

July 2017



NCSC
National Center for State Courts
Center for Judicial Ethics

Social Media and Judicial Ethics

Compiled by Cynthia Gray, Director
NCSC Center for Judicial Ethics
www.ncsc.org/cje

**See also “Social media and judicial ethics: Part 1”
Judicial Conduct Reporter (spring 2017) (<http://tinyurl.com/y99relfw>)**

- [Citations to judicial ethics advisory opinions on social media](#)
- [Code of conduct provisions referencing social media](#)
- [Judicial discipline cases involving social media](#)
- [Judicial campaigns and social media](#)
- [Judicial disqualification cases involving social media](#)
- [Other authority](#)

Citations to judicial ethics advisory opinions on social media

Arizona Advisory Opinion 2014-1
(http://www.azcourts.gov/LinkClick.aspx?fileticket=zNRP1_I8sck%3d&portalid=137)

California Judges’ Association Advisory Opinion 66 (2010)
(<http://www.caljudges.org/files/pdf/Opinion%2066FinalShort.pdf>)

Connecticut Informal Opinion 2013-6 (<http://jud.ct.gov/Committees/ethics/sum/2013-06.htm>)

Florida Advisory Opinion 2009-20
(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2009/2009-20.html>)

Florida Advisory Opinion 2010-6

<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2010/2010-06.html>)

Florida Advisory Opinion 2012-12

<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2012/2012-12.html>)

Kentucky Advisory Opinion JE-119 (2010)

[http://courts.ky.gov/commissionscommittees/JEC/JEC Opinions/JE 119.pdf](http://courts.ky.gov/commissionscommittees/JEC/JEC%20Opinions/JE%20119.pdf))

Maryland Advisory Opinion Request 2012-7 (<http://mdcourts.gov/ethics/pdfs/2012-07.pdf>)

Massachusetts Advisory Opinion 2011-6 (<http://www.mass.gov/courts/sic/cje/2011-6n.html>)

Massachusetts Letter Opinion 2016-1 (<http://www.mass.gov/courts/case-legal-res/ethics-opinions/judicial-ethics-opinions/cje-2016-01.html>)

Massachusetts Letter Opinion 2016-8 (<http://www.mass.gov/courts/case-legal-res/ethics-opinions/judicial-ethics-opinions/committee-on-judicial-ethics-letter-opinions-2016.html>)

Massachusetts Advisory Opinion 2016-9 (<http://www.mass.gov/courts/case-legal-res/ethics-opinions/judicial-ethics-opinions/cje-2016-09.html>)

Missouri Advisory Opinion 186 (2015) (<http://tinyurl.com/gwm3246>)

New Mexico Advisory Opinion Concerning Social Media (2016) ([http://jec.unm.edu/manuals-resources/advisory-opinions/Advisory Opinion Social Media.pdf](http://jec.unm.edu/manuals-resources/advisory-opinions/Advisory%20Opinion%20Social%20Media.pdf))

New York Advisory Opinion 2008-176 (<http://www.nycourts.gov/ip/judicialethics/opinions/08-176.htm>)

New York Advisory Opinion 2013-39 (<http://www.nycourts.gov/ip/judicialethics/opinions/13-39.htm>)

New York Advisory Opinion 2014-5 (<http://www.nycourts.gov/ip/judicialethics/opinions/14-05.htm>)

North Carolina State Bar Formal Ethics Opinion 2014-8

<http://www.ncbar.com/ethics/ethics.asp>)

Ohio Advisory Opinion 2010-7

[http://www.supremecourt.ohio.gov/Boards/BOC/Advisory Opinions/2010/default.asp](http://www.supremecourt.ohio.gov/Boards/BOC/Advisory%20Opinions/2010/default.asp))

Oklahoma Advisory Opinion 2011-3

(<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=464147>)

South Carolina Advisory Opinion 17-2009

(<http://www.judicial.state.sc.us/advisoryOpinions/displayadvopin.cfm?advOpinNo=17-2009>)

