

# SOCIAL MEDIA AS A TOOL FOR EVIDENCE

University of Texas Continuing Legal Education – Employment Law Seminar  
Austin, TX • 2017

## Overview

### 1. Self-help discovery

- Disciplinary Rules
- SCA
- Public Policy

### 2. Formal discovery

- Social media not immune
- SCA compelled consent

### 3. Admissibility

- Evolving Approaches



**BOULETTE GOLDEN  
& MARIN LLP**



**Tony Lee** I'll pay for the tickets of the first 5 large, burly, bearded veterans who walk in there to see the movie and say they identify women and demand to see it...

It's a two way street

Like · Reply · 🍌🍌🍌 87 · May 24 at 5:13pm · Edited



**Alamo Drafthouse Austin** Thanks for the money!

Like · Reply · 🍌🍌🍌 1.5K · May 24 at 5:38pm

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**BOULETTE GOLDEN  
& MARIN L.L.P.**



**Nathan** @linganoreRocket · 10h

@FCPSMaryland close school tomorrow  
PLEASE

↩ 2

↻ 84

♥ 97



**FCPS-MD**  
@FCPSMaryland

@linganoreRocket but then how would  
you learn how to spell "tomorrow"? :)

1/5/17, 1:13 PM

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**BOULETTE GOLDEN  
& MARIN L.L.P.**

## The Disciplinary Rules

"In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so."

TEX DISCIP. R. PROF. CONDUCT 4.02(a)

**BOULETTE GOLDEN  
& MARIN L.L.P.**

## The Disciplinary Rules

"'organization or entity of government' includes: (1) those persons presently having a managerial responsibility ... that relates to the subject of the representation, or (2) those persons presently employed by such organization ... and whose act or omission in connection with the subject of representation may make the organization ... vicariously liable for such act or omission."

TEX DISCIP. R. PROF. CONDUCT 4.02(c)

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First appeared as part of the conference materials for the  
24<sup>th</sup> Annual Labor and Employment Law Conference session  
"Social Media as a Tool for Evidence"