

Hamilton County LAW LIBRARY NEWS

Professional legal information, resources, and services

A Monthly Newsletter from the Hamilton County Law Library

February 2014

To Blog or Not to Blog

By Ken Donchatz, Diane M. Anelli, and Elizabeth M. Midgley of Anspach Law*

Social media has become a critical part of the practice of law. Attorneys use all sorts of online media to advertise their practice, discuss the law and (let's face it) toot their own horn. As with advertising, the basic rule of using social media is that an attorney cannot say anything that is false or misleading. In all things, an attorney must be honest, forthright and cannot mislead the public. But what happens when an attorney decides to write a blog? And in particular, what happens when an attorney uses the blog to highlight the cases she knows best..... her own cases? In at least one state, the blogger was disciplined for creating an "unjustified expectation" of positive results. And all because she wrote about her own cases.

In February 2013, the Virginia State Bar won, in part, its prosecution of a Virginia criminal defense attorney for publishing a blog containing mostly cases in which he obtained a favorable verdict. Saying that the blog vio-

lated Virginia Rule of Professional Conduct 7.2(a)(3), the Supreme Court of Virginia denied a First Amendment challenge to Virginia's ethics rule requiring attorney advertising to contain a disclaimer where it creates an unjustified expectation of the result the attorney can achieve.

The Virginia State Bar charged attorney Horace Frazier Hunter with violating Rules 1.6, 7.1 and 7.2 by "advertising" in his blogs. While discussing favorable verdicts for his criminal clients in his blog entries, Mr. Hunter also commented on the criminal justice system in the state of Virginia, which he later argued was "political speech" protected by the First Amendment. At the disciplinary hearing, Mr. Frazier testified that one of the many reasons he created a blog was to use it as

Inside this issue:

Attorney Blogging	1
Fastcase/Hein Online Integration	2
Free CLE	5
IntelliConnect Remote Access	5
You and the Legal System: Bankruptcy	6
Ethics Resources	7

Hamilton County Law Library

Hamilton County
Courthouse
1000 Main Street
Room 601
Cincinnati, OH 45202
T:513.946.5300
F:513.946.5252

Open Monday-Friday 8 - 4

[www.http://www.hamilton-co.org/cinlawlib/](http://www.hamilton-co.org/cinlawlib/)

(Continued on page 4)

Techtip: Case Law Now Integrated into ALL HeinOnline Core Subscriptions

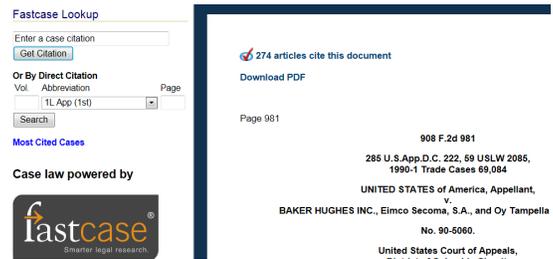
By: Julie Koehne, Systems Librarian

William S. Hein & Co., Inc. is pleased to announce a new partnership with [Fastcase](#), a leading next-generation legal research service that features powerful “best-case-first” tools that make research faster than ever. This partnership allows Hein to provide federal and state case law powered by Fastcase to HeinOnline Core subscribers via inline hyperlinks, along with providing the option to retrieve case law by citation.

Case Law Linking from Publications in HeinOnline

Like Hein’s ScholarCheck feature, when viewing a document in HeinOnline, the references will now link to the cases in addition to other types of documents cited in HeinOnline. When an article cites a case, the case citation will be highlighted in blue. The blue highlighted case citations link to the case in either HeinOnline or Fastcase. When you link to the case powered by Fastcase, you will stay inside HeinOnline. Thus, you will not need to adjust any authentications or proxy settings, but you will notice a slight change in format. Where HeinOnline provides the exact page replications of the original document, Fastcase provides a reformatted, plain text version.