Tennessee Advisory Opinion 2012-1

(http://www.tncourts.gov/sites/default/files/docs/advisory_opinion_12-01.pdf)

Utah Informal Advisory Opinion 2012-1 (<http://www.utcourts.gov/resources/ethadv/index.asp>)

U.S. Advisory Opinion 112 (2014)

(<http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/RulesAndPolicies/conduct/Vol02B-Ch02.pdf>)

ABA Formal Opinion 462 (2013)

(http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/formal_opinion_462.authcheckdam.pdf)

Code of conduct provisions referencing social media

- “While judges are not prohibited from participating in online social networks, such as Facebook, Instagram, Snapchat, and the like, they should exercise restraint and caution in doing so. A judge should not identify himself as such, either by words or images, when engaging in commentary or interaction that is not in keeping with the limitations of this Code.” *Idaho Code of Judicial Conduct*, Comment 5, Rule 3.1 (<https://isc.idaho.gov/orders/Idaho Code of Judicial Conduct 7.1.16.pdf>).
- “Judges and judicial candidates are also encouraged to pay extra attention to issues surrounding emerging technology, including those regarding social media, and are urged to exercise extreme caution in its use so as not to violate the Code.” *New Mexico Code of Judicial Conduct*, Preamble, Section B.
- “The same Rules of the Code of Judicial Conduct that govern a judicial officer’s ability to socialize and communicate in person, on paper, or over the telephone also apply to the Internet and social networking sites like Facebook.” *West Virginia Code of Judicial Conduct*, Comment 6, Rule 3.1 (<http://www.courtswv.gov/legal-community/court-rules/Orders/2015/CJC-REVISED-FINAL-Nov-2015.pdf>).

Judicial discipline cases involving social media

Public discipline

Granting a joint motion to resolve charges, the Alabama Court of the Judiciary publicly reprimanded and censured a judge for making public comments about pending contempt proceedings against a lawyer on his Facebook page and in an e-mail sent to all state court judges. *In the Matter of Allred*, Reprimand and Censure (Alabama Court of the Judiciary March 22, 2013) (<http://judicial.alabama.gov/judiciary/COJ42PUBLICREP.pdf>).

Based on an agreement between the judge and the Judicial Inquiry Commission, the Alabama Court of the Judiciary suspended a judge for 6 months without pay for exchanging sexually explicit messages and photos on Facebook, often during office hours and from the offices of the probate court, with a woman whom he had met in his official capacity. *In the Matter of Archer*, Final judgment (Alabama Court of the Judiciary August 8, 2016) (http://judicial.alabama.gov/judiciary/COJ47Complaint_08032016.pdf).

Based on a “report not contested” filed by the Judicial Discipline and Disability Commission, the Arkansas Supreme Court removed a judge from office (1) for, on a public on-line fan-site, posting comments regarding the closed adoption of a famous actress; making inappropriate statements about official duties, pending cases, and independent investigations; and making inappropriate gender, race, and sexually related statements; (2) spoliation of evidence; and (3) involvement in a hot check case in which he was the victim. *Judicial Discipline and Disability Commission v. Maggio*, 440 S.W.3d 333 (Arkansas 2014).

The California Commission on Judicial Performance publicly admonished a judge for (1) posting a statement about a judicial candidate on Facebook with knowing or reckless disregard for the truth of the statement and (2) being Facebook friends with attorneys who were appearing regularly before him in court without disclosing the relationship. *In the Matter Concerning Ferguson*, Public admonishment (California Commission on Judicial Performance May 31, 2017) (<https://cjp.blogs.ca.gov/files/2016/08/Ferguson-D-O-Public-Admon-5-31-17.pdf>).

