

THE WEST VIRGINIA STATE BAR
2016 REGIONAL MEETINGS
ONE DAY COURSES HELD DURING OCTOBER 2016
10:30 a.m. - 1:30 p.m.

AGENDA

The State Bar may have different instructors at the various locations. The order of presentation may also vary. Each session will be fifty minutes of instruction time. All sessions will qualify for either ethics or law office management credit.

Dealing With Social Media

Presenters: Attorneys of the West Virginia Office of Disciplinary Counsel

Discussions will include the pros and cons of using social media by your clients, with your clients and about your clients.

“You just E-Filed....now what?”

Presenters: Matthew Arrowwood, Director, Division of Circuit Clerk Services at the Supreme Court of Appeals of WV or Jill Connolly, Circuit Court records specialist or Robin Tucker, E-filing coordinator

E-Filing is coming to your county. Discussion will include what to expect, when to expect it and how to deal with it when it arrives.

Helping Litigants Help Themselves: Technology Tools Attorneys can use to help the public with legal issues

Presenters: Mark Adkins, Chair, Legal Outreach Committee of the West Virginia State Bar, or Kate White, Access to Services Manager, Legal Aid of West Virginia or Ann Haight or Melinda Dugas, members of the Legal Outreach Committee of the West Virginia State Bar.

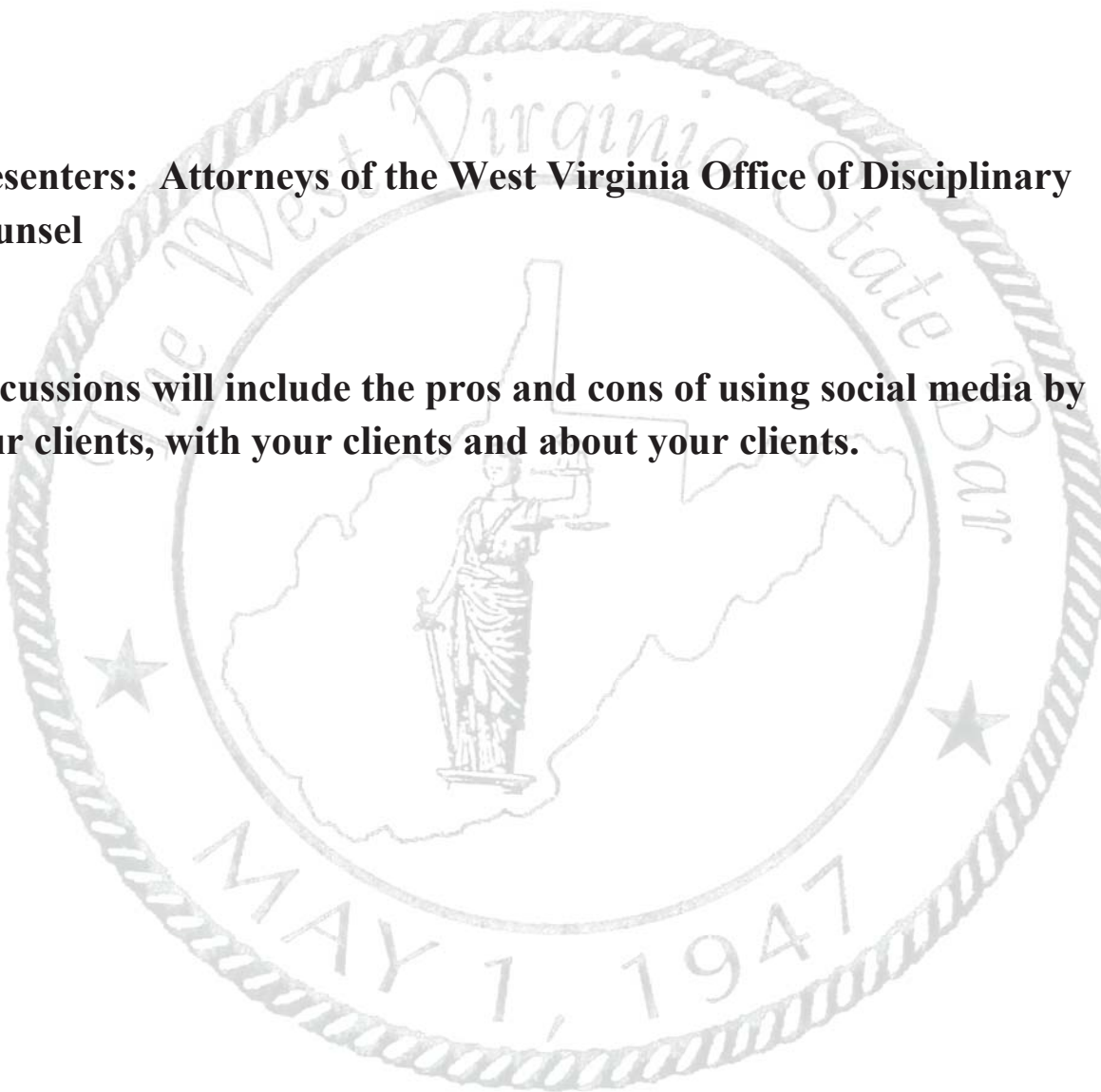
The West Virginia State Bar and Legal Aid of West Virginia have invested in technology as a way to provide the public with legal information, legal forms, and help. Not all clients can afford to pay a lawyer. Not all lawyers can go to court with everyone who has a legal problem. However, if members of the Bar can help the public better navigate the resources available to help people represent themselves or identify when they really need a lawyer, it furthers access to justice and improves the public's perception of the legal system.

This presentation will include an overview of the following resources available in West Virginia: West Virginia Free Legal Answers (formerly West Virginia Online Legal Help), The West Virginia Lawyer Referral Service, Tuesday Legal Connect, Legal Aid of West Virginia's Self-Help Library, The West Virginia Supreme Court of Appeals Court forms and more.

Dealing With Social Media

Presenters: Attorneys of the West Virginia Office of Disciplinary Counsel

Discussions will include the pros and cons of using social media by your clients, with your clients and about your clients.



Rachael L. Fletcher Cipoletti is Chief Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel. She has been with the ODC since 2002 and became Chief Disciplinary Counsel in 2008. Rachael was previously a Violence against Women Act Attorney for Legal Aid of West Virginia. She graduated Magna Cum Laude with a Bachelor of Arts Degree in Psychology from West Virginia University and also earned her Juris Doctrate from WVU. Rachael is admitted to practice before the Supreme Court of Appeals of West Virginia, United States Southern District of West Virginia, United States Northern District of West Virginia, United States Court of Appeals for the Fourth Circuit and the Supreme Court of the United States of America.

Outside of the office, she focuses a lot of her energy on spending time with her 4 young children, her loving husband and their very large, very rambunctious Labrador Retriever. In the past few years, she has become an avid runner, including starting in 2013, running half marathons. She is also the assistant coach for the Overbrook Elementary Running Club. She also runs the Accelerated Reader Lab one day a week at Overbrook Elementary. She is also a school volunteer for Overbrook Elementary's Read Aloud program. She is the Assistant Troop Leader for her older daughter's Daisy Scout Troop and the dance team mom for her daughters' dance classes at In the Spotlight School of Dance. She is also the founder of the Coat the City coat drive, which since 2011 has collected 1500 new and gently used coats to the less fortunate men, women and children of Charleston and its surrounding areas. She is also the current Registrar for South Hills Youth Soccer Association, a former Chair of Friends of the Clay Center, a lifetime member of the West Virginia University Alumni Association, a member of the American Bar Association, a member of the Center for Professional Responsibility, and a member of the National Organization of Bar Counsel.