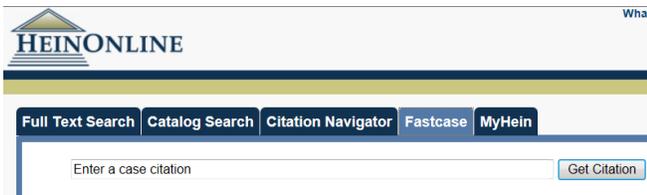
¹ 15 U.S.C. § 18.
² *Brown Shoe Co. v. United States*, 370 U.S. 294, 332 (1962). See *United States v. Von’s Grocery Co.*, 384 U.S. 270, 277 (1966) (the “terms in § 7 . . . look not merely to the actual present effect of a merger but instead to its effect upon future competition”); *United States v. Philadelphia Nat’l Bank*, 374 U.S. 321, 362 (1963) (“[W]hether the effect of the merger ‘may be substantially to lessen competition’ . . . requires not merely an appraisal of the immediate impact of the merger upon competition, but a prediction of its impact upon competitive conditions in the future . . .”); *United States v. Baker Hughes Inc.*, 908 F.2d 981, 988 (D.C. Cir. 1990) (“the statute and precedents require” “[p]redicting future competitive conditions in a given market”); 5 PHILLIP E. AREEDA & HERBERT HOVENKAMP, *ANTITRUST LAW: AN ANALYSIS OF ANTITRUST PRINCIPLES AND THEIR APPLICATION* § 1124, at 63 (3d ed. 2009) (the “statutory language of Clayton Act § 7, look[s] to prospective effects”).
³ *Brown Shoe*, 370 U.S. at 325. “Congress used the words ‘may be substantially to lessen competition’ (emphasis supplied), to indicate that its concern was with probabilities, not certainties. Statutes existed for dealing with clear-cut menaces to competition; no statute was sought for dealing with ephemeral possibilities. Mergers with a probable anticompetitive effect . . . can be prohibited by this Act.” *Id.* at 328. See *United States v. Citizens & S.*



Case Law Citation Look-Up

HeinOnline Core subscribers will now see a Fastcase tab when logged into HeinOnline. Use this tab to retrieve case law by Bluebook citation. From this tab you will see a citation search box which will allow you to copy and paste a case law citation directly into the search box. In addition, we also provide a Direct Citation option which will allow you to type in the volume, use a drop-down menu for the case abbreviation and enter the page number to find your citation. Both options will retrieve the full text of the case in Fastcase’s HTML format.

Visit home.heinonline.org/caselaw for more information.



Case Law Coverage

The federal case coverage includes: Judicial opinions of the Supreme Court (1754–present), Federal Circuits (1924–present), Board of Tax Appeals (vols. 1–47), Tax Court Memorandum Decisions (vols. 1–59), U.S. Customs Court (vols. –70), Board of Immigration Appeals (1996–present), Federal District Courts (1924–present), Federal Bankruptcy Courts (1 B.R. 1–present). The state case law covers all fifty states, with nearly half of the states dating back to the 1800s. Coverage for the remaining states dates back to approximately 1950.

Upcoming CLE

Free to subscribers; \$50 for non-subscribers
To register, call 513.946.5300 or via email
reference@cms.hamilton-co.org

Advanced Searching/ WestlawNext

Wednesday, March 12

Noon-1pm

1.0 hour of general CLE in Ohio

If It's Not in the Record, It Didn't Happen: Keys to Success in the Court of Appeals

Presenter: Thomas W. Langlois

Thursday, March 27, 2014

Noon-1pm

1.0 hour of general CLE in Ohio and
Kentucky

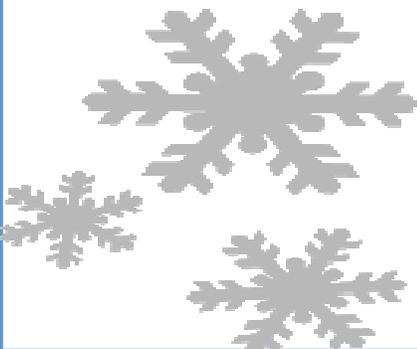
Website Needs Analysis: Help Wanted

We mentioned last month that the Law Library website will be redesigned this spring. The library staff can't wait to bring our users a fresh, logically laid out new site but we're taking the time to do it well, engaging experts in site design for this purpose. Would you please take just a few minutes to provide some input about the website? We have a short needs analysis survey at <https://www.surveymonkey.com/s/G9K3RLY>.

Your response will help with the design of a user-centered responsive design. Please respond by February 10. Thank you.

On These Cold Days...