Based on a stipulation and recommendation of the investigative panel of the Judicial Qualifications Commission, the Florida Supreme Court suspended a judge for 30 days without pay for using social media to seek the assistance of her friends to help her husband, at the time a judicial candidate, correct perceived misstatements of his opponent. *Inquiry Concerning Krause*, 166 So. 3d 176 (Florida 2015).

Based on his consent, the Georgia Judicial Qualifications Commission suspended a judge for 60 days without pay and reprimanded him for, in addition to other misconduct, engaging in a private Facebook chat with a woman who contacted him on behalf of her brother about a DUI matter, advising her how her brother should get the matter to his court where he could handle it, and failing to recuse from the case. *In re Bass*, Public Reprimand (Georgia Judicial

Qualifications Commission March 18, 2013) (<http://www.gajqc.com/news.cfm>).

Accepting a statement of circumstances and conditional agreement for discipline, the Indiana Supreme Court permanently banned a former judge from serving in any judicial capacity for posting an injudicious comment on the Facebook page of the biological father of her twin children, in addition to other injudicious behavior outside of the courtroom, misusing her judicial authority, failing to record guilty plea and sentencing hearings, and failing to cooperate with the Judicial Qualifications Commission. *In the Matter of Bennington*, 24 N.E.3d 958 (Indiana 2015).

Based on the judge's agreement, the Kentucky Judicial Conduct Commission suspended a judge for 90 days without pay for, in addition to other comments, making several comments on Facebook about a victim's impact statement and on his decision to grant probation; publishing comments on Facebook that criticized the county commonwealth's attorney and accused him of advocating for all-white jury panels, discussed a motion to certify the law filed by the Kentucky Attorney General on behalf of the county commonwealth's attorney while the case was pending before the Kentucky Supreme Court, and criticized the public defender and criminal defense attorneys for not publicly supporting him in his dispute with the county commonwealth's attorney. *In re Stevens*, Agreed order of suspension (Kentucky Judicial Conduct Commission August 8, 2016) (http://courts.ky.gov/commissionscommittees/JCC/Documents/Public_Information/AgreedOrderStevens.pdf).

The Minnesota Board on Judicial Standards publicly reprimanded a senior judge for comments he publicly posted on his Facebook page about cases to which he was assigned as a senior judge. *In the Matter of Bearse*, Public reprimand (Minnesota Board on Judicial Standards November 20, 2015) (<http://www.bjs.state.mn.us/file/public-discipline/1517-news-release-and-reprimand.pdf>).

With the consent of the judge and based on the findings of the Commission on Retirement, Removal and Discipline, the Missouri Supreme Court publicly reprimanded a judge for, in addition to other misconduct, Facebook posts that abused the prestige of office and constituted personal participation in fund-raising activities and a Facebook post that was unfairly critical of the integrity of other judges in the circuit. *In re Prewitt*, Order (Missouri Supreme Court November 24, 2015) (<http://tinyurl.com/hgzmqog>).

Granting a petition to accept a stipulation, the New Mexico Supreme Court ordered the permanent retirement of a judge who admitted that he had endorsed candidates for public office on Facebook, after retiring but while designated a pro tempore judge, and continued to endorse candidates on Facebook and post their campaign materials on Facebook after telling the Judicial Standards Commission he would no longer do so. *In the Matter of Romero* (New Mexico Supreme Court February 13, 2015) (<http://www.nmjsc.org/2015/02/13/supreme-court-docket-no-30316-jsc-inquiry-nos-2014-063-and-2014-075/>).

Accepting a stipulation and joint recommendation, the New York State Commission on Judicial Conduct admonished a judge for making improper public comments on her Facebook account about a matter pending in another court and failing to delete public comments about the matter made by her court clerk. *In the Matter of Whitmarsh*, Determination (New York State Commission on Judicial Conduct December 28, 2016) (<http://www.cjc.ny.gov/Determinations/W/Whitmarsh.Lisa.J.2016.12.28.DET.pdf>).