Rachael L. Fletcher Cipoletti, Esquire

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Education

Juris Doctrate
West Virginia University College of Law
2001

Bachelor of Arts in Psychology
Minor in Communications
West Virginia University
1998
Graduated Magna Cum Laude

Employment

Chief Lawyer Disciplinary Counsel
Office of Disciplinary Counsel
April 2008 -Present

Interim Chief Lawyer Disciplinary Counsel
Office of Disciplinary Counsel
January 2008- April 2008

Assistant Disciplinary Counsel
Office of Disciplinary Counsel
August 2002- January 2008

Violence Against Women Act Attorney
Legal Aid of West Virginia
May 2001- August 2002

Honors and Memberships

Lifetime member of West Virginia University Alumni Association

West Virginia State Bar Member
American Inns of Court Member
National Organization of Bar Counsel
American Bar Association
Center for Professional Responsibility
Founder of “Coat our City” Coat Drive
Registrar of the South Hills Soccer Association
Past Chair of Friends of the Clay Center
Past Board Member of Friends of the Clay Center

Licensure and Admissions

Supreme Court of Appeals of West Virginia
United States Southern District of West Virginia
United States Northern District of West Virginia
United States Court of Appeals for the Fourth Circuit
Supreme Court of the United States of America

Renee N. Frymyer is a Lawyer Disciplinary Counsel for the West Virginia Office of Disciplinary Counsel. An arm of the Supreme Court of Appeals of West Virginia, the Office of Disciplinary Counsel is primarily tasked with screening and investigating complaints made against lawyers who are licensed to practice law in West Virginia. The ODC is also responsible for prosecuting those lawyers who have either committed ethical misconduct or are suffering from a physical or mental condition which adversely affects their ability to serve the public. Prior to joining the ODC in 2008, she was an Assistant Prosecuting Attorney for Marion County, West Virginia, worked in civil litigation in Pittsburgh, Pennsylvania, and was law clerk for the Honorable Jennifer Bailey, Circuit Court Judge for Kanawha County. Renee earned her JD from the West Virginia University College of Law in 2002.

Biography for CLE

Andrea J. Hinerman has served as Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel since January 26, 2004, and as Senior Disciplinary Counsel since 2008. Prior to joining ODC, she served as a law clerk for the Honorable Irene C. Burger, when she was a Circuit Judge for Kanawha County and for the late Honorable Robert E. Maxwell, Senior District Court Judge for the Northern District of West Virginia. She also spent two years in private practice. She earned her J.D. degree from the West Virginia University College of Law in 1998.

Jessica H. Donahue Rhodes
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EDUCATION:

Doctor of Jurisprudence, May 2003
West Virginia University College of Law, Morgantown, WV

Bachelor of Arts, Political Science, Magna Cum Laude, May 2000
Marshall University, Huntington, WV

LICENSURE:

West Virginia State Bar No. 9453, admitted in October, 2003
Also admitted before the Southern and Northern Districts of WV, 4th Circuit Court of Appeals, and U.S. Supreme Court

EXPERIENCE:

Lawyer Disciplinary Counsel, Office of Disciplinary Counsel, Charleston, WV
(March of 2009 to Present)

Represent the Office of Disciplinary Counsel in the investigation and prosecution of legal ethics violations before the Lawyer Disciplinary Board and the Supreme Court of Appeals for West Virginia. Responsibilities include: evaluating and prosecuting legal ethics complaints, advising lawyers on compliance with the Rules of Professional Conduct, and teaching Continuing Legal Education Seminars.

Assistant Prosecuting Attorney, Mason County Prosecutor's Office, Point Pleasant, WV
(April of 2006 to March of 2009)

Represent the State of West Virginia in criminal matters, including felony cases, misdemeanor cases, juvenile abuse and neglect, juvenile delinquencies, juvenile status offenses, and adult protective cases. Responsibilities included: in court representation, jury trials (felony and misdemeanor), presentation to the grand jury, legal research, drafting legal documents, overseeing other staff, attending training.

Staff Attorney, Legal Aid of West Virginia, Huntington, WV
(September of 2005 to April 2006)

Represented indigent clients in civil matters, including domestic violence protective orders, domestic relations, landlord/tenant matters, and adoption issues. Responsibilities included: in court representation, legal research, drafting legal documents, preparing materials for and presenting at legal clinics for *pro se* parties, overseeing other staff, attending trainings, and involvement in the training subcommittee planning training opportunities and material for attorneys and staff at domestic violence shelters.

Circuit Judge Law Clerk, Judge David W. Nibert, 5th Judicial Circuit, Point Pleasant, WV
(August 2003 to August 2005)

Responsibilities included: legal research for hearings and trials, drafting legal documents, preparing materials such as orders for the Judge to sign, and attendance at hearings and trials.

West Virginia College of Law Clinical Program, Morgantown, WV
(August of 2002 to May 2003)

Represented indigent clients in civil matters, including domestic relations and bankruptcies. Responsibilities included: in court representation, legal research, and drafting legal documents; all done under a supervising attorney.

Intern, Public Service Commission, Charleston, WV
(May 2000 to August 2000)

Responsibilities included: legal research, work to combine information for formation of new procedural rules, and attendance at various hearings.

Herndon Fellow, Attorney General's Consumer Protection Division, Charleston, WV
(March 2000 to April 2000)

Responsibilities included: conducting an investigation, legal research, and attendance at various legal functions pertaining to the office.

Herndon Fellow, Office of Delegate Brent Boggs, WV House of Delegates, Charleston, WV
(January 2000 to March 2000)

Responsibilities included: generating legislative correspondence, attendance at committee meetings for the Delegate, key staff member for a subcommittee, and coordinating Delegate's schedule.

Intern, Department of Administration, Office of Cabinet Secretary, Charleston, WV
(June 1998 to August 1998)

Responsibilities included: handling payments from lottery bonds, organizing filing system, and performing data entry.

Intern, Office of Representative Bob Wise, U.S. House of Representatives, Washington, D.C.
(February 1998 to May 1998)

Responsibilities included: attendance at briefings of legislation for office personnel, coordinating mass mailings, and generating legislative correspondence.

ACHIEVEMENTS & ACTIVITIES:

- * Mason County Bar Association, Former Treasurer
- * West Virginia State Bar Member
- * American Bar Association Member
- * National Organization of Bar Counsel member
- * American Inns of Court member



Dealing with Social Media

Office of Disciplinary Counsel
Rachael L. Fletcher Cipoletti, Esquire
Andrea J. Hinerman, Esquire
Renee N. Frymyer, Esquire
Jessica H. Donahue Rhodes, Esquire
Joanne M. Vella Kirby, Esquire

Social Media and the Rules of Professional Conduct

Social Media implicates various Rules, including the following:

Rule 1.1 (“COMPETENCE”)

Rule 1.6 (“CONFIDENTIALITY OF INFORMATION”)

Rule 1.18 (“DUTIES TO PROSPECTIVE CLIENT”)

Rule 3.3 (“CANDOR TOWARD THE TRIBUNAL”)

Rule 3.4 (“FAIRNESS TO OPPOSING PARTY AND COUNSEL”)

Rule 3.5 (“IMPARTIALITY AND DECORUM IN THE TRIBUNAL”)

Rule 3.6 (“TRIAL PUBLICITY”)

Rule 4.1 (“TRUTHFULNESS IN STATEMENTS TO OTHERS”)

Rule 4.2 (“COMMUNICATION WITH PERSONS REPRESENTED BY COUNSEL”)

Rule 4.3 (“DEALING WITH UNREPRESENTED PERSON”)

Rule 7.1 (“COMMUNICATIONS CONCERNING A LAWYER’S SERVICES”)

Rule 7.2 (“ADVERTISING”)

Rule 7.3 (“SOLICITATION OF CLIENTS”)

Rule 7.4 (“COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION”)

Rule 8.2 (“JUDICIAL AND LEGAL OFFICIALS”)

Rule 8.4 (“MISCONDUCT”)

L.E.O. 2015-02 Social Media & Attorneys

The Lawyer Disciplinary Board concluded:

1. Attorneys may advise clients about the content of the clients' social networking websites, including removing or adding information;
2. Attorneys may connect with a client or former client on a social networking website;
3. Attorneys may not contact a represented person through a social networking website;

4. Although attorneys may contact an unrepresented person through a social networking website, they may not use a pretextual basis for viewing information on a social networking site that would otherwise be private/unavailable to the public;
5. Attorneys may use information on a social networking website in client-related matters;
6. Attorneys may accept client reviews but must monitor those reviews for accuracy;

7. Attorneys may generally comment on or respond to reviews or endorsements;
8. Attorneys may generally endorse other attorneys on a social networking website;
9. Attorneys may review a juror's Internet presence;
10. Attorneys may connect with judges on a social networking website provided the purpose is not to influence the judge in performing his or her official duties;

11. Attorneys may advertise on a social networking website provided such advertisement complies with the requirements of the Rules of Professional Conduct; and

12. A prospective attorney-client relationship may be formed on a social networking website.

What is Social Media??

“forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content ([such] as videos)”

Interactive with intention to share.

In order to comply with Rule 1.1 (COMPETENCE) of the Rules of Professional Conduct, attorneys should both have an understanding of how social media and social networking websites function, as well as be able to advise their clients about various issues they may encounter as a result of their use of social media and social networking websites.

Comment 8 to Rule 1.1 provides that “[t]o maintain the requisite knowledge and skill, a lawyer must keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.”

Additionally, Rule 8.4 (MISCONDUCT) states that “[i]t is professional misconduct for a lawyer to ... (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” Because of the ease of creating a false profile or posting inaccurate or embellished information, attorneys may find themselves at the risk of violating Rule 8.4(c) while using social media and social networking websites.

Although attorneys are not responsible for the information their clients post on the clients' social media profile, attorneys may and often should advise their clients about such information.

Attorneys should ensure that their clients are aware of the consequences of their actions via social media and social networking websites, as it is reasonable to expect that their clients' activities will be monitored by opposing counsel and others.

Additionally, attorneys may wish to monitor their clients' use of social media and social networking websites, as doing so may be helpful for attorneys to stay abreast of matters that may impact their clients' legal disputes.

Furthermore, attorneys should also be mindful of the consequences of their own actions when advising and instructing their clients about their clients' use of social media and social networking websites.

Attorneys may advise their clients to change the privacy settings of their social media pages so as to restrict or expand whom may see the information shared on such pages.

Attorneys may not, however, instruct their clients to destroy, alter or conceal any relevant content on their social media pages.

Although attorneys may instruct their clients to delete information from the clients' social media pages that may be damaging to the clients, provided the attorneys' conduct does not constitute spoliation or is otherwise illegal, attorneys must take the appropriate steps to preserve the aforementioned information in the event that it is deemed discoverable or becomes relevant to the clients' cases.

Accordingly, attorneys must respond to discovery requests regarding any relevant content their clients have posted on the clients' social media pages.

Finally, attorneys may not advise their clients to post false or misleading information on their social media pages, and if an attorney knows that the client has posted false information, the attorney may not present such information as truthful information in the client's case.

Lester v. Allied Concrete Co., 285 Va. 295 (2013).

During the pendency of the case, Lester sent a facebook message to Allied attorney– enabling Allied attorney to access Lester’s facebook page. Allied attorney sends a discovery request for facebook page screen shots, status updates and pictures. Plaintiff’s attorney after receiving a discovery request, sent an email to his paralegal telling her to instruct Plaintiff to “clean up” his Facebook page because “[w]e don’t want any blow-ups of this stuff at trial.” The following day, Paralegal told the client that there are also “some other pics that should be deleted” from his Facebook page. Client deletes facebook page. Lawyer answers discovery request by advising Allied that client does not have a facebook page. A few subpoenas and depositions later... Over \$500k sanction of attorney. Referred by the Judge to Virginia State Bar on three separate findings of wrongdoing.

Attorneys may connect with clients or former clients via social media or on a social networking website.

When doing so, attorneys should be mindful that their conduct must adhere to the Rules of Professional Conduct and that they should maintain a professional relationship with their clients.

Be careful though... any information you post on social networking websites may be seen by clients and former clients, regardless of whether you are connected to these individuals through your own social media page.

Should an attorney use social media to communicate with a client regarding the attorney's representation of that client, the attorney should retain records of such communications that relate to legal advice given to the client.

Attorneys must not reveal confidential client information via social media or social networking websites.

Office of Lawyer Regulation v. Peshek, 334 Wis.2d 373, 798 N.W.2d 879 (2011) Attorney posted client personal information/confidential case info on blog. Referred to some clients by either first name or a derivative of their first name. Made derogatory comments about judges. One entry stated that a client had lied to the court about drug use. 60 day suspension.

Attorneys must be sure to train their staff too.

Attorneys may not contact represented parties through social media.

Rule 4.2 (COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL) prohibits attorneys may from contacting a represented person through social media or through a social networking website, nor may attorneys send a “friend request” to represented persons.

Attorneys may not utilize the assistance of a third party to contact a represented person through social media or through a social networking website in order to gain access to the represented person’s social media page, as doing so would constitute a pretextual “friend request” and would violate Rules 4.1, 8.4(a) and 8.4(c).

Attorneys may access the public portions of a represented person’s social media page, as any information the represented person shares publically is akin to any public statement the person makes, and thus, access to such public information is not a prohibited communication pursuant to Rule 4.2.

See State ex. Rel. State Farm Fire & Cas.co. v. Madden, 192 W.Va. 155, 451 S.E.2d 721 (1994). Supreme Court held that lawfully observing a represented party’s activities that occur in full view of the general public is not an ethical violation.

Rule 4.3 (DEALING WITH UNREPRESENTED PERSON) Attorneys may contact an unrepresented person through social media or through a social networking website, but they may not use a pretextual basis for viewing information on an individual's social networking website that would otherwise be private or unavailable to the public, as doing so would violate Rule 4.3.

When contacting an unrepresented person through social media or through a social networking website, attorneys must use their actual and must also state their purpose for contacting the unrepresented person.

Again, Rule 8.4(c) which prohibits attorneys from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Attorneys may not utilize the assistance of a third party to contact an unrepresented person through social media or through a social networking website in order to gain access to the unrepresented person's social media page, as doing so would constitute a pretextual "friend request" and would violate Rules 4.1 and 8.4(c).

Attorneys may contact an unrepresented person through social media or through a social networking website, provided attorneys do not state or imply that they are disinterested, provided attorneys make reasonable efforts to correct any misunderstandings concerning attorneys' roles in a given matter, and further provided attorneys do not give legal advice to such unrepresented person.

Attorneys may use information obtained from a social networking website in client-related matters and legal disputes, provided such information was obtained ethically.

Beware and advise your clients that information posted via social networking websites may equally be used against their interests.

Information that is posted on social networking websites may be used in discovery.

Courts have granted motions to compel discovery of information contained on private social networking websites when the individuals' public profiles indicate that relevant evidence may be found on their private profiles.

McMillen v. Hummingbird Speedway, Inc., 2010 Pa. Dist. & Cnty. Dec. LEXIS 270 (Pa. County Ct. 2010) (motion to compel discovery of individual's private Facebook page granted after opposing counsel provided evidence that individual may have misrepresented the extent of their injuries);

Romano v. Steelcase Inc., 30 Misc. 3d 426 (N.Y. Sup. Ct. 2010). (Information sought from plaintiff's social network website was deemed necessary and material for defendant's defense to personal injury claims, that included a loss of enjoyment of life claim. Defense counsel sought not only public information, but private information from the site as well. No reasonable expectation of privacy in information published on social networking websites. Court considered the nature of the public portions of the site and determined that since the public portions contradicted her claims and prior testimony, the private portions may contain further evidence relevant to the defense.)

