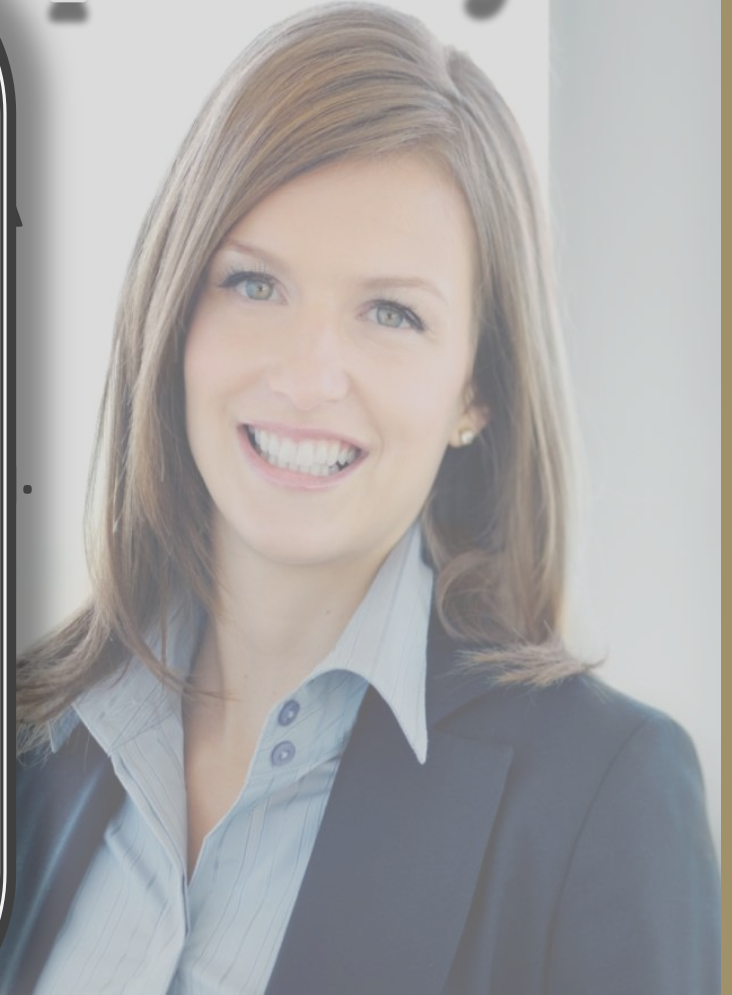
LinkedIn  
Blogger  
Twitter  
RSS  
QR Codes





# LinkedIn

- Professional Profile
- Professional Networking
- Discussion Groups
- Post Legal Articles
- Post News & Announcement