The North Carolina Judicial Standards Commission publicly reprimanded a judge for engaging in ex parte communications on Facebook with counsel for a party in a matter being tried before him and being influenced by information he independently gathered by viewing a party's website. *Public Reprimand of Terry* (North Carolina Judicial Standards Commission April 1, 2009) (<http://www.aoc.state.nc.us/www/public/coa/jsc/publicreprimands/jsc08-234.pdf>).

Based on an agreement for discipline by consent, the South Carolina Supreme Court suspended a judge for 6 months without pay for Facebook posts about a case, political matters, and a fund-raiser for a local church. *In the Matter of Johns*, 793 S.E.2d 296 (South Carolina 2016).

The Texas State Commission on Judicial Conduct publicly warned a judge for, in addition to other misconduct, a Facebook post that directed an offensive term to her political opponent. *Public Warning of Wright and Order of Additional Education* (Texas State Commission on Judicial Conduct September 22, 2015) (<http://www.scjc.state.tx.us/pdf/actions/FY2016-PUBSANC.pdf>)

Following a de novo trial, a Texas Special Court of Review dismissed charges that a judge's comments about pending cases on her Facebook page violated the code of judicial conduct. *In re Slaughter*, Opinion (Texas Special Court of Review September 30, 2015) (<http://www.scjc.state.tx.us/caseinfo.asp>).

Based on the judge's resignation and agreement to be disqualified from future judicial service, the Texas State Commission on Judicial Conduct agreed not to pursue disciplinary proceedings against a former judge based on a complaint filed with the Commission alleging that the judge had engaged in inappropriate conduct with regard to messages sent through his Facebook account. *In re Holmes*, Voluntary Agreement to Resign from Judicial Office in Lieu of Disciplinary Action (Texas State Commission on Judicial Conduct June 14, 2013).

Based on the judge's resignation and agreement to be disqualified from judicial service in the state, the Texas State Commission on Judicial Conduct agreed not to pursue further disciplinary proceedings against a judge based on allegations that he had exchanged sexually graphic messages, photos, and videos with a woman while attending a Commission meeting (he was vice chair at the time) and while attending an education conference in his official capacity. *Baker*, Voluntary agreement to resign from judicial office in lieu of disciplinary action (Texas State Commission on Judicial Conduct September 22, 2016).

The Texas State Commission on Judicial Conduct reprimanded a justice of the peace for Facebook posts that promoted the financial interests of a relative and a former judge, in addition to other misconduct. *Public Reprimand of Uresti and Order of Additional Education* (Texas State Commission on Judicial Conduct October 11, 2016) (<http://www.scjc.state.tx.us/media/44877/hon-yolanda-uresti-15-0591-jp-et-al-public-reprimand-order-of-additional-education.pdf>).

The Texas State Commission on Judicial Conduct publicly reprimanded a judge for posting, “Time for a tree and a rope . . .” on Facebook in response to the arrest of an African-American man for the killing of a police officer. *Amended Public Reprimand of Oakley and Order of Additional Education* (Texas State Commission on Judicial Conduct May 8, 2017) (<http://www.scjc.state.tx.us/media/46571/oakleyamendedfinalpubrepoaewebsite.pdf>).

The West Virginia Judicial Investigation Commission admonished a former magistrate for exchanging sexually explicit Facebook messages with a woman who appeared before him in court. *In the Matter of Fowler*, Public admonishment (West Virginia Judicial Investigation Commission March 14, 2014) (<http://tinyurl.com/jc82567>).

Private discipline

The Arizona Commission on Judicial Conduct advised a justice of the peace was advised to refrain from viewing social media postings that could lead to inadvertent ex parte communication and/or acquisition of factual information outside of the record. *Arizona Commission on Judicial Conduct 2016 Annual Report* (<http://www.azcourts.gov/Portals/137/2016%20CJC%20Annual%20Report.pdf>).