As I write this, it is about 7°F outside and we are advised to stay indoors as much as possible. But what if you really need that chapter from a treatise or a case or a chapter from a practice guide? Keep warm and just call or email us. We will send it to you via email or fax. This is a service we provide, regardless of weather, to our subscribers and to county officials. Don't risk frostbite when we are at the Law Library and will be happy to send you the documents that you need.



New! Remote Access to IntelliConnect

Announcing an exciting development! The Law Library now offers its subscribers and county officials off-site access to Wolters Kluwer IntelliConnect, previously available on-site only. To access IntelliConnect from your home or office, click on Subscriber Login on the [Law Library's website](#) and enter your last name and borrower number. You will see IntelliConnect listed under the Topical Databases tab. The list of legal, business, and tax topics and titles in IntelliConnect is expansive. If you aren't especially familiar with this major information resource, please speak with a member of the Law Library's reference staff or see IntelliConnect's online research help at http://researchhelp.cch.com/research_help_system.htm.

(Continued from page 1)

a marketing tool. Ultimately, the Supreme Court of Virginia held that Mr. Frazier's blog was commercial rather than political speech. According to the court, the commentary about the Virginia State criminal justice system did not elevate the speech to the level of protection afforded to political speech.

As commercial speech, Mr. Frazier's blog came within the Virginia State Bar's power to regulate. While the Supreme Court of Virginia refused to call the blog content "inherently misleading", it did hold that the cumulative effect of the blog on the public was potentially misleading in violation of Rule 7.1(a)(4) as an unsophisticated consumer may believe that Mr. Hunter could obtain the same result in her case. Consequently, the Supreme Court of Virginia ruled that the Virginia State Bar could require the disclaimer as required in Rule 7.2(a)(3).

Importantly, the Supreme Court of Virginia upheld Mr. Frazier's right to report in his blog truthful information made public in concluded court proceedings as protected speech under the First Amendment. It rejected the Virginia State Bar's position that such information could be regulated under Rule 1.6 because Mr. Hunter revealed information that could be embarrassing or detrimental to his clients. According to the Virginia Supreme Court, "[t]o the extent that the information is aired in a public forum, privacy considerations must yield to the First Amendment protections."

This ruling is consistent with several other legal authorities, i.e., Restatement (Third) of the Law Governing Lawyers § 59 (2000);

Geoffrey Hazard & William Hodes, *The Law of Lawyering* (3d ed. Supp. 2003) §9.5; Ronald D. Rotunda & John S. Dzienkowski, *Legal Ethics: The Lawyer's Deskbook on Professional Responsibility* §1.6-1(b) (2012-2013).

Nevertheless, Ohio, New York and West Virginia have taken the opposite viewpoint and have held that revealing such information is not permitted under their version of Rule 1.6. See BNA Lawyer's Manual on Professional Conduct, 55 Law. Man. Prof. Conduct 11 citing *Akron Bar Ass'n v. Holder* (2004), 102 Ohio St.3d 307; 2004-Ohio-2835; (under Code, lawyer not free to disclose client secrets "just because they are documented in public records or the attorney learned of them in some other way"; lawyer disciplined for revealing client's criminal record even though client had already disclosed information in deposition); *Lawyer Disciplinary Bd. v. McGraw*, 461 S.E.2d 850, 861-862 (W. Va. 1995), "The ethical duty of confidentiality is not nullified by the fact that the information is part of a public record or by the fact that someone else is privy to it."; *Nassau County (N.Y.) Ethics Op. 96-7* (1996) (lawyer may not disclose information about former client's criminal conviction, even though it is part of public record, if lawyer learned of it during representation of that client), but compare *Nassau County (N.Y.) Ethics Op. 95-2* (1995) (although general rule is that lawyer may not reveal client confidences or secrets "regardless of whether the information is part of a public record," lawyer may disclose former client's criminal conviction, which was part of public record, if lawyer learned of conviction after termination of representation and original attorney-client relationship did not enable lawyer to obtain information).

So for now, the law in this area is unsettled. So, if you are blogging or discussing your cases on social media, protect yourself by providing a disclaimer. Don't overstate your results and don't promise results. Just give honest, fair renditions of the facts and make sure you tell your readers that there are no guarantees in life or law.

For further information, contact [Diane M. Anelli](#).

*