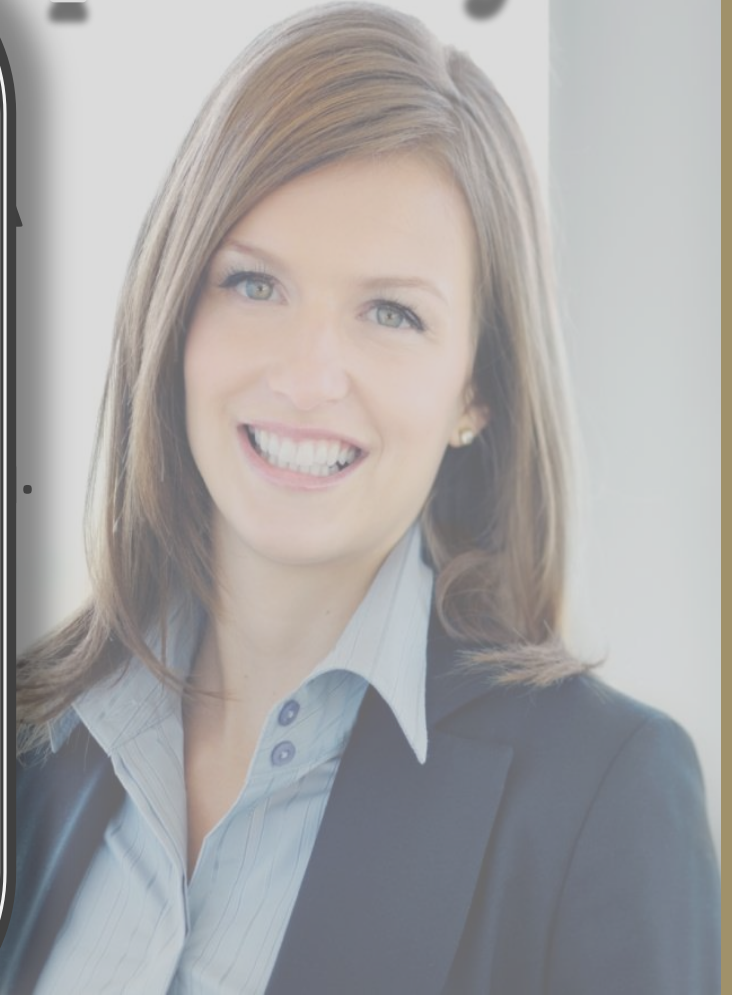






# **Blogger**

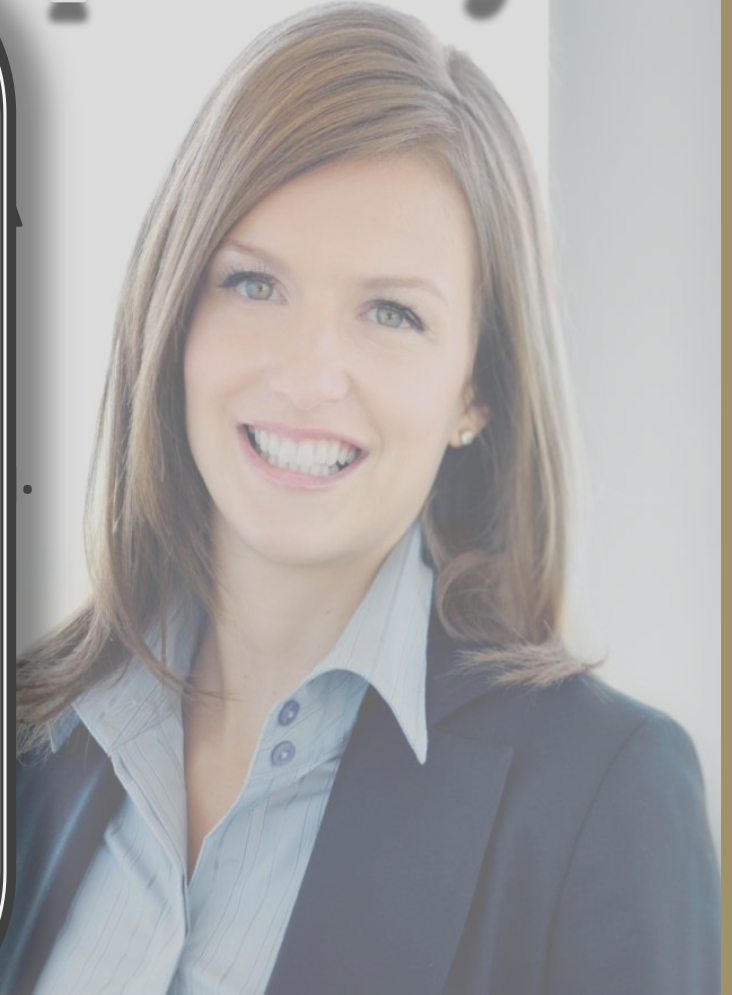
- **Legal Articles**
- **Professional Announcements**
- **Law Firm News**
- **Commentary and Case Notes**
- **Feedback from Reviewers**





