



Feature

Personal Isn't Private: Advice for New Lawyers in the New Millennium

By Carey Bertolet

I sat in the passenger seat as the partner I worked for drove us to the courthouse to start a trial. He was rudely cut off while pulling into the parking lot. To my amazement, this partner smiled and waved the driver along, and we continued on our way. He explained to me that although he might normally honk, swear, or raise a middle finger, there was at least a small chance that the person who cut him off was going to be seated on the jury for our case. The trial, apparently, had already started.



I learned this lesson in judgment and self-awareness 10 years ago. For a newly minted attorney who had spent most of her adult life on a university campus, it was an important one: "Your professionalism and decorum may be judged outside of the office.

The behavior you project to the world, even during your off hours, can influence your professional reputation."

As a junior-level lawyer, you may not yet know a colleague or law school buddy who has embarrassed himself or herself outside of the office, but you will. In fact, lawyers today face far greater risk of embarrassment than I did a decade ago while driving to the courthouse. The Internet has provided a new stage for buffoonery.

We'll start with the basics. Many lawyers believe that once they leave the office, their time is sacrosanct. One must never confuse personal time with private time, however. Recently, a lawyer friend of mine began dating someone from his office. Assuming they were cloaked in the anonymity of New York City, they walked hand in hand on their way to dinner. A partner from their firm saw them. While they were quietly dating each other outside of the office, their discrete conduct was still on display to at least one member of the firm.

New York has a population exceeding 8 million people, which makes it easy to assume you can disappear into the crowd, but there is nothing unusual about this story. It is not uncommon to see fellow associates, partners, and even clients outside of the office simply by chance. Young associates may want to consider whether their conduct outside of the office would embarrass them if it found an unexpected audience. The partner who saw the couple together protected their secret (interoffice dating was clearly frowned upon), but it could have jeopardized their jobs.

I am not suggesting that Big Brother is watching. But he probably uses the same dry cleaner.

This story demonstrates the subtle distinction between personal and private that law firm associates should learn to make. Everyone is entitled to a personal life, but it's important to be aware that your personal life isn't necessarily private.

This concept was driven home to me in the early years of my practice. After waking up on a Sunday morning, I threw on a baseball cap and t-shirt. Disheveled and dirty, I headed out to grab a cup of coffee. At the coffee shop, I ran right into a judge before whom I had a pending case. Luckily, I recognized him before he recognized me and turned on my heels. Would meeting him in this state have destroyed my career? No, but it does illustrate how one's personal and public personae can collide in public spaces.

The difference for young lawyers today, in my opinion, is that the audience for a lawyer's behavior is far larger than a judge at the coffee shop or a juror in the parking lot. With many young people maintaining blogs, creating MySpace pages, or uploading their personal photos on Flickr, personal lives are growing increasingly public.

Because modern technology so effectively broadcasts personal details to everyone with an Internet connection, the distinction between personal and private is fuzzier than ever. In addition to making out-of-the-office conduct more susceptible to review, it creates a record of conduct that a lawyer may never escape.

The Internet has the power to transform you from unknown to notorious. The American Heritage Dictionary defines notorious as "[k]nown widely and usually unfavorably; infamous." We've all heard stories about how a hastily written email forwarded on (and then on again) can live in infamy. Most of us do not seek out notoriety, but some have certainly found it.



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The “Bla” Heard Round the World

Consider the story of Dianna Abdala. I personally received forwarded copies of her now-infamous email exchange with a potential employer in February of 2006. I continued to receive forwards of the tête-à-tête repeatedly over the next several days. Not one week later, the story was picked up by major news sources, including CNN.

For the uninitiated, Dianna Abdala apparently received, accepted, and then declined an offer for legal employment in early February 2006. Her (previous) potential future employer took issue with her conduct. The correspondence back and forth ultimately ended with Abdala’s response of “bla bla bla.” I won’t comment on the conduct displayed in the now-ubiquitous row. The lesson is clear. If you don’t want your conduct to be a topic of conversation, it shouldn’t be memorialized electronically.

I Googled “Dianna Abdala” while conducting research for this article, and her name yielded a staggering number of hits. The majority of these hits included a complete blow-by-blow of the entire email exchange. I stopped looking at references to “Dianna Abdala” after viewing 17 pages of hits (10 per page), mostly because I started to encounter foreign-language sites covering the story, and frankly, it was exhausting. Suffice it to say, this bell will never be unring.

In this example, a lawyer’s professional conduct broadcast (literally) worldwide drew a much bigger spotlight than I suspect anyone could ever have imagined upon pushing the “send” button after composing an email. Although this conduct was directly related to her career, Dianna Abdala’s situation can easily be compared to the situations of people who have sent emails in entirely personal contexts that ended up affecting them professionally.

“You Ate the Food, You Drank the Wine...”

In July 2006, emails began circulating and blogs began buzzing about the story of a New York City man who went on a date with a woman he had met through a popular online dating service. Having failed to secure a second date with this woman—so goes the story—the gentleman sent email and voicemail messages asking her to pay for half of the dinner bill.

Cyberspace was quickly riddled with accounts of the date’s aftermath, including forwards of the email exchange and audio

files of the gentleman’s voicemail messages. In late July, The Washington Post ran a story called “A Date That Will Live in Infamy” by Gene Weingarten recounting the story and how records of this gentleman’s conduct had been forwarded again and again. And again.

The article, suggesting that it will be difficult for this man to date again, quotes one of the suitor’s emails imploring his date to refund him for half the cost of the meal: “You ate the food, you drank the wine, do the right thing.” While The Post did not identify the last name of the now-notorious online dater, a Google search reveals that many blogs have. The forwards of the original email included his full name, as well.

There is no question in my mind that had this happened to an associate at a law firm, the partnership of his firm would have become aware of the story. Setting aside whether the suitor’s conduct was appropriate, the lesson remains. What you do in your personal life, especially when documented in an email, may not remain private. A lapse in judgment, when documented in an email, may be forwarded for so long and so far that it will forever be attached to your name.

“Without the Creative Outlet of a Blog, I Might Go Nuts.”

For many lawyers, especially junior associates in law firms, professional life is hard enough without becoming paranoid that every misstep will be broadcast around the state bar. However, for a lawyer, being savvy about what you project into the world is always a good idea.

A lawyer friend of mine is navigating the first few years of practice in large-firm life. She also maintains a witty, entertaining, and very personal blog. She told me, “I write anonymously; I use a hosting service that lets me remain invisible to search engines. I write about my life, my travels, the strange things I see going on around me. I often fictionalize a lot of the details.”

Even though she takes these precautions, she recognizes that her blog might be read by someone she works with or for. “I am always conscious of the fact that, fair or not, everything I say and do has suddenly become fair game for my employer—or even my clients—to use to form an opinion about me.”

As law students transition into lawyers, it is worthwhile for them to spend some time considering how their personal lives might infect their professional lives. While the upper ranks may have been slow to catch on to the phenomenon of online



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communities such as MySpace, lawyers should assume that their employers or potential employers will carefully search for online conduct unbecoming a lawyer. Discretion and judgment are as important as ever, and with the audience for one's

personal life growing exponentially larger, the stakes are getting higher.

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