

Social Media Guide



for Lawyers
v. 3.0

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INTRODUCTION

In the first edition of the *Social Media Guide for Lawyers*, the 2010-2011 Leadership Institute proclaimed that “the world is changing.” Nothing could have been closer to the truth. Over the last five years, hundreds of thousands of lawyers have flocked to LinkedIn, Twitter and Facebook to develop personal and professional profiles to connect with family, friends and colleagues. Now, lawyers and law firms are increasingly turning to social media for marketing and business development. In doing so, the question is no longer *whether* lawyers and law firms should use social media to promote their practice but *how* it can be done effectively while avoiding serious ethical pitfalls with lawyer advertising. The world has indeed changed.

The first edition of the *Guide* featured a “Best Practices Guide” on how law firms and individual lawyers could use social media to add value and generate business. The *Guide* also provided step-by-step instructions for effectively using the “Big Three”—LinkedIn, Facebook, and Twitter. Basically, that first edition served as “Social Media 101,” providing a foundation for those just diving into the social media pool.

With the second edition, Heather Melick of the 2010-2011 Leadership Institute and I elevated Meritas to the next level of social media use by showing lawyers and law firms how to harness social media to their advantage by integrating “traditional” media with these new technologies to further expand visibility and exposure. The second edition is largely incorporated into this *Guide* with significant updates, new features, and effective tips on how to take advantage of the current features offered on social media.

In this third edition, I address the primary reason why lawyers and law firms have yet to fully embrace social media for marketing: the uncertainty surrounding how the advertising ethics rules apply to social media. While advertising rules generally govern the message, not the medium, many lawyers and law firms are still uncertain about how the lawyer advertising rules apply to social media and how they can use these marketing tools safely. The *Guide* will empower lawyers and law firms to use social media safely by summarizing the applicable advertising rules, explaining how the advertising rules apply to a lawyer’s personal and professional social media use, and providing examples of actual social media profiles to assist Meritas lawyers. Armed with this information, lawyers can connect with confidence, develop their professional online presence, and effectively use social media to generate business.

I hope you enjoy the *Social Media Guide for Lawyers v. 3.0*.

Ethan Wall, Social Media Law and Order
Member of the 2010-2011 Leadership Institute

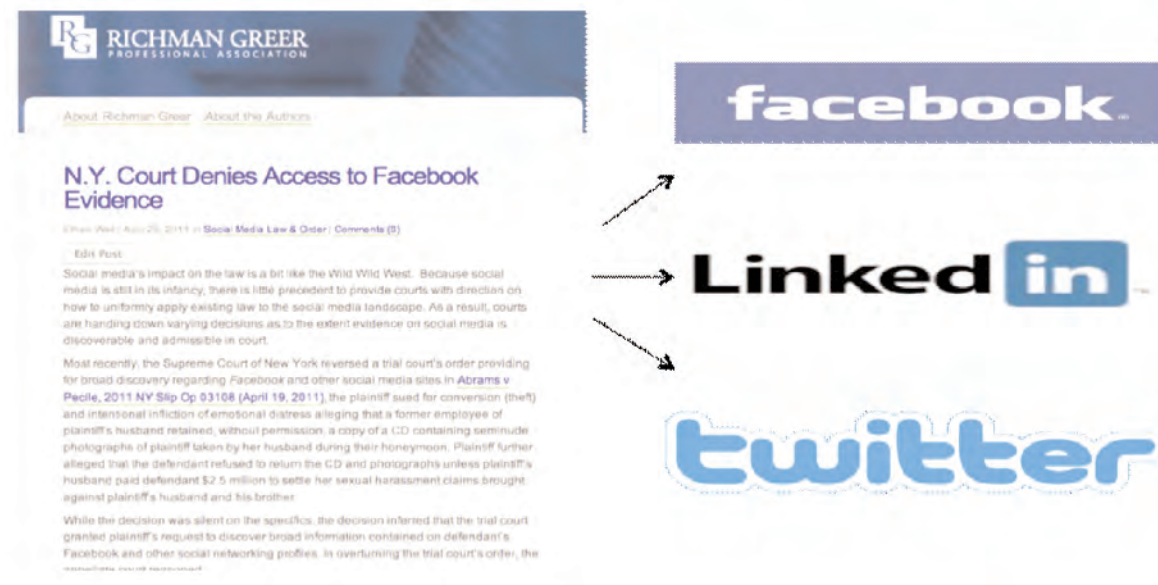
How To Effectively Use Social Media for Marketing



INTEGRATING SOCIAL MEDIA WITH TRADITIONAL MARKETING

Once a lawyer becomes familiar with how to use social media, the next step is to learn how to use these technologies effectively for marketing. Traditional online marketing activities such as law firm websites, email newsletters, and blogs are an effective and accepted way of promoting one's practice. While most lawyers and law firms are comfortable with these existing online marketing activities, they are much less comfortable with interacting on online social networks. Therefore, an incredibly effective strategy is for the lawyer to share their existing marketing materials with their robust online audience on social media.

