



# E&O Edge

## Lawyers Professional Liability Best practices for electronic communications

In our internet age, we are bombarded with new technology and may tend to take internet use for granted, assuming that “everyone knows the rules”. However, we’ve also all seen lawsuits arise out of internet platforms. Every time a law firm reaches out to the public, the same caution must be exercised, no matter the venue.

If you maintain a website, be sure to include adequate and easily-found disclaimers, addressing the following:

- The site is not intended to be legal advice
- Contacting the firm or reading the materials on the site does not create an attorney-client relationship
- No confidential information should be sent over the internet
- Past results do not predict future outcomes as each case has to stand on its own. This is especially important if you provide outcomes of past cases or testimonials.

### Some further considerations

- State where you are licensed to practice law so as to not appear to solicit engagements in states where you are not licensed
- Consider requiring acceptance of the disclaimer before the user can send any email through the website
- Include the disclaimer (or a link to the disclaimer) on every page, not only your home page
- Maintain copies of all website text, including the disclaimer, noting the dates that the text appeared on the site

### Social media

- Maintain a professional, fact-based approach to the content
- Don’t discuss any of your specific cases, even in generalities as you might inadvertently reveal confidences

Remember that your comments in blogs and on sites such as Facebook and Twitter, can create a cause of action against you. You do not want to create an attorney-client relationship. In most jurisdictions a reasonable subjective belief of the “client” that you are their counsel is all that is required. Also be especially aware of potential defamation claims. Keep personal opinions about others in the legal or local community out of any postings. Finally, don’t forget that in the virtual world you may not really know who you are talking to or who is watching. Opposing counsel or the judge who is hearing your case can be lurking anywhere.

For a more in-depth look at these issues, please go to [www.lawyerinlaw.com](http://www.lawyerinlaw.com). There you will find an article titled, “Risks Involved in Electronic Communications”. If you would like more information about the service or need the access code, please contact your broker or agent.

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