Some social networking websites, such as LinkedIn, permit users to “endorse” the skills another user has listed on their profile, as well as permit users to request that others endorse them for their specified skills.

LinkedIn permits users to remove or limit the endorsements on their profile.

Avvo, an online legal services marketplace, provides a rating scale for listed attorneys based on a proprietary algorithm, as well as includes attorney profiles, client reviews and peer endorsements.

Rule 7.1 (COMMUNICATIONS CONCERNING A LAWYER’S SERVICES) of the Rules of Professional Conduct provides: “A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.”

Attorneys: (1) should monitor their social networking websites; (2) must verify the accuracy of any information posted on their social networking websites; and (3) must remove or correct any inaccurate endorsements. These obligations exist regardless of whether the information is posted by the attorney, a client, a former client or a professional colleague.

Attorneys should be mindful not to post and/or to allow information to be posted to their social networking websites that violates Rule 7.1.

Although attorneys may comment on and respond to reviews or endorsements on social media or social networking websites, they must be mindful not to disclose confidential client information without the client's consent, as doing so would violate Rule 1.6 of the Rules of Professional Conduct.

Although 1.6(b)(5) permits disclosure of confidential client information under certain circumstances such as to respond to an ethics complaint or a civil suit, attorneys may not disclose such information in response to a review or endorsement, positive or negative, on social media or social networking websites. Any information attorneys post on social media or social networking websites must not violate the confidentiality that exists between the attorney and his or her client.

Many times, however, this makes things much, much worse.

In RE: Skinner, 758 S.E.2d 788 (GA. 2014)

Client terminated representation and posted reviews on consumer websites. Attorney posted confidential information in response to client's negative reviews. She identified the client by name, identified the employer of the client, stated how much the client had paid her, identified the county in which the divorce had been filed, and stated that the client had a boyfriend. Special Master recommended public reprimand, but the Supreme Court rejected the same and remanded the matter. After a rehearing, the Court, taking into consideration mitigating factors, issued a public reprimand, as well as the additional condition that Skinner be instructed to take advantage of the State Bar's Law Practice Management services and recommendations with respect to internal office procedures, client files and case tracking procedures.

People v. Underhill, WL 4944102 (Col. 2015) (Westlaw cite only available)

A couple whom he used to represent posted complaints about him on two websites. Underhill responded with internet postings that "publicly shamed the couple by disclosing highly sensitive and confidential information gleaned from attorney-client discussions." Underhill also represented another couple in renegotiating of lease for their business. The couple eventually terminated Underhill and posted a complaint about him on a BBB website. Underhill publicly replied with attorney-client communications on the internet and making uncomplimentary accusations against the couple based on confidential information related to the representation. 18 month suspension.

Attorneys may generally endorse other attorneys on social media or social networking websites, they must comply with Rule 8.4(c)'s requirements to refrain from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Attorneys must be honest and only provide endorsements that are accurate and not misleading.

Attorneys should be mindful to conduct themselves as professionals while using social media and social networking websites— this admonition is critical particularly when an attorney is angry or disappointed with a ruling from the Court.

Although comments concerning other attorneys or judges may not rise to the level of a violation of Rules, attorneys should be cautious when commenting about other attorneys or judges via social media and social networking websites, and further advises that a better practice is simply to refrain from making such comments.

Attorneys may connect with judges on social media or social networking websites, they may not do so if the purpose of the contact is to influence the judge in performing his or her official duties.

Attorneys should also be mindful not to make statements on social media or social networking websites that would violate Rule 8.2, whether such statements are made when connecting directly with a judge or not.

Lawyer Disciplinary Bd. v. Hall, 234 W. Va. 298, 765 S.E.2d 187, 190 (2014)

Statements made by Hall legal pleadings were unsubstantiated, made with a reckless disregard as to their truth or falsity, and impugned the integrity of a presiding adjudicatory officer and were prejudicial to the administration of justice. 3 month suspension.

“The Free Speech Clause of the First Amendment protects a lawyer's criticism of the legal system and its judges, but this protection is not absolute. A lawyer's speech that presents a serious and imminent threat to the fairness and integrity of the judicial system is not protected. When a personal attack is made upon a judge or other court official, such speech is not protected if it consists of knowingly false statements or false statements made with a reckless disregard of the truth. Finally, statements that are outside of any community concern, and are merely designed to ridicule or exhibit contumacy toward the legal system, may not enjoy First Amendment protection.” Syl. Pt. 1, Comm. on Legal Ethics v. Douglas, 179 W.Va. 490, 370 S.E.2d 325 (1988).

Syl. Pt. 4, Lawyer Disciplinary Bd. v. Hall, 234 W. Va. 298, 765 S.E.2d 187, 190 (2014)

“Within the context of assessing an alleged violation of Rule 8.2(a) of the West Virginia Rules of Professional Conduct, a statement by an attorney that such attorney knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office is not protected by the First Amendment as public speech on a matter of public concern where such statement is not supported by an objectively reasonable factual basis. The State's interest in protecting the public, the administration of justice, and the legal profession supports use of the objectively reasonable standard in attorney discipline

West Virginia Judges have equally been reminded by the Court....

Code of Judicial Conduct

Rule 3.1 Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law* or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality;*
- (D) engage in conduct that would appear to a reasonable person to be coercive; or
- (E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

See Comment 6

[6] 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.

Attorneys increasingly use social media platforms to screen jurors prior to jury selection

Although attorneys may review the public sections of a juror's social networking websites, attorneys are prohibited from attempting to access the private sections of a juror's social media page, as doing so would violate Rule 3.5 of the Rules of Professional Conduct.

Attorneys may not utilize the assistance of a third party to contact a juror through social media or through a social networking website in order to gain access to the private sections of a juror's social media page, as doing so would also constitute an ex parte communication in violation of Rule 3.5.

If you monitor jurors social media during trial, Attorneys may have an obligation to report juror misconduct.

Attorneys should be mindful of their obligations pursuant to Rule 3.6 regarding trial publicity. Rule 3.6 prohibits attorneys from making extrajudicial statements that the attorney knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding

If an attorney's account is publically accessible, it falls squarely under the parameters of Rule 3.6.

However, even if an attorney's social networking website contains privacy settings, it is subject to Rule 3.6, as any posts or comments shared are disseminated to those with whom the attorney is connected via such social networking website.

Attorneys may and do advertise via social media or on a social networking website, but they must do so in compliance with the Rules of Professional Conduct.

Rule 7.2 (ADVERTISING) of the Rules of Professional Conduct provides, in pertinent part: “(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.” Rule 7.2(c) provides that “[a]ny communication made pursuant to this Rule shall include the name and office address of at least one lawyer or law firm responsible for its content.” Advertising via social media or social networking websites is permissible, as it constitutes advertising via the Internet and/or via electronic communication.

Comment 3 to Rule 7.2 pointedly notes that “[t]elevision, the Internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public.”

Rule 7.1 (COMMUNICATIONS CONCERNING A LAWYER’S SERVICES) provides that attorneys shall not make false or misleading communications about the attorney or the services they provide. Attorneys should be mindful about communicating jury verdicts and other results obtained on behalf of clients via social media or social networking websites. Comment 3 to Rule 7.1 notes that “an unsubstantiated comparison of the lawyer’s services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated.” When making such comparisons, attorneys should consult Comment 3, which provides that “[t]he inclusion of an appropriate

Pursuant to Rule 7.4 (COMMUNICATIONS OF FIELDS OF PRACTICE AND SPECIALIZATION), West Virginia does not recognize specialization in the practice of law. Attorneys may not state or imply that they are certified as a specialist in a particular field of law. Attorneys may communicate the fact that they do or do not practice in a particular field of law, and may do so via social media or social networking websites, as well.