The California Commission on Judicial Performance issued a private advisory to a judge for social media activities that created an appearance of impropriety and an appearance of partiality. *California Commission on Judicial Performance 2014 Annual Report* (http://cjp.ca.gov/res/docs/annual_reports/2014_Annual_Report.pdf).

The New Mexico Judicial Standards Commission privately cautioned a judge who, on a social media site, allegedly made public and ex parte comments about a case over which the judge was presiding, including comments about the jury’s verdict. *New Mexico Judicial Standards Commission 2013 Annual Report* (http://www.nmjsc.org/docs/annual_reports/FY13AnnualReport.pdf).

The Texas State Commission on Judicial Conduct privately reprimanded a judge for soliciting public participation in a non-profit’s fund-raising operations through Facebook postings and the corporation’s website and related conduct. *Private Reprimand of a Justice of the Peace* (Texas State Commission on Judicial Conduct April 23, 2013) (<http://www.scjc.state.tx.us/pdf/actions/SummariesPrivateSanctions012714.pdf>).

The Texas State Commission on Judicial Conduct privately warned a judge for active involvement in a charitable fund-raiser that was apparent to the public from numerous entries on a Facebook page, in addition to related conduct. *Private Warning and Order of Additional Education of a Municipal Court Judge* (Texas State Commission on Judicial Conduct August 23, 2012) (<http://www.scjc.state.tx.us/pdf/actions/SummariesPrivateSanctions012714.pdf>).

Judicial campaigns and social media

- Judicial ethics advisory opinions and discipline decisions about judicial campaign and social media are comprehensively discussed on a blog post at <https://ncscjudicialethicsblog.org/2016/07/19/1117/>.
- Judicial ethics advisory opinions and discipline decisions about judges' publicly endorsing political candidates on social media are comprehensively discussed on at blog post at <https://ncscjudicialethicsblog.org/2016/06/21/social-media-endorsements/>.

The Arizona Supreme Court suspended a judge for 90 days for, in addition to other misconduct, posting pictures of himself in his robe in front of the judicial bench on his campaign Facebook page. *In the Matter of Grodman, Order* (Arizona Supreme Court September 23, 2015) (<http://www.azcourts.gov/portals/137/reports/2014/14-216.pdf>).

Based on the judge's testimony at a formal hearing and a joint prehearing statement, stipulated facts for formal hearing, and stipulated code of judicial conduct violations, the Arizona Commission on Judicial Conduct publicly reprimanded a judge for, while a candidate, (1) obtaining and registering the domain name he knew his opponent intended to use for his campaign web-site and redirecting internet traffic from that web-site to his web-site and (2) having a small image on his Facebook page with a logo that stated "Andrew Hettinger Justice of the Peace" without "elect" prior to his name or "for" between his name and the position he sought. *Hettinger, Amended order* (Arizona Commission on Judicial Conduct May 31, 2017) (<http://www.azcourts.gov/portals/137/reports/2016/16-329.pdf>).

The Kansas Commission on Judicial Qualifications privately ordered a judge who "liked" a comment on a candidate's Facebook page to cease and desist from publicly endorsing a candidate for any office. *Kansas Commission on Judicial Qualifications 2012 Annual Report* (<http://www.kscourts.org/appellate-clerk/general/commission-on-judicial-qualifications/2012-Annual-Report.pdf>).

The Kentucky Judicial Conduct Commission privately reprimanded a judge for "liking" the Facebook pages of lawyers and a judicial candidate and posting offensive comments about a lawyer on Facebook (http://courts.ky.gov/commissionscommittees/JCC/Documents/Public_Information/PrivateReprimand120514.pdf).

The Kentucky Judicial Conduct Commission privately reprimanded a judge for “liking” the Facebook pages of lawyers, law firms, and candidates (http://courts.ky.gov/commissionscommittees/JCC/Documents/Public_Information/PrivateReprimand040215.pdf).

