

CAUTIONARY TALES

A small, semi-transparent speaker icon is positioned over the letter 'A' in the word 'CAUTIONARY'.

The Perils and Profits of Social Media
Judge Gayle Williams-Byers South Euclid Municipal Court



Learning Objectives

- Become more familiar with the basics of social media
- How to use Social Media to our benefit
- Recognize and avoid “social media minefields” and pitfalls



COMMON SOCIAL MEDIA PLATFORMS

Social Networking



Blogs and Microblogs



Blog Search Engines



Bookmarking Sites



THERE IS NO ANONYMITY



Users of social media

- * Facebook: 1.4 Billion users
- * Google+: 300 million users
- * Instagram: 400 million users
- * LinkedIn: 300 million users
- * MySpace: 50.6 million users
- * Snapchat: 100 million users
- * Twitter: 320 million users
- * Youtube: Over 1 billion users



BENEFICIAL USES OF SOCIAL MEDIA BY JUDGES

- * Education
- * Public Outreach and
Transparency
- * Court Communications





Facebook is a popular free social networking website that allows registered users to create profiles, upload photos and video, send messages and keep in touch with friends, family and colleagues.

Facebook statistics

Facebook adds 500,000 new users every day; [6 new profiles every second](#)

[72%](#) of all online adults visit Facebook at least once a month

The average (mean) [number of friends is 338](#), and the median (midpoint) number of friends is 200

Half of internet users who do not use Facebook themselves [live with someone who does](#)

Of those, [24%](#) say that they look at posts or photos on that person's account





Houston

**Defense attorney succeeds with motion to
have jurist recused in Galveston County
criminal case**

Galveston County judge who posted
information about a criminal trial she was
hearing on her Facebook page has been
removed from the case.



Social media murkiness

- * **Galveston judge cleared of wrongdoing in Facebook posts**
- * **But panel notes official's use of social media is murky territory where care is needed**





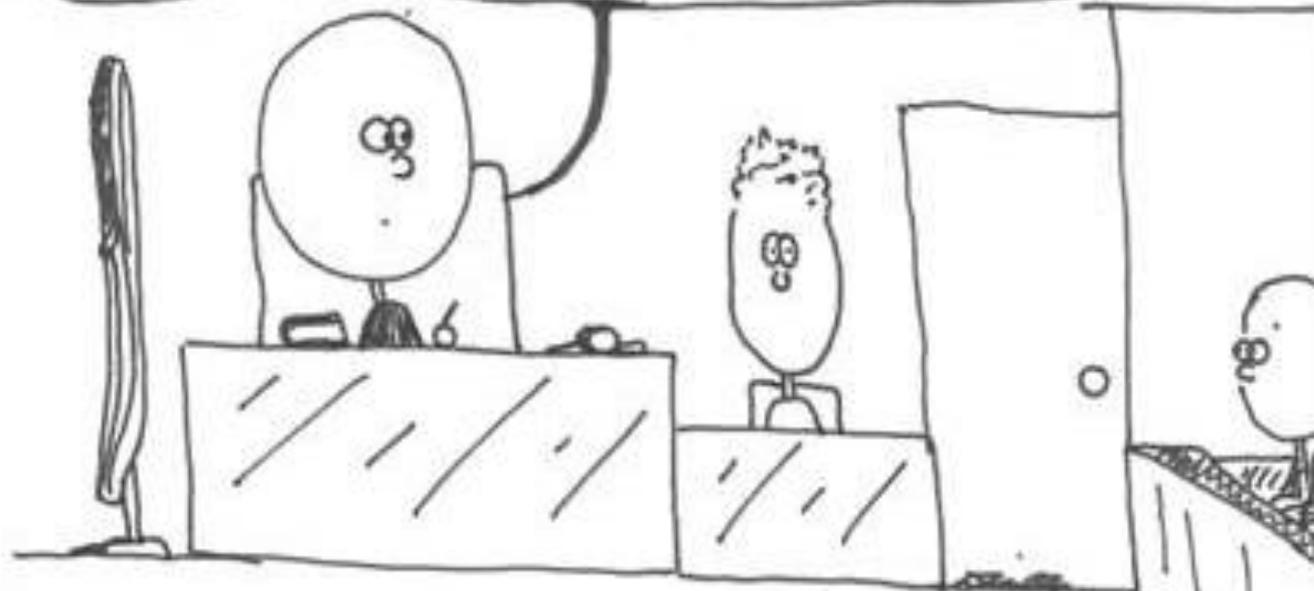
Twitter is an online social networking service that enables users to send and read short 140-character messages called "tweets."

Often containing A hashtag: a type of label or metadata tag used on these platforms to make it easier for users to find messages with a specific theme or content.