Rule 7.3 specifically references “real-time electronic contact” and such contact arguably includes contact via social media and social networking websites in the forms of live chats and comments to individual’s posts. Unless they have a relationship as described within Rule 7.3, attorneys must be mindful not to solicit clients by real-time electronic contact, among other forms of media discussed, as doing so would violate the Rules of Professional Conduct.

Rule 1.18 (DUTIES TO PROSPECTIVE CLIENT) “(a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.” A prospective attorney-client relationship may be formed via social media or on a social networking website if an individual’s electronic communication with an attorney is determined to be a consultation.

“You just E-Filed....now what?”

Presenters: Matthew Arrowwood, Director, Division of Circuit Clerk Services at the Supreme Court of Appeals of WV or Jill Connolly, Circuit Court records specialist or Robin Tucker, E-filing coordinator

E-Filing is coming to your county. Discussion will include what to expect, when to expect it and how to deal with it when it arrives.








You just
E-Filed....
Now what?

Matt Arrowood, Director
Circuit Clerk Services Division
Supreme Court of Appeals of West
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(304) 558-0145



Change

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- “Change is the law of life. And those who look only to the past or present are certain to miss the future.” — John F. Kennedy



A Single, Unified Operating System for All West Virginia Circuit Clerks



-
- A system that is transparent, consistent, and effective for all 55 counties.
 - When practicing law in multiple counties, the same procedures should hold and the experience should be the same.
 - Being able to practice law in multiple counties and some at a great distance.
 - Documents being served in a timely efficient and consistent manner.
 - Being able to access statewide data.





The Partners



Supreme Court of Appeals of West Virginia
On-Line Information Services, Inc., Mobile, AL








Court Plus Initiative

- Case numbering will now be consistent throughout the state
- Fees will be the same regardless of the county
- All clerks will follow the same business model
- Consistency
- Every Circuit Clerk will have same technology and available resources




WV E-File

- 
- 
- 
- 
- 
- The WV E-Filing system is a means of filing and serving legal documents electronically with various courts, including Family, and Circuit. The system will be accessible through the website <https://efile.courtswva.com>

Registration

Registration - Google Chrome

← → ↻ <https://efile.courtswva.com/Pages/Account/Register.aspx> 🔑 ☆ 📄 ☰



West Virginia E-Filing

[Home](#) [Register](#) [Info](#) [FAQ](#)

New Account Registration

[Account](#) [Personal](#) [Additional E-mails](#) [Receipt](#)

User Type:

Bar ID:

Date of Birth:

E-mail:

Retype E-mail:






Password:

Password must be a minimum of 5 characters in length, contain at least one upper case, one lower case and one number or one special character.

Retype Password:








After Registering....

- 
- 
- 
- 
- 
- Be able to file a new case or petition in Circuit or Family Court
 - File an action in a previous case that you are a party to
 - See actions filed in your cases
 - See documents in your cases








Filing a proposed order

- 
- 
- 
- 
- 
- Copy and paste from your own word document
 - No need for case styling
 - Only the body of the proposed order is needed








Authenticating Online Orders

- 
- 
- 
- 
- 
- All E-Filed orders will contain two stamps at the top of the first page. The official e filing court stamp appears on the top-right corner, and identifies the county, the circuit clerk, the case number, and the date and time of filing. Trial Court Rule 15A.25. The official judge's signature stamp appears on the top-left corner, and identifies the judge, the county, and a reference code. The reference code is a unique identifier, which allows any recipient of an order to verify its authenticity by utilizing an online verification tool.

<https://efile.courtswva.com/ViewOrder.aspx>



Motion Filing

- 
- 
- 
- 
- 
- Locate the case that you wish to file motion
 - Simply upload PDF documents to the Efile site
 - Similar to attaching document to an email
 - All parties associated with the case will receive notice and a copy of the motion filed.







Benefits

- Storage of papers is simplified and expenses reduced.
- Fees can be paid on-line with a credit or debit card.
- The system provides immediate email notice of all filings, including filing of all orders, judgments, and decisions, which will be available on-line.
- Where necessary documents containing confidential information can be sealed upon order of judge.
- Follow your case through the entire judicial process at the touch of a mouse.
- You can file discovery, letters, and evidence electronically



What this Means for you the Attorney



- 
-
- 
- You will need a computer/Tablet or Wifi capable device
 - You will need internet access
 - You will need an account on WV Efile
- 
- 



Tips for uploading documents

– **PDF**

- Used for all documents but Orders
- 0-5 MB
 - Document in Email
- 5-10 MB
 - Link to Email
- **Over 10 MB**
 - **Cannot upload**










WV E-Filing Payment Portal



-
- Visa, MasterCard or Discover
 - Credit Cards Only
 - Save Credit Card Information
 - Convenience Fee= 4.029%
 - Receipts





Glossary of Terms / Acronyms

- Court Plus– Clerk’s module
- E-filer / End User - YOU
- Judge’s Cue – Judge pending motions, Order, documents
- WVEFile – the e-filing and records access computer program



What to Expect in the Future

- Court Rules governing the e-filing process
- Big changes to existing Court Rules and relevant statutes
- Changes to WV Code
- More specific trainings in individual counties or regions
- Consistency



Matt Arrowood, Director
Circuit Clerk Services Division, Supreme Court
of Appeals of West Virginia
Bldg. 1, Room E-100, 1900 Kanawha Blvd. E
Charleston, WV 25305
(304) 558-0145

Helping Litigants Help Themselves: Technology Tools Attorneys can use to help the public with legal issues

Presenters: Mark Adkins, Chair, Legal Outreach Committee of the West Virginia State Bar, or Kate White, Access to Services Manager, Legal Aid of West Virginia or Ann Haight or Melinda Dugas, members of the Legal Outreach Committee of the West Virginia State Bar.

The West Virginia State Bar and Legal Aid of West Virginia have invested in technology as a way to provide the public with legal information, legal forms, and help. Not all clients can afford to pay a lawyer. Not all lawyers can go to court with everyone who has a legal problem. However, if members of the Bar can help the public better navigate the resources available to help people represent themselves or identify when they really need a lawyer, it furthers access to justice and improves the public's perception of the legal system.

This presentation will include an overview of the following resources available in West Virginia: West Virginia Free Legal Answers (formerly West Virginia Online Legal Help), The West Virginia Lawyer Referral Service, Tuesday Legal Connect, Legal Aid of West Virginia's Self-Help Library, The West Virginia Supreme Court of Appeals Court forms and more.

Kate White

*Legal Aid of WV
Access to Services Manager*

Kate first came to Legal Aid of West Virginia in 2009, via a Skadden Fellowship, a national public interest law award. In her current role, she oversees LAWV's statewide Application Line which provides statewide client access to Legal Aid services. In addition, she also directs the development, implementation and operation of LAWV's pro bono program.

Also a native of West Virginia, Kate graduated with a B.A. from Carnegie Mellon University, and received her J.D. from West Virginia University College of Law in 2007. She is active in her community, serving as a volunteer for several nonprofit organizations. Kate is based in Charleston.

J Mark Adkins
Bowles Rice LLP

Mark Adkins practices business litigation, commercial and contract disputes, financial services/banking litigation, energy litigation, construction litigation, insurance coverage disputes and personal injury and products liability litigation. The entirety of Mark's 19 years of practice has been focused on complex and commercial litigation and trial work, with a large majority of his representative experience in litigation involving the financial services/banking industry and the energy industry. This work has positioned him to better assist clients in high-risk litigation matters.

Mark represents banks, lenders and debt collectors in matters involving bank and consumer litigation issues. He also represents clients in matters involving leasing issues, contracts and property rights related to coal and natural gas. He also has significant experience in multi-million dollar construction litigation matters involving commercial, retail and public construction projects.