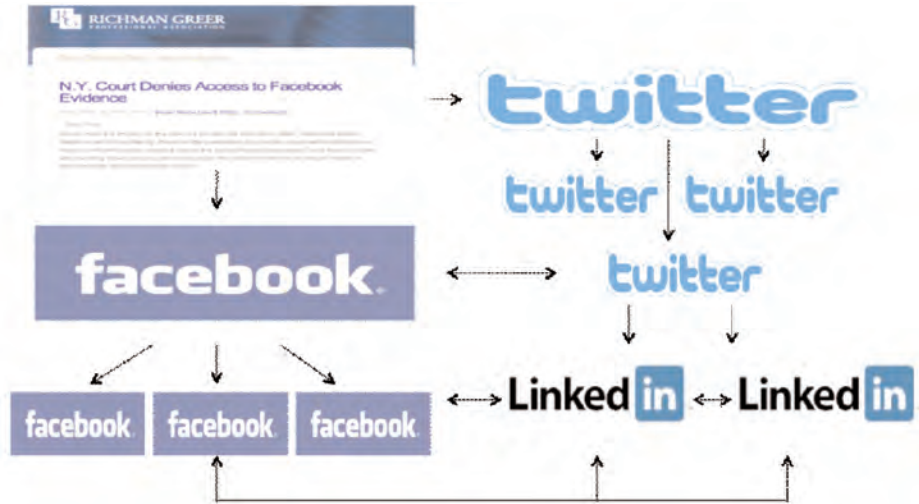
Publicizing a law firm's "traditional" online marketing materials on social media is a powerful method to remain on the radar screen of potential clients and referral sources. A lawyer who shares news, case updates, articles, achievements, and blogs with social media's vast online community create greater exposure for themselves and their law firm. They can use this opportunity to link their social media content back to the law firm's website, where they are more comfortable promoting themselves and their practice areas. By sharing traditional online marketing activities on social media, lawyers and law firms can comfortably engage with a wider online audience while at the same time directing that audience back to their existing marketing platforms.



This section will demonstrate how lawyers and law firms can quickly and easily share their content on LinkedIn, Facebook, and Twitter. While the examples will describe how blogs can be shared on social media, a lawyer can replicate these methods to share any type of existing marketing material.

SHARING CONTENT ON SOCIAL MEDIA

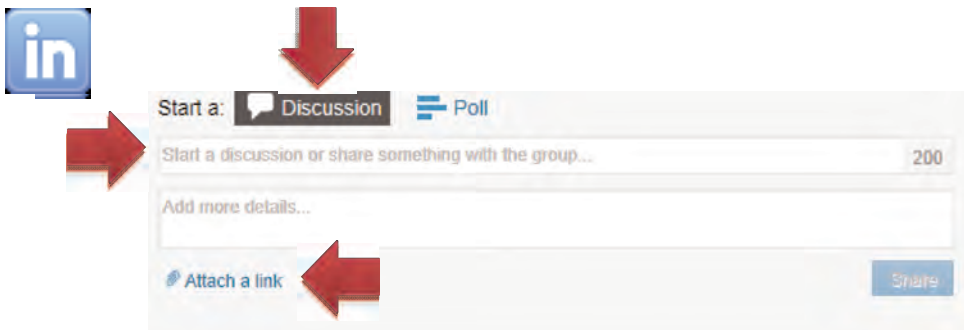
Blogs, articles, speaking engagements, and white papers allow a lawyer to develop in-depth analyses of legal issues to educate their client base and demonstrate knowledge on a particular subject or area of the law. Social media increases the exposure for this “traditional” marketing content by allowing the lawyer to quickly and easily disseminate it to a broad online audience. Once the content is uploaded or “linked” on social media, other social media users can instantly interact and share the lawyer’s content across the Internet.