# Twitter

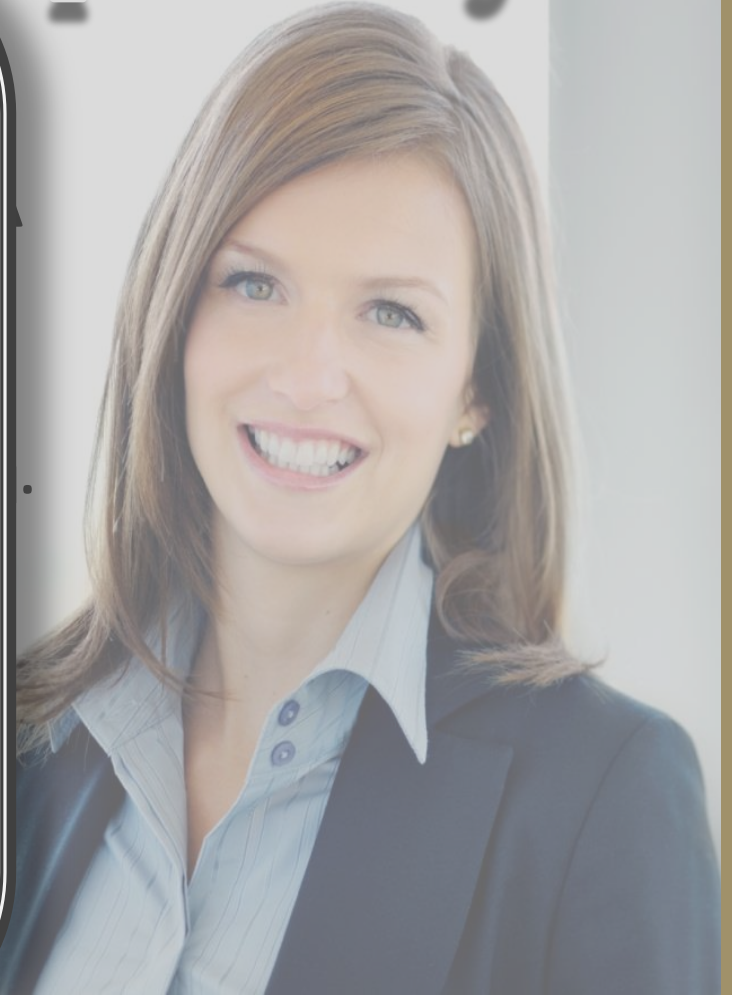
- Professional Profile
- Attract Followers
- Follow People, Issues, Brands
- Find Specialists & Experts
- Research Legal Issues





# RSS

- Really Simple Syndication
- Syndicated Web Content
- Blog Feed to Firm Website
- Integration of Social Media