He has been recognized with an AV-rating by Martindale-Hubbell. Additionally, Mark has been recognized by *The Best Lawyers in America*® in commercial litigation law, litigation - banking & finance, litigation - construction and by *Super Lawyers* in the area of business litigation. He has also been named a "Future Star" in litigation by *Benchmark Litigation*.

Representative experience:

- Represented bank in multi-million dollar insurance coverage dispute, regarding claim for damages resulting from fraudulently secured loans.
- Represented engineering company in multi-million dollar construction litigation involving foundation/compaction soil issues.

- Represented oil and natural gas production companies in West Virginia and Pennsylvania regarding leasing rights.
- Represented numerous banks and non-traditional lending companies throughout West Virginia in civil actions asserting claims to the West Virginia Consumer Credit and Protection Act (WVCCPA).
- Represented county boards of education in multi-million dollar construction litigation matters involving delay damages, workmanship damages and liquidation damages.
- Defended bank in multi-million dollar litigation involving real estate development dispute.

Professional Highlights

- Practice Group Leader, Bowles Rice Litigation Department
- Chairman, West Virginia State Bar Lawyer Outreach Committee
- Per Diem Staff Counsel, West Virginia House of Delegates Judiciary Committee, 2015 Legislative Session

Helping Litigants Help Themselves:

*Technology Tools Attorneys can use to
help the public with legal issues*



What prevents people from accessing legal help?

- Poverty rates continue to rise. Today more than 46 million Americans live below the poverty level. In West Virginia, approx. 330,000 people live below the poverty level, including 100,000 children.
- While those in extreme poverty are clearly unable to afford counsel, many working poor and members of the “middle class” cannot afford counsel either.
- Many people don’t know their rights, or how to resolve issues through the legal system or how to access the legal system.
- The law is complex and involves a great deal of education, experience and a significant commitment of time.

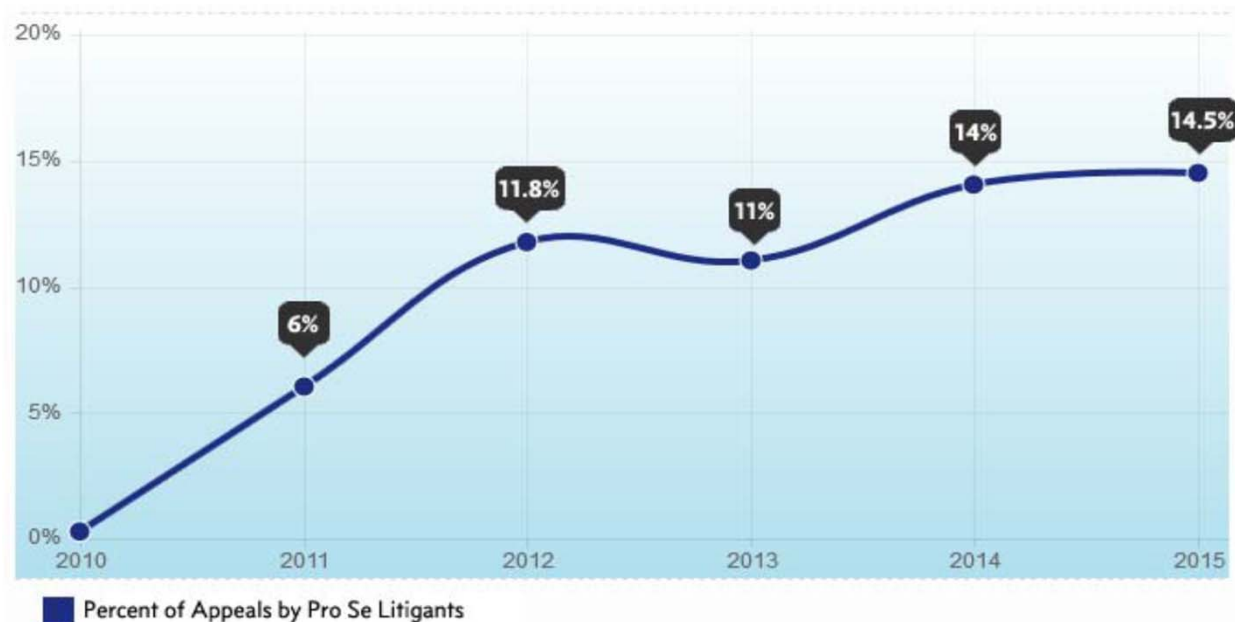


What prevents people from accessing legal help?

- Legal Aid and other similar organizations work at capacity and lack resources to meet all of the need for legal services.
- Grant restrictions and conflict rules that apply to Legal Aid can prohibit many poor people from qualifying for free legal services.



Increase in *Pro Se* Filings with Supreme Court of Appeals



- Appeals by *pro se* litigants involve more work for court staff.
- Likely an increase in pro se litigant filings in Circuit Court and Family Court as well.



What can attorneys do?

Guiding Principles

- “As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession.”
- “ [A] lawyer should further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.”
- WEST VIRGINIA RULES OF PROFESSIONAL CONDUCT, *Preamble*, ¶ ¶ 6 (quoted in pertinent part).



Guiding Principles cont.

- “A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance.”
- “Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.”
- WEST VIRGINIA RULES OF PROFESSIONAL CONDUCT, *Preamble*, ¶ 6 (quoted in pertinent part).



Use of Technology

- Nearly Two-Thirds (or 64%) of Americans own a smart phone. For many, the smart phone is a key entry point to online services.
- Smartphone Dependent: 15% of Americans own a smartphone but do not have broadband at home and have limited options for going online other than their cell phone.
- 40% of smartphone users use their phone to look up information, particularly about government services.
- On the other hand, nearly half (48%) of smartphone dependent Americans have had to cancel or shut off their cell phone service for a time period because of the cost of maintaining the service was a financial hardship.
- Also, certain groups tend to rely on smartphones for online access at elevated levels- young adults and low-income households.





West Virginia State Bar Resources for the Public



Tuesday Legal Connect

1-800-642-3617

- On Tuesday evenings from 6- 8 p.m., volunteer attorneys for the West Virginia State Bar answer phone calls to provide legal information and referrals.
- Volunteers are really just listening, trying to steer people in the right direction. There are resources and forms that can be mailed to people calling in.
- Typically 3 attorneys volunteer each Tuesday. Each attorney answers 5-6 calls. Legal Aid staff are available to provide attorneys with guidance, if needed.
- Moves around the State at Legal Aid of West Virginia offices.
- In November 2016, TLC will be in Lewisburg. In December 2016, it will be in Martinsburg. Volunteers are needed for each month.
- In 2017, Tuesday Legal Connect will be in Charleston, Clarksburg, Morgantown, Huntington, and Parkersburg.



WV Lawyer Referral Service

www.wvlawyerreferral.org

- The Lawyer Referral Service assists people in finding lawyers that are currently taking referrals in specific practice areas, in specific parts of the state.
- Formerly a phone number, but now only a website.
- Benefits for Public:
 - Provides a place to start.
- Benefits for Attorneys:
 - Get your name out there.
 - Easy Registration Available on the Website.





Find a Lawyer

Follow the steps below to find a lawyer that is near you in the specified practice area:

Step 1: Select which Practice Area you would like a referral from

Step 2: Enter your city & state, or zip code.

Step 3: Click on search locations and a list of results will appear below the map.

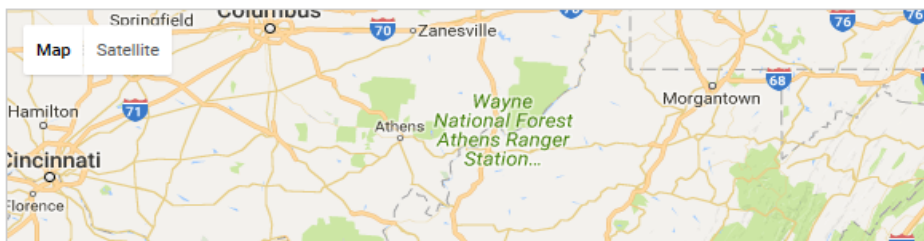
[What practice area should i choose?](#)

Zip Code, County, City or State

Any ▾

Within 200 miles ▾

Find Lawyers



GENERAL LINKS

- [Coalition Against Domestic Violence](#)
- [Legal Aid of West Virginia](#)
- [West Virginia Attorney General](#)
- [West Virginia Public Defender Services](#)
- [West Virginia Supreme Court of Appeals](#)

Have a question that this
website does not answer?