Based on the candidate’s agreement, the Kentucky Judicial Conduct Commission publicly reprimanded a judicial candidate for “liking” a Facebook posting that publicly endorsed a candidate for public office and made a contribution to a political candidate. *In the Matter of Cohen*, Agreed order of public reprimand (Kentucky Judicial Conduct Commission July 21, 2014) (http://courts.ky.gov/commissionscommittees/JCC/Documents/Public_Information/PublicReprimandCohen.pdf).

Granting a joint motion for approval of a recommendation, the Mississippi Supreme Court publicly reprimanded a former judge for, in addition to other misconduct, endorsing a political candidate on social media. *Commission on Judicial Performance v. Clinkscales*, 191 So. 3d 1211 (Mississippi 2016).

The Texas State Commission on Judicial Conduct publicly warned a judge for, in addition to other misconduct, a Facebook post directing an offensive term to her political opponent. *Public Warning of Wright and Order of Additional Education* (Texas State Commission on Judicial Conduct September 22, 2015) (<http://www.scjc.state.tx.us/pdf/actions/FY2016-PUBSANC.pdf>)

Adopting the recommendation of the Judicial Hearing Board based on stipulations and a joint recommendation, the West Virginia Supreme Court of Appeals censured a former judicial candidate, ordered him to pay costs, and permanently enjoined him from seeking judicial office for personally soliciting campaign contributions on his personal and campaign Facebook pages, establishing a bank account so that he could personally accept campaign contributions, and making inappropriate comments while a candidate. *In the Matter of Kohout*, Order (West Virginia Supreme Court of Appeals October 7, 2016) (<http://tinyurl.com/hu5mggh>).

Arizona Advisory Opinion 2014-1
(http://www.azcourts.gov/LinkClick.aspx?fileticket=zNRP1_l8sck%3d&portalid=137)

California Judges’ Association Advisory Opinion 66 (2010)
(<http://www.caljudges.org/files/pdf/Opinion%2066FinalShort.pdf>)

Florida Advisory Opinion 2009-20
(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2009/2009-20.html>)

Florida Advisory Opinion 2010-21
(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2010/2010-21.html>)

Florida Advisory Opinion 2010-28

(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2010/2010-28.html>)

Florida Advisory Opinion 2012-15

(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2012/2012-15.html>)

Florida Advisory Opinion 2013-14

(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2013/2013-14.html>)

Florida Advisory Opinion 2016-13

(<http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/2016/2016-13.html>)

Louisiana Advisory Opinion 271 (2016) (<http://tinyurl.com/gcgbmc>)

Massachusetts Letter Opinion 2016-1 (<http://www.mass.gov/courts/case-legal-res/ethics-opinions/judicial-ethics-opinions/cje-2016-01.html>)

Missouri Advisory Opinion 186 (2015) (<http://tinyurl.com/gwm3246>)

New Mexico Advisory Opinion Concerning Social Media (2016) (<http://jec.unm.edu/manuals-resources/advisory-opinions/Advisory Opinion Social Media.pdf>)

New York Advisory Opinion 2007-135 (<http://www.nycourts.gov/ip/judicialethics/opinions/07-135.htm>)

New York Joint Advisory Opinions 2012-84/2012-95(B)-(G)

([http://www.nycourts.gov/ip/judicialethics/opinions/12-84%20&%2012-95%20\(B\)-\(G\).htm](http://www.nycourts.gov/ip/judicialethics/opinions/12-84%20&%2012-95%20(B)-(G).htm))

New York Advisory Opinion 2013-126 (<http://www.nycourts.gov/ip/judicialethics/opinions/13-126.htm>)

New York Advisory Opinion 2015-121 (<http://www.nycourts.gov/ip/judicialethics/opinions/15-121.htm>)

New York Advisory Opinion 2015-178 (<http://www.nycourts.gov/ip/judicialethics/opinions/15-178.htm>)