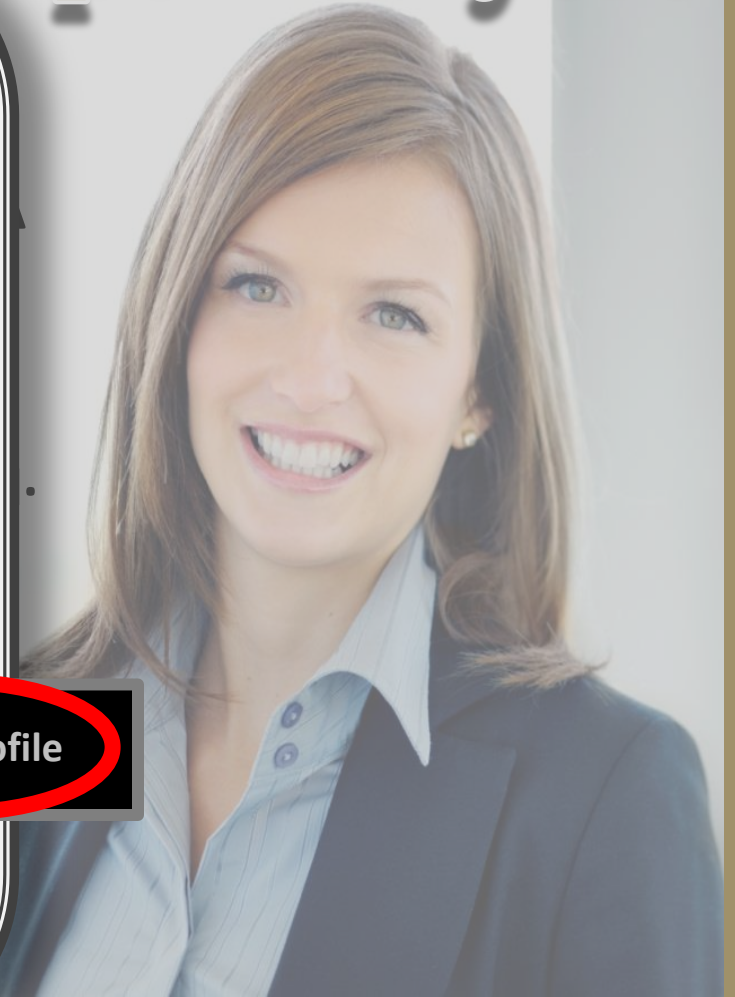


# QR Codes

LISA A. WILSON, ESQ.  
NÖETT, AHLE & MOORE, LLP



<http://...wilsonprofile>



## ■ Commercial Speech

- Bates vs. State Bar of AZ (1977) 433 US 350

## ■ Limits on Governmental Regulation

- Substantial interest supports regulation
- Regulation directly and materially advances that interest
- Regulation is narrowly drawn to achieve that interest

## ■ Primary Bodies of Law

- California State Bar Act
- California Rules of Professional Conduct
- ABA Model Rules



# Ms. L.A.W.'s Blog

Classic Flipcard Magazine Mosaic Sidebar Snapshot Timeslide



**Ms. L.A.W.**

## Firm Scores Huge Win for Client

I recently obtained a \$65,000 settlement for my client who was in an auto accident, even though her medical bills were only \$3,000. The insurance carrier for the other driver knows I'm good in front of a jury, so she accepted our pre-trial demand. I'll work my magic for you too. Visit our website for contact info.



## Ms. L.A.W.'s Blog

**I recently obtained a \$65,000 settlement....  
The insurance carrier for the other driver  
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**Ms. L.A.W.**

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# Lisa A. Wilson

@Ms.L.A.W.

*Established trial lawyer specializing in personal injury claims*

Tonawanda, California [www.noettahleemore.com](http://www.noettahleemore.com)

Edit your profile

8 TWEETS

20 FOLLOWING

1 FOLLOWERS

Tweets

Following

Followers

Favorites

Lists

Tweets



**Lisa A. Wilson** @Ms.L.A.W.

I just secured a huge settlement for my client. [Click here to read details.](#)





Hon. A. M. Stern

Share an update

Attach a link



Share

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Recent · Top · 🔍



**Lisa A. Wilson** @Ms.L.A.W.

I just secured a huge settlement for my client.

[Click here to read details.](#)

### People You May Know



**norma isk**  
manager at b

Connect



**Felix Torr**  
Socorro, NM

Connect



**James Gr**  
Grandy LLP

Connect

- 1. Does Lisa's use of social media include matter that is subject to regulation, and if so, is she within the class of those who are subject to the rules?**
- 2. Does Lisa's use of social media contain any statements that are potentially misleading?**

- 3. Do the rules permit Lisa to claim that she is a specialist, even though she is not certified as a specialist by the California State Bar?**
- 4. Does Lisa's use of social media, including the RSS feeds into her firm's website, implicate the rules requiring retention of advertising records?**

- **To help compete for clients in today's electronic world, Ms. L.A.W has invested in a website that has just gone on-line. The website includes relevant information about her practice areas and experience and provides her contact information. It also invites the public to submit questions about legal issues.**



http://www.noettahlemoore.com

# Nöett, Ahle & Moore

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## Experienced Personal Injury Lawyers

If you would like to speak with an attorney,  
please click below to contact us by  
telephone, e-mail, or text.