[CLICK HERE](#)



WV Online Legal Help

(Changing soon to WV Free Legal Answers)

- Launched West Virginia Online Legal Help in September 2014
- Website where low-income clients (can ask questions on civil legal issues and request brief advice regarding their specific *legal issue* from a volunteer attorney.
- Attorneys provide information and basic legal advice without any expectation of long-term representation.
- In 2015, approximately 541 questions asked by clients.
- Typically basic questions about family law, consumer, employment, and housing issues.



Who is eligible to use?

- Persons with civil legal questions
- 250% or below of Federal Poverty Level
- Not incarcerated

- Once qualified, persons may:
 1. Create an Account;
 2. Post up to 3 separate questions on the site a year; and,
 3. Receive basic legal information and advice from approved volunteer attorneys.



Volunteer Attorney Page-Old Site

WEST VIRGINIA**ONLINE**
LEGAL HELP

Question Center

Queue (7)
Taken (0)
Urgent (7)
Drafts (Coming Soon...) (0)

HomePractice AreasMy ProfileFAQTraining/Resource Materials

Practice Areas > All Questions in Queue

Please be sure to log your hours before closing the browser.

Enter Hours and SignOut

less than 10 days oldolder than 10 daysolder than 25 daysclosed

All Questions in Queue

	Category	Subject	Last Updated	Request Date	Court Date	Replies
Take	Test Category	divorce help <small>New!</small>		3/21/2014 3:41:47 PM		0
Take	Test Category	Help! <small>New!</small>		3/22/2014 8:21:34 AM	4/23/2014 12:00:00 AM	0
Take	Test Category	family <small>New!</small>		5/30/2014 3:26:20 PM		0
Take	Test Category	Help! <small>New!</small>		5/30/2014 3:58:11 PM	5/1/2014 12:00:00 AM	0

Demonstration Attorney | Change Password | Sign Out



New Site- WV Free Legal Answers

- West Virginia will be joining to work with the ABA to join national website- ABA Free Legal Answers. Our state specific site will be: www.wvfreelegalanswers.org



The screenshot shows a web browser window displaying the ABA Free Legal Answers website. The browser's address bar shows the URL <http://www.abafreelegalanswers.org/>. The website's header includes the text "Free Legal Answers" and navigation links for "Home" and "Volunteer Attorney Registration". A large banner image features many hands raised against a blue sky, with the text "Can't Afford a Lawyer?" overlaid. Below this text is a dropdown menu labeled "Select the state where you live". The ABA logo and the text "FREE LEGAL ANSWERS" are visible in the top right corner of the banner. Below the banner, the heading "What is Free Legal Answers?" is displayed. The text below this heading explains that the service is a virtual legal advice clinic where users post questions to their state's website and receive responses from attorney volunteers. It also mentions that participating states have their own pages and provides a link to contact the National Site Administrator.

Free Legal Answers is a virtual legal advice clinic. Qualifying users post their civil legal question to their state's website. Users will then be emailed when their question receives a response. Attorney volunteers, who must be authorized to provide pro bono assistance in their state, log in to the website, select questions to answer, and provide legal information and advice. Volunteer attorneys will not answer criminal law questions.


Participating states have their own page where qualifying residents will post their question. Look at your state's page for more information. Free Legal Answers is a project of the American Bar Association's Standing Committee on Pro Bono and Public Service. If you would like more information about the Free Legal Answers site, [contact the National Site Administrator here](#). Please be advised, the National Site Administrator will not respond to email requests for legal assistance.

Benefits of Volunteering

- Malpractice Insurance Coverage provided by the ABA.
- Provide pro bono services at your convenience- you can log-in and provide answers 24 hours a day, 7 days a week.
- Minimal commitment to clients-only advice.
- Attorneys choose which questions they want to answer, and when.
- Attorneys have control over closing the question.




Volunteer Attorney Page-New Site



Tennessee

thughes@tals.org



Available questions queue

Sort

Filter


Older than 25 days or pending legal deadline


Older than 10 days

Legal Deadline	Kind of Problem	Opposing Parties	Subject	Submitted	
<div>Older than 25 days or pending legal deadline</div> Jun 1, 2016 15 days left	Special Education	John Adams High S...	IEP	May 9, 2016 8 days old	Preview
<div>Older than 10 days</div> May 31, 2016 14 days left	Debts & Purchases	Davidson County C...	court fees when I didn't have a hearing	May 9, 2016 8 days old	Preview
May 24, 2016 7 days left	Family/Divorce/Custody	Rosalynn Carter	want to move my divorce to my county	May 9, 2016 8 days old	Preview
	Housing or Property Owned	Donaghey Court Ap...	Severe mold in apartment	May 9, 2016 8 days old	Preview
	Housing or Property Owned	Green Hill Real E...	ADA Compliance	May 9, 2016 8 days old	Preview
	Family/Divorce/Custody	Eleanor Roosevelt	child support modification	May 9, 2016 8 days old	Preview
	Family/Divorce/Custody	James Madison	can't find husband	May 10, 2016 7 days old	Preview





Volunteer Attorney Response Page

 Tennessee

thughes@tals.org 


Home Question History Profile FAQ Training Resources Log My Hours

 DEBTS & PURCHASES
medical debt collections
Asked on May 11, 2016 at 1:47AM
Legal Deadline: May 25, 2016 | **Description:** deadline to pay reduced amount
Opposing Parties: Knox Debt Co.
2 replies


Nayeli Chavez

Resident County: Fayette

Hi, I have a collection agency who is trying to collect an old medical dept. I asked if it was possible to pay a lesser amount. They said they would submit the offer. I call back an they gave me a lesser amount. I asked them if they could send me a debt settlement letter or something with the new amount on it. They refused to send me anything. I don't feel safe paying something like this over the phone. I just would feel safe if the new agreement amount was in writing. Is this legal? Can they refuse to send me anything stating the new amount? What should I do?


From You
May 11 at 1:48AM

You are absolutely correct in your suspicions. Do not pay the reduced amount without getting it in writing that it is a settlement of the complete amount owed. You need to get it in writing for it to be enforceable, otherwise they can still come after you for the balance.

Just as an aside how "old" is the debt? If it is very old, it could be beyond the statute of limitations and uncollectable.



Moving Forward: WV Free Legal Answers

- We do not have a date yet for the change from WV Online Legal Help to WV Free Legal Answers. Watch the Bar Blast for launch of new website.
- If you are an existing volunteer on WV Online Legal Help, we have been told that your volunteer sign up with migrate over to the new website. We will keep you updated.
- You will be able to go to WV Online Legal Help for a link to the new site.
- Moving Forward:
 - We REALLY need more volunteers to take questions. We have had over 59 questions go unanswered in the past few months.
- It's easy, simple and takes only a few minutes.