Share Content in LinkedIn Groups

One effective way to engage potential clients is to share the law firm’s content within a LinkedIn Group that is interested in the content’s subject matter. A lawyer should search for LinkedIn Groups that have members who could become potential clients or referral sources, share their marketing content, and engage with other members.

1. To share content with a LinkedIn Group, go to **Start a Discussion**.
2. Insert the name of the blog article or an engaging heading in the Start a Discussion box. This heading must be 200 characters or less.
3. The lawyer can then add additional information below the Start a Discussion box.



- To attach a link to a law firm’s blog, website, email newsletter, or other content, select **Attach a link**.

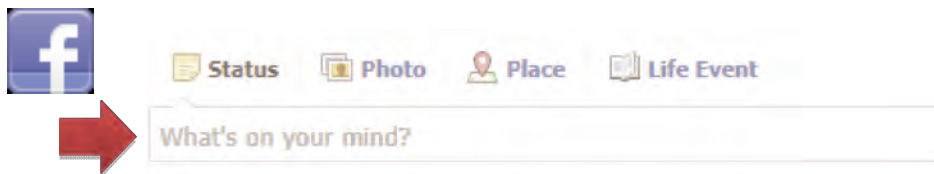
To share the comment with the Group, select **Share**. Here is an example of a recently linked Meritas article.

- Other group members can continue the discussion by “liking” or commenting below the post. The lawyer should promptly reply to all comments and also consider commenting and “liking” other member’s content to develop awareness and relationships.

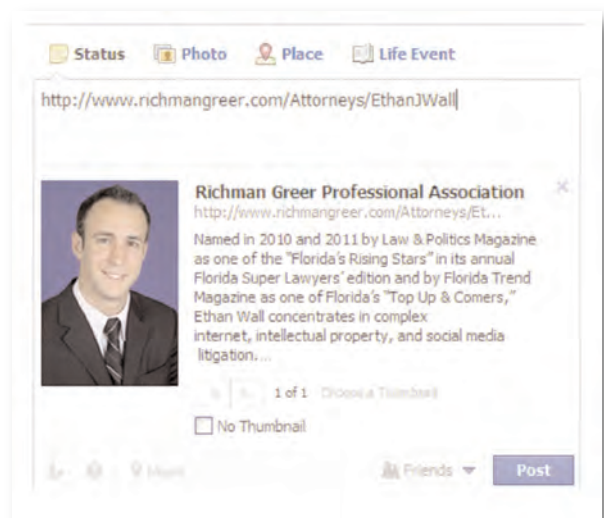


Share Content on Facebook

- Copy the Internet URL link of the blog or other content the lawyer would like to share on Facebook.
- Log into the lawyer’s Facebook Profile, and locate the What’s on Your Mind? box below the Status heading.



- Paste the URL link in the “What’s on your mind?” box. Facebook will automatically generate a title and brief description of the lawyer’s linked content or post. Facebook may also generate a thumbnail image from the website.



4. Modify the heading and/or description, if desired, by selecting the text and typing in a new description of the linked content.



5. Select **Share** to upload the link to Facebook. Depending on the lawyer's privacy features, other Facebook users can comment or interact with the linked content.



Share Content on Twitter

1. Copy the Internet URL link of the blog or other content the lawyer would like to share on Twitter.
2. Since tweets are limited to 140 characters, links can be shortened through a website such as <http://tinyurl.com>.
3. Visit <http://tinyurl.com> and paste the Internet URL address into the box marked: “Enter a long URL to make tiny.” Copy the shortened URL provided.
4. Return to Twitter, select **Compose new Tweet** and paste the shortened URL. Describe the lawyer’s blog post or other content in 140 characters or less (including the shortened link).
5. Consider using hashtags (#) to categorize your tweets (i.e., #Meritas or #socialmedialaw).

The example below illustrates how a lawyer’s tweet utilizes a shortened URL address to his Ohio Employer’s Law Blog and a hashtag for workers compensation (#workerscomp).



Conclusion and Next Steps



The *Social Media Guide for Lawyers v. 3.0* should serve as a helpful handbook for lawyers and law firms who want to use social media to more effectively promote their practice. The next steps will depend on each lawyer's personal and professional goals and interests for using social media in his or her career. Meritas recommends the following three steps as a good place to start:

1. Determine the Lawyer's Specific Marketing Goals

Everyone's marketing goals are different. An experienced lawyer will have different goals from first year associates. A lawyer interested in research and writing will have different marketing goals than those who are passionate about public speaking and in-person networking groups. A law firm will have aligned, but slightly different goals from their lawyers. Figuring out the specific marketing goals for the lawyers and law firm will help determine how social media can be used effectively for marketing.