Pop-up DISCLAIMER

**All inquiries will be responded to, but no attorney-client relationship will be formed until your case has been accepted and a written retainer signed.**



AT&T 3G

12:53 PM



Messages

Pamela Pain

Edit

Call

FaceTime

Contact >

iMessage

Apr 6, 2012 12:51 PM

Ms LAW, I was just in an accident. This jerk in SUV cut me off. A "real" pain in the neck.

Delivered

Can you get me any \$\$\$ ?

I'll send pics of crash and other driver, Daniel Dean.

AT&T 3G

12:55 PM



Messages (1)

Pamela Pain

Edit

Call

FaceTime

Contact >

iMessage

Apr 6, 2012 12:55 PM

Look at my red CAR!!! :[





AT&T 3G

1:08 PM



Messages

Pamela Pain

Edit

Call

FaceTime

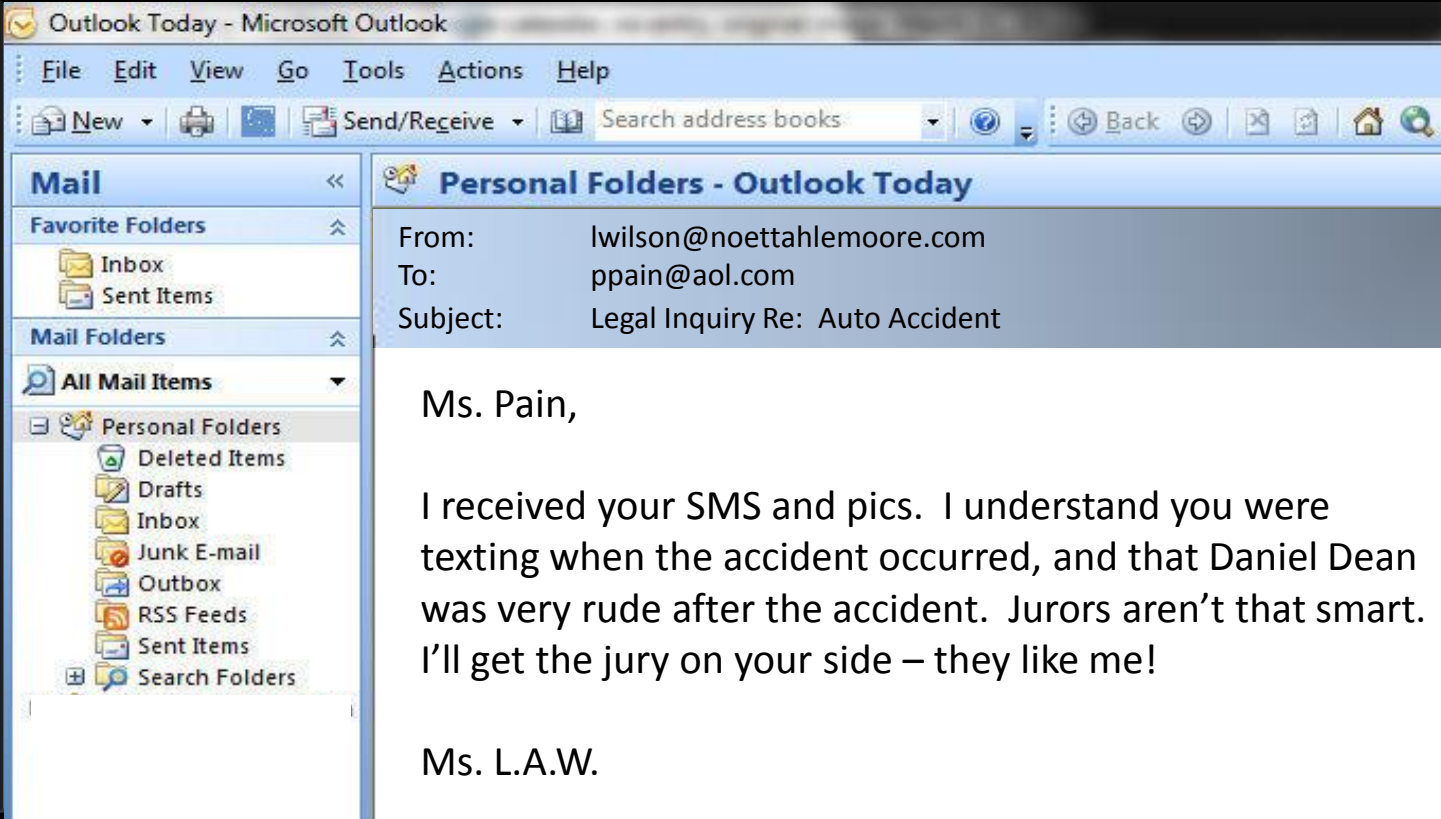
Contact >

iMessage

Apr 6, 2012 1:07 PM

Here's the jerk





Outlook Today - Microsoft Outlook

File Edit View Go Tools Actions Help

New Send/Receive Search address books Back

**“I received your SMS and pics. I understand you were texting when the accident occurred, and that Daniel Dean was very rude after the accident. Jurors aren’t that smart. I’ll get the jury on your side – they like me!” Ms. L.A.W.**

Sent Items  
Search Folders

I’ll get the jury on your side – they like me!

Ms. L.A.W.



Pamela Pain

FAVORITES

Welcome

News Feed

Messages

Events

Find Friends

APPS

My Calendar 1

Apps and Games 3

Photos

Music

Notes

FRIENDS

Close Friends

Update Status Add Photo / Video Ask Question

What's on your mind?

SORT



Pamela Pain shared a photo.



Unbelievable!!!!!!

Look at my CAR!!! I was just driving along when this jerk Daniel Dean pulled in front of me. I was texting someone, but it's still his fault. I told my lawyer, Ms. L.A.W., who said, "no problem, the jury will like us and make him pay BIG!"

Share



