

# To Post or Not: The Social Media Ethical Dilemma

CMCP-Kaiser CLE Marathon  
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Moderated by Shirish Gupta



# The Panel



Shirish Gupta - Flashpoint Mediation



Rhonda Nelson - Severson & Werson



Glen Olson - Long & Levit



# Applicable Ethics Rules

Binding on California lawyers:

- [Cal. Rule Professional Conduct 1-400\(D\)](#) (Solicitation)
- [Bus & Prof Code §§6157-6159.2](#) (Attorney Advertising)

Advisory on California lawyers:


- [ABA Model Rule 7.1](#) (Communications)
- [ABA Model Rule 7.2\(a\)](#) (Advertising)
- [COPRAC No. 2012-186](#) (Social Media & Prof Responsibility)






# Goal: Public Protection





California & the ABA model rules are basically the same:



You can advertise but don't mislead.



# COPRAC 2012-186

postings may be subject to compliance with rule 1-400 if their content can be considered to be “concerning the availability for professional employment.”



# CPRC Rule 1-400(D)

A communication or a solicitation (as defined herein) shall not:

- (1) Contain any untrue statement; or
- (2) Contain any matter, or present or arrange any matter in a manner or format which is false, deceptive, or which tends to confuse, deceive, or mislead the public; or
- (3) Omit to state any fact necessary to make the statements made, in the light of circumstances under which they are made, not misleading to the public; or



# Bus & Prof Code §6157.1

No advertisement shall contain any false, misleading, or deceptive statement or omit to state any fact necessary to make the statements made, in light of circumstances under which they are made, not false, misleading, or deceptive.





# ABA Model Rule 7.2(a)

a lawyer may advertise services through written, recorded or electronic communication, including public media.



# ABA Model Rule 7.1

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.