2. Determine the Most Effective Social Media Strategies to Accomplish Those Goals

Just as there is no one-size-fits-all approach to legal marketing, there is also no one social media platform or strategy that will accomplish everyone's marketing goals. Each lawyer's social media marketing strategy should take into account which social media sites they currently use, consider how each site can benefit them or their law firm, and then design a strategy that most effectively accomplishes their marketing goals. For example, if a lawyer's goal is to target members of a specific industry, the lawyer could accomplish that goal more effectively by joining a LinkedIn Group tailored to that industry instead of sharing industry related information to the lawyer's personal Facebook friends. On the other hand, a lawyer who wishes to educate their personal network about how they can help in family law matters may be better served sharing information to their friends on Facebook.

3. Still Need Help? Don't Be Afraid to Ask

Not everyone is a social media-marketing expert. The lawyer should seek assistance from their marketing director or a social media-marketing consultants to help them develop the right strategy for their goals. Marketing professionals experienced in both social media and the law will help a lawyer and law firm understand how social media marketing strategies can be implemented effectively within the practice of law in a manner that complies with advertising ethics rules. If the lawyer has any questions about the *Guide*, or how they can incorporate social media into their practice, they are welcome to contact the author listed on the following page. The author can serve as a helpful social media resource and is available for speaking engagements and social media training sessions.

See you on social media!

ACKNOWLEDGMENTS

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Ethan Wall is the founder of Social Media Law and Order where he pursues his passion for educating, consulting, and training lawyers and law firms on all areas of social media. Ethan previously practiced social media, Internet, and intellectual property law at a former Meritas affiliate in Miami, Florida. After serving on the Meritas Leadership Institute, and co-authoring the prior versions of the Social Media Guide, Ethan quickly became widely recognized as an authority on the effect of social media on the law. He has since authored three books including *Fire over Facebook: A Primer on Protected Social Media Activity in the Workplace* and *Best Practice Guide for Managing Employee Social Media Use*. Ethan also developed the Social Media Law and Order blog to chronicle the effect of Facebook, Twitter, and other social media on the law. High profile news organizations, including CNN, NPR, and Thomson Reuters have turned to Ethan for commentaries on social media legal issues.

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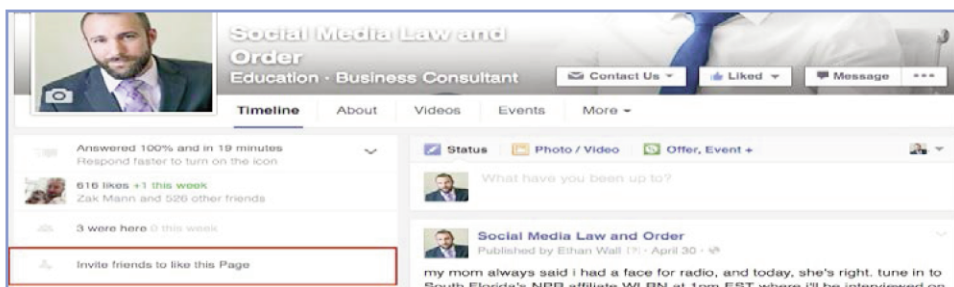
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Ethan also pursues his dream to leave the world better than how he found it through a charitable initiative called Let's Plant a Seed. He delivers motivational speeches, workshops and programs designed to help people identify their dreams, inspire them to pursue their passions, and encourage them to give back to the world in a lasting way through community service. Ethan regularly volunteers and schedules community service events in South Florida and in locations where he speaks, consults and trains.



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Note: A lawyer may invite other lawyers, current and past clients, and family members.

Prohibitions Against Deceptive and Misleading Statements

A lawyer cannot make deceptive or inherently misleading communications about themselves or services offered. The following statements are designed to serve as examples of the distinction between permitted and prohibited posts.

Misleading and Deceptive Statements

A social media post will be considered misleading when it contains:

- ✓ Factually or legally inaccurate materials statements;
- ✓ Material omissions; or
- ✓ Implications of material nonexistent facts.

Predictions of Success

The following predictions of success may be considered deceptive and misleading:

- ✓ I will save your home.
- ✓ I can save your home.
- ✓ I will get you money for your injuries.
- ✓ I will get you acquitted of your criminal charges.