**“I was texting someone, but it’s still his fault. I told my lawyer, Ms. L.A.W., who said, ‘no problem, the jury will like us and make him pay BIG!’ ” Pamela Pain**

“no problem, the jury will like us and make him pay BIG!”

Share

# ATTORNEY- CLIENT PRIVILEGE

- 1. In light of the disclaimer on the website, is Pamela Pain's inquiry through the contact icon open to discovery in her lawsuit against Daniel Dean?**
- 2. Is Ms. L.A.W.'s e-mail response to Pamela Pain open to discovery because she and the law firm have not entered into a retainer agreement?**

# ATTORNEY- CLIENT PRIVILEGE

INN OF COURT

- 3. If the inquiry and response between Pamela Pain and Ms. L.A.W. would otherwise be entitled to confidentiality protection, is that protection waived by Pamela's Facebook posting?**



# Trial Tactics Discussion Group

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Start a: [Discussion](#) [Poll](#)

Start a discussion or share something with the group...





## Trial Tactics Discussion Group



Ms. L.A.W.

### Distracted Driving Issue -- HELP!!!

If my PI client was texting when the auto accident happened, how do I address that at trial? Ms. L.A.W.



 Like

 Comment

 Flag ▾

More





## Trial Tactics Discussion Group



Eddie Phibbs, Esq.

### Distracted Driving Issue -- HELP!!!

Is it possible your client “happened” to be texting her sick mother? Jurors will believe ANYTHING, eh? lol ;)



 Like

 Comment

 Flag ▾

More



# SHARED WORK PRODUCT & COMMON INTEREST DOCTRINE

INN OF COURT

- 4. Did Ms. L.A.W. violate her duty of confidentiality by sharing tactical information on the Trial Tactics Discussion Group forum in LinkedIn?**
- 5. Is this shared information entitled to work product protection?**

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