North Dakota Advisory Opinion 2016-2

(http://www.ndcourts.gov/court/committees/jud_ethc/Opinions/Opinion2016-2.pdf)

Utah Informal Advisory Opinion 2012-1 (<http://www.utcourts.gov/resources/ethadv/index.asp>)

West Virginia Advisory Opinion 2016-1 (<http://www.courtswv.gov/legal-community/pdfs/AdvisoryOpinion2016-01.pdf>)

U.S. Advisory Opinion 112 (2014)
(<http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/RulesAndPolicies/conduct/Vol02B-Ch02.pdf>)

ABA Formal Opinion 462 (2013)
(http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/formal_opinion_462.authcheckdam.pdf)

Judicial disqualification cases involving social media

The Florida 4th District Court of Appeal held that a judge was disqualified from a criminal case because the judge was a Facebook friend of the prosecutor assigned to the case. *Domville v. State*, 110 So. 3d 441 (4th District Florida Court of Appeal 2013).

The Florida 5th District Court of Appeal held that the ex parte “friend” request a judge sent on Facebook to the petitioner in a custody case would create in a reasonably prudent person a well-founded fear of not receiving a fair and impartial trial. *Chace v. Loisel*, 170 So. 3d 802 (Florida 5th District Court of Appeal 2014).

Affirming the trial court judgments in a case in which the jury had convicted the defendant of sale of 2 prescription drugs and the trial judge’s consecutive 6-year sentences, the Tennessee Court of Criminal Appeals held that the trial judge could properly fulfill his role as 13th juror despite his status as “Facebook friend” with the state’s confidential informant who had been a witness at trial. *State v. Ferguson*, 2014 WL 631246 (Tennessee Court of Criminal Appeals 2014) (<http://www.tsc.state.tn.us/sites/default/files/fergusonjmopn.pdf>).

Affirming the trial court judgments in a case in which a jury had found the defendant guilty of second degree murder and tampering with evidence and the judge had imposed a 29-year sentence, the Tennessee Court of Criminal Appeals held that the judge’s Facebook friendship with one of the witnesses did not require his disqualification. *State v. Madden*, 2014 WL 931031 (Tennessee Court of Criminal Appeals 2014) (<http://tncourts.gov/sites/default/files/maddenopn7.pdf>).

Affirming the revocation of a defendant’s community supervision and the imposition of an 8-year prison sentence, the Texas Court of Appeals for the 5th District rejected the argument that the trial judge lacked impartiality or neutrality based on a Facebook friendship and

communications with the father of the defendant's girlfriend, in addition to other arguments. *Youkers v. State*, 400 S.W.3d 200 (5th District Texas Court of Appeals 2013).

Affirming the district court's denial of defendants' motion for relief from a settlement in a civil action brought by the U.S. against private forestry operators and individuals to recover damages for a fire that burned portions of 2 national forests, the U.S. Court of Appeals for the 9th Circuit rejected the defendants' argument that the district court judge was required to recuse himself because a Twitter account that he allegedly controlled (it did not bear his name) followed the Twitter account of the U.S. Attorney's Office, which had tweeted about the case, and because the judge's alleged Twitter account had tweeted a link to an erroneous newspaper story about the case. *U.S. v. Sierra Pacific Industries* (U.S. Court of Appeals for the 9th Circuit July 13, 2017) (<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/07/13/15-15799.pdf>).

Other authority

State v. Thomas, 376 P.3d 184 (New Mexico 2016) (discussing the Court's concerns about the use of social media by judges and cautioning judges to avoid both impropriety and its appearance in their use of social media)

Statement of Policy Regarding Electronic Communications (Pennsylvania Judicial Conduct Board (November 4, 2016) (<http://judicialconductboardofpa.org/wp-content/uploads/11-04-2016-Press-Release-Board-Issues-Statements-of-Policy-Regarding-Investigations-of-Campaign-Contributions-Electronic-Communications.pdf>))