General Statements Regarding the Legal Process

The following statements regarding the legal process that are not directed at a specific result are generally permissible:

- ✓ I will protect your rights.
- ✓ I will prepare my clients to handle cross-examination.
- ✓ When the government takes your property through eminent domain, the government must provide you with compensation for your property.

Aspirational Statements are Generally Permissible

The following aspirational statements are generally permissible as they describe goals that a lawyer or law firm will try to meet:

- ✓ My goal is to achieve the best possible result in your case.
- ✓ My law firm's mission is to work hard for homeowners.
- ✓ If you've been injured through no fault of your own, I am dedicated to recovering damages on your behalf.

How to Modify Prohibited Statements into Permitted Posts

A lawyer can prevent social media posts from running afoul with the rules prohibiting deceptive and misleading statements by using modifying language such as “try,” “pursue,” “may,” “seek,” “might,” “could,” and “designed to.” Here are two examples:

Prohibited Post 1: I will get you acquitted of the pending charges.

Permitted Modification: I will pursue an acquittal of your pending charges.

Explanation: In the first social media post, the lawyer promises a specific legal result. In contrast, in the second post the lawyer does not promise a specific a legal result but merely conveys that the lawyer will try to obtain an acquittal on behalf of the prospective client.

Prohibited Post 2: My law firm will stop your foreclosure.

Permitted Modification: My law firm is committed to protecting your home.

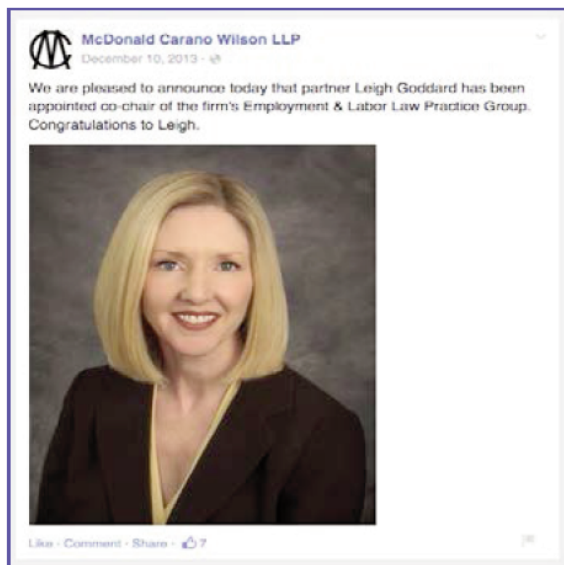
Explanation: In the first social media post, the lawyer promises that the law firm will achieve a specific legal result. In the second post, the lawyer makes an aspirational statement of the general goal the law firm will try to achieve.

Social Media Posts Must be Objectively Verifiable

Statements characterizing a lawyer's skills, experience, reputation, or record are permitted so long as they are objectively verifiable. Objectively verifiable statements are those statements that can be proven true through empirical data, evidence, or observation. The author of the social media post bears the responsibility of demonstrating that the statements contained therein are objectively verifiable. Consider the following examples:

Objectively Verifiable Post

This post is objectively verifiable as it is capable of being proven true through empirical data.



The author could offer a press release, webpage on the law firm's website, or other evidence to demonstrate that the lawyer was appointed co-chair of the law firm's Employment & Labor Law Practice Group.

Examples of objectively verifiable social media posts include:

- ✓ I have defended the three largest hospitals in this county this year.
- ✓ I have personally handled more appeals before the First District Court of Appeal than any other lawyer in my circuit.

Statements of a character trait or personal attribute are not statements that characterize skills, experience, or record and therefore are not objectively verifiable. These statements include ones where the lawyer states the lawyer is:

- | | |
|---------------|----------------|
| ✓ aggressive | ✓ intelligent |
| ✓ creative | ✓ honest |
| ✓ trustworthy | ✓ hard working |

Statements that the lawyer works for a law firm that is the largest in a specified geographic area, or is the only law firm in a specified geographic area that devotes its services to a particular field of practice are permissible if they are true, because they are comparisons capable of being factually substantiated.

- ✓ Our law firm is the largest law firm in this city that practices exclusively labor law.

Not Objectively Verifiable

While empirical data can prove that the lawyer has joined the law firm's Government Affairs Group, other statements in this post may not be objectively verifiable.