Legal Aid of WV Resources for the Public



Self-Help Library

www.lawv.net- Go to Resources, Self-Help Library

- Over 100 articles
- Written in FAQ format at 6th grade reading level
- Recently revamped website in 2015
- Family Law, Housing, Consumer, Education, Employment, Public Benefits, Representing Yourself, Individual Rights, Disaster Recovery



Sample Article from Legal Aid's website:

Court Eviction Process

Contents

- [How Fast Does the Court Eviction Process Move in West Virginia?](#)
- [What Rights Do I Have In The Court Eviction Process?](#)
- [Are There Defenses to Eviction?](#)
- [I Did Fall Behind On My Rent, But I Have All The Money Now. If I Pay It Now Will That End The Eviction Case?](#)
- [What are the court eviction procedures?](#)
- [What Happens To Any Personal Property Left In The Unit If I'm Put Out By Court Order?](#)
- [How Long Does The Landlord Have To Protect Tenant Possessions After Eviction?](#)
- [What If My Lease Says I Have To Waive My Rights If I Violate The Lease?](#)

[How Fast Does the Court Eviction Process Move in West Virginia?](#) [top](#)

The court eviction process can be very fast. Lawyers sometimes call it a “rocket docket.” In most magistrate court eviction cases, a court hearing will be held no more than ten days after the landlord starts the case.

Here are the steps in starting the case:

1. The landlord will file a “Wrongful Occupation” case in magistrate court.
2. When the landlord files the papers to start the case, the court will schedule a court hearing. That hearing is to be held no more than 10 business days after the landlord files the case.
3. The papers will be served on the tenant sometime between the date of filing and the date of hearing. (If the papers are not served on the tenant, the hearing is supposed to be postponed.)
4. Then the court hearing is held. Each side can bring evidence and witnesses to prove their case.




Guided Self-Help Forms

www.lawv.net- Go to Resources, Guided Self-Help Forms




- For free, persons can answer guided questions that will create court paperwork to file their own Divorce and Custody Modification case.
- Get a PDF document of the same form created by the WV Supreme Court, but it is filled out based on their answers.
- Users can save their answers and modify forms for up to one month if they create an account.
- Intended for use for people with more simple cases.



Sample Guided Interview:



Legal documents made simpler



Divorce Petition and Answer

Interview Outline

Introduction

Where to file?

Where to file?

Are you the Petitioner or the Respondent?

☐ Petitioner - The person who filed or started the case

☐ Respondent - The person who is responding to or answering the Petitioner

First

Previous

Next

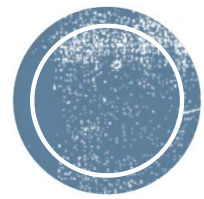


Law Line

1-866-985-2948

- Recorded phone messages on common legal problems like divorce, custody, domestic violence, housing, DHHR benefits, and how to represent yourself in court.
- Each messages is 2-3 minutes.
- Available 24 hours a day, 7 days a week.
- Sample Message: Grounds for Divorce





Supreme Court of Appeals of WV Resources for the Public

Supreme Court Forms

www.courtswv.gov - Public Resources, Court Forms

- Family Court Forms, Magistrate Court forms, Infant Guardianship, Mental Hygiene, Expungement, etc.



The screenshot displays the West Virginia Judiciary website. At the top, the header reads "WEST VIRGINIA JUDICIARY" with navigation links for Home, Contact, Jobs, and Sitemap. Below the header, the "Court Forms" section is active, with tabs for Court Rules, Court Forms, Recent Rules Orders, and Requests for Public Comment. A search bar is located on the left. The left sidebar contains links for Public Resources (Supreme Court, Lower Courts), Legal Community (Court Rules, Court Forms, Bar Admissions, Lawyer Disciplinary Board, Judicial Investigation, West Virginia State Bar), Court Administration, and Viewing PDF Files. The main content area features a "TROUBLE VIEWING A PDF?" notice, a "Notices, Docketing Statements" section with links to Supreme Court of Appeals Notice of Appeal, NOTICE OF APPEAL - EXTRA SHEET, Administrative Appeals Docketing Statement, Workers' Compensation Docketing Statement, Post Conviction Habeas Corpus Form (Appendix A), Application to Proceed In Forma Pauperis (Appendix B), and Civil Case Information Statement. A "Forms" section on the right lists various forms including Family Court Forms, Magistrate Court Forms, Domestic Violence Forms, Personal Safety Forms, Infant Guardianship Forms, Guardian Ad Litem Proceedings Forms, Mental Hygiene: Conservator/Guardian Forms, Mental Hygiene: Involuntary Commitment Forms, Mental Hygiene: Voluntary Hospitalization Transport, Forms for Expungement of Criminal Records, Fee Waiver Forms, Forms for Foreign Language Interpreter/Translator Services, Court Reporter Forms, and West Virginia Judiciary Application for Employment.

WEST VIRGINIA JUDICIARY Home | Contact | Jobs | Sitemap

Court Forms

Court Rules | **Court Forms** | Recent Rules Orders | Requests for Public Comment

Search

Public Resources

- Supreme Court
- Lower Courts

Legal Community

- Court Rules
- Court Forms**
- Bar Admissions
- Lawyer Disciplinary Board
- Judicial Investigation
- West Virginia State Bar

Court Administration

Viewing PDF Files

TROUBLE VIEWING A PDF?

For information on how to view PDF files, please look over our suggestions on the [Viewing PDF Files page](#).

Please note that some browsers may not open our PDF forms correctly, or at all. Please follow our helpful tips for opening and completing PDF forms.

Notices, Docketing Statements

[Supreme Court of Appeals Notice of Appeal](#)
*Replaces Docketing Statement under Revised Rules of Appellate Procedure

[NOTICE OF APPEAL - EXTRA SHEET:](#)
Use this fillable [form](#) for the longer answers required in certain sections of the Notice of Appeal. Print and attach the extra sheets to the Notice of Appeal when filing.

[Administrative Appeals Docketing Statement](#)

[Workers' Compensation Docketing Statement](#)
* New form as per Revised Rules of Appellate Procedure

[Post Conviction Habeas Corpus Form \(Appendix A\)](#)

[Application to Proceed In Forma Pauperis \(Appendix B\)](#)

[Civil Case Information Statement](#)

Forms

- [Family Court Forms](#)
- [Magistrate Court Forms](#)
- [Domestic Violence Forms](#)
- [Personal Safety Forms](#)
- [Infant Guardianship Forms](#)
- [Guardian Ad Litem Proceedings Forms](#) - for use in Family Court
- [Mental Hygiene: Conservator/Guardian Forms](#)
- [Mental Hygiene: Involuntary Commitment Forms](#)
- [Mental Hygiene: Voluntary Hospitalization Transport](#)
- [Forms for Expungement of Criminal Records](#)
- [Fee Waiver Forms](#) - for use in Magistrate, Circuit and Family Court
- [Forms for Foreign Language Interpreter/Translator Services](#)
- [Court Reporter Forms](#)
- [West Virginia Judiciary Application for Employment](#)



Take Away Message 1:

- Not all clients can afford to pay a lawyer.
- Not all lawyers can go to court with everyone who has a legal problem.
- However, if members of the Bar and their office staff can help the public better navigate the resources available to help people represent themselves or identify when they really need a lawyer, it furthers access to justice and improves the public's perception of the legal system.



Take Away Message 2:

- Sign up to help.
- Please fill out the form if you would like for the State Bar or Legal Aid to follow up with you about volunteering
- Or you can sign up on your own:
 - West Virginia Free Legal Answers/West Virginia Online Legal Help- Sign up online at www.wvonlinelegalhelp.org
 - Tuesday Legal Connect- contact Tina Roberts at troberts@lawv.net
 - West Virginia Lawyer Referral Service-Register online at www.wvlawyerreferral.org.
 - Writing Public Information for Legal Aid-contact Kate White at kwhite@lawv.net





**West Virginia State Bar
Legal Outreach Committee
Volunteer Sign up**

First and Last Name: _____

County: _____

Firm/Organization Name: _____

WV Bar Number: _____

Email: _____

Phone Number: _____

Please contact me to provide more information about signing up to participate with these programs:

- ☐ Tuesday Legal Connect
- ☐ West Virginia Lawyer Referral Service
- ☐ West Virginia Free Legal Answers (WV Online Legal Help)
- ☐ Write public resources for Legal Aid of West Virginia