- [500 million people](#) visit Twitter each month without logging in
- There is a total of [1.3 billion accounts](#), but only 320 million are active
- Of those, [44%](#) made an account and left before ever sending a Tweet
- The average Twitter user has [208 followers](#)
- But 391 million accounts have [no followers at all](#)
- There are [500 million Tweets](#) sent each day. That's 6,000 Tweets every second
- Twitter's top 5 markets/countries account for [50% of all Tweets](#)



The jury is also instructed to ignore my Twitter post from last night, which read "OMG he is soooo guilty!!!"



Tweeting: A Cautionary Tale by David Lat

- * *United States v. Sierra Pacific Industries* arises out of the [Moonlight Fire](#), a 2007 wildfire that scorched almost 65,000 acres of California land before its containment. The federal government blamed the fire on Sierra Pacific, a lumber producer that the government accused of negligence in the hiring and supervision of a logging contractor. Sierra Pacific settled with the government, without admitting liability. But now, in the wake of [serious doubts](#) about the propriety of the government's investigation, Sierra Pacific seeks to vacate the settlement, arguing that it was reached as the result of a fraud on the court.
- * Judge [William B. Shubb](#) (E.D. Cal.) denied Sierra Pacific's motion to terminate the settlement. Sierra Pacific is now appealing that ruling to the Ninth Circuit. Here's the Twitter issue, raised on page 80 of Sierra Pacific's [opening brief](#) (citations and footnotes omitted):



Quote from Appellate Brief:

“Judge Shubb issued his order denying Defendants’ motion on April 17, 2015, at 2:45 p.m. Over the next two hours, the Sacramento AUSAs used their “[@EDCAnews](#)” Twitter account to broadcast eight congratulatory Tweets concerning Judge Shubb’s order and the case’s merits to their office’s Twitter followers. Defendants have since confirmed that, through his then-public Twitter account, titled “[@nostalgist1](#),” Judge Shubb “followed” [@EDCAnews](#) and thus received those Tweets. The mere existence of social network relationships between a judge and one of the parties appearing before him creates an appearance of bias and raises “significant concern” regarding the risk of ex parte communications. Those concerns materialize when a “followed” party posts Tweets regarding the case’s merits and the judge’s reasoning, which are then directed to the judge in his capacity as a follower.”



. . . Judicial ethics are so often about appearances, not reality . . . **It's the appearance of impropriety you want to guard against, and if social media is about anything, it's about making complicated social relationships look simple.** And just one careless tweet or status update is enough to compromise a whole career.”

~“Tweet Justice,” Dalia Lithwick and Graham Vyse, www.slate.com, posted April 30, 2010 (emphasis added)



* The issue ... is not whether the lawyer *actually* is in a position to influence the judge, but instead whether the proposed conduct, the identification of the lawyer as a ‘friend’ on the social networking site, *conveys the impression* that the lawyer is in a position to influence the judge.



JUSTICE

'Sluts Are Just Whores In Training,' And Other Wisdom Offered By A Sitting Arkansas Judge

BY IAN MILLHISER  MAR 7, 2014 11:05 AM



CREDIT: AP PHOTO/ARKANSAS SECRETARY OF STATE, DANNY HARRIS

Judge Mike Maggio



Share

16,158



Tweet

If you have gay sex, then it is just a "small step" to sex with a dog. "Sluts are just whores in training." Women shouldn't make an "emotional decision to divorce because the husband stepped out" if he was a "good provider." And, whatever you do, don't go to Disney World during "gay/lesbian week."

Thinkprogress.org/justice/2014/03/07/3376181/sluts-are-just-whores-in-training-and-other-wisdom-offered-by-a-sitting-Arkansas-judge/



- * Even though a judicial officer may post a blog on the internet, **caution should be exercised** as to how that blog is used and comments responded to in order to make sure that the **judicial officer's impartiality is not called into question or the action does not impair the judicial officer's ability to decide impartiality** issues that come before the judicial officer.



Front Page Test



Your photo
here.

(Embarrassing
text below.)





TO DO:

- * How to use technology properly
- * Communicate about the court, administrative procedures
- * Communicate about professional issues about the judge
- * Monitor social media use by lawyers, jurors, and parties to ensure fair trials
- * Disclose relationships (such as Facebook “friends”)
- * Develop a social media policy for your workplace



What judges need to know

NOT to DO:

- * NO use of court resources for personal use or purposes
- * Do not blog, post or comment on cases before the court
- * NO ex parte (one sided) communication with lawyers, parties or jurors
- * NO independent research or investigation of cases using social media – or otherwise
- * NO posting/blogging inappropriate comments