For example, the author may experience difficulty proving the lawyer brings “tremendous experience, reputation, and ethics” as there is no objective measure of “tremendous experience, reputation, and ethics.” The author is also not clear whether the experience and reputation the lawyer brings to the law firm is in government affairs.

Descriptive statements as “the best,” “second to none,” or “the finest” are generally not objectively verifiable and are therefore likely to mislead prospective clients as to the quality of the legal services offered.

Examples of social media posts that may not be objectively verifiable include:

- ✓ We have the finest bankruptcy practice in the city.
- ✓ I am the best personal injury lawyer to handle your case.
- ✓ Our law firm employs the most effective strategies and cutting-edge techniques to obtain the best possible result in your case.

Sharing Past Results on Social Media

Social media posts about results obtained on behalf of a client, such as the amount of a jury award or the lawyer's record in obtaining favorable verdicts, are only allowed if the lawyer obtains the client's permission and the results are objectively verifiable and not misleading.

Misleading Posts About Past Results are Prohibited

Social media posts about past results that may be misleading include:

- ✓ A result that omits pertinent information, such as failing to disclose that a specific judgment was uncontested or obtained by default.
- ✓ A result that fails to disclose the judgment obtained was far short of the client's actual damages.
- ✓ A result that is not typical of persons under similar circumstances.

Such information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances.

Posts About Past Results Must be Objectively Verifiable

Objectively verifiable posts about past results can be proven true through empirical data, evidence, or observation. The following examples can be proven through evidence:

- ✓ I have obtained acquittals in all charges in four criminal defense cases.
- ✓ Our law firm obtained a one million dollar judgment for an injured client.

Past Results that May Not Be Objectively Verifiable

The following general statements may not be objectively verifiable:

- ✓ I have successfully represented clients charged with violating the law.

In a criminal law context, the lawyer may interpret the word “successful” to mean a conviction to a lesser charge or a lower sentence, while a prospective client likely would interpret the word “successful” to mean a complete acquittal of all charges.

- ✓ I have won numerous appellate cases.

An appellate lawyer may interpret the word “won” to mean that one of several appellate issues in the case was remanded for further proceedings, where a prospective client would interpret the word “won” to mean that the lawyer obtained a final decision in favor of the client following an appeal.

Requirements for Testimonials on Social Media

A testimonial is a personal statement, affirmation, or endorsement by any person other than the advertising lawyer or a member of the advertising lawyer’s law firm regarding the quality of the lawyer’s services or the results obtained through the representation. Clients as consumers are well-qualified to opine on matters such as courtesy, promptness, efficiency, and professional demeanor. Testimonials by clients on these matters, as long as they are truthful and are based on the actual experience of the person giving the testimonial, are beneficial to prospective clients and are permissible.

Testimonials must include the following requirements:

- ✓ The person making the testimonial must be qualified to evaluate the lawyer.
- ✓ The testimonial must be the actual experience of the person making the testimonial.
- ✓ The information provided by the testimonial must be representative of what clients of the lawyer or law firm generally experience.
- ✓ The lawyer may not write or draft the testimonial.
- ✓ The person making the testimonial may receive nothing of value in exchange for the testimonial.
- ✓ If the testimonial contains information about results obtained, the advertisement must contain a prominent disclaimer that prospective clients may not obtain the same or similar results.

Specific Types of Testimonials on Social Media

Testimonials may appear on social media in a variety of ways, both formally and informally. It is important for the lawyer to understand where testimonials may be posted to ensure that they do not knowingly allow an improper testimonial to remain on their personal social media profiles.

Facebook

Testimonials may appear on the lawyer's Timeline as a result of a client's status update or on the "review" section of the law firm's Timeline. The review section allows clients to give the law firm a rating between 1-5 stars and make testimonials about the law firm and its individual lawyers.

Note:

A testimonial left by a former client or colleague on a law firm's review section.



Twitter

Testimonials may appear in a former client's tweet about the lawyer or law firm. The former client may "mention" the individual lawyer on Twitter by including their Twitter handle in the tweet. The testimonial may appear on the individual lawyer's Twitter profile if the lawyer "retweets" the testimonial.

Note:

A client can mention a lawyer by inputting their twitter handle after the "@" sign.



LinkedIn

Testimonials may appear in the "recommendations" section of the lawyer's profile, by way of endorsing the lawyer for a particular skill, or in the form of a client's update where the lawyer is mentioned. The most typical place a lawyer will find a testimonial on their LinkedIn profile would be in the recommendations section.

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