

ADVERTISING AND SOCIAL MEDIA

UNIVERSITY OF TEXAS
SCHOOL OF LAW
39TH ANNUAL PAGE KEETON
CIVIL LITIGATION CONFERENCE
October 29-30, 2015
Austin, Texas

JOHN G. BROWNING



John Browning is a tough, aggressive trial lawyer with over 25 years of experience. Since 2005, Mr. Browning has authored the weekly syndicated newspaper column "Legally Speaking;" he also serves as a contributing editor for DCEO magazine, and has been a legal columnist for the Dallas Business Journal and Houston Business Journal. His work has garnered numerous journalism awards, including the Clarion Award for Outstanding Newspaper Column; the Suburban Newspaper Association's Best Column Writing Award; the Texas Press Association's Outstanding Column Award; the Press Club of Dallas' Katie Award for Best Specialty Reporting; the Houston Press Club's Lone Star Awards for Outstanding Commentary/Criticism in a Newspaper (2006, 2007, 2008, 2009, 2010, and 2011) and Print Journalist of the Year (2009); 7 Philbin Awards for Excellence in Legal Reporting; and in 2007 he was nominated for a Pulitzer Prize in Journalism. Mr. Browning's background as a journalist and trial lawyer has led to considerable experience in media law representation, and in 2009 he successfully defended an online media outlet in one of the first "journalism shield law" cases in Texas. As the author of numerous articles and three books on social media's impact on the law, Mr. Browning is frequently sought out by national and international media on the subject. He has appeared on television, radio, and podcasts discussing social networking and the law, and has been quoted in such publications as The New York Times, TIME magazine, the Wall Street Journal, Law360, the National Law Journal, Salon.com, and Law Times of Canada.



- **Over 1 billion unique users each month; 300 hours of video are uploaded to YouTube each minute**



- **Over 1.3 billion users**



- **Approximately 1 billion registered users (284 million monthly active users)**



- **Over 347 million users**

Fun Facts

- **74% of all adult Americans have at least one social networking presence; 58% have two or more**
- **Sixteen minutes of every hour spent online is spent on Facebook**
- **More Facebook profiles (5) are created every second than there are people born (4.5)**
- **More than a billion tweets are sent every 48 hours**
- **Every 60 seconds, there are over 293,000 status updates posted on Facebook**

Online Reputation is More Important for Attorneys Than Ever Before

April 2014 study by FindLaw.com & Thomson Reuters

- Internet is the most popular resource for people in need of legal services (38% would use the web first, while 29% would ask a friend or relative)

2014 study by Hinge Marketing shows 81% of people view a lawyer's website, 63.2% use an online search to find a lawyer

Rule 7.1 Communications Concerning a Lawyer's Services

- Rule 7.1 prohibits false or misleading communications about the lawyer or the lawyers services.
- The prohibition in this rule extends to lawyers websites & other social media.
- Commentary to the rule suggests that an unsubstantiated comparison of the lawyers services with the services of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison is substantiated.
- For example, if a lawyer has a listing on LinkedIn all the information posted must be accurate. But what if the information is posted by someone else? What if a client posted something about the lawyer – must it be accurate?
- Some ethics opinions say “yes”. The recommendation must not create unjustified expectations or otherwise mislead a potential client.
- Practice tip: Police what others say about you. You may be required to take action to remove or correct the statements made by others.
- Practice tip: Avoid “claiming”, editing or updating profiles created by 3rd parties unless you are very confident in their content.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Advertising and Social Media

Also available as part of the eCourse

[Ethics for Litigators: Social Media, Spoliation and Third-Party Financing of Litigation](#)

First appeared as part of the conference materials for the
39th Annual Page Keeton Civil Litigation Conference session
"Advertising and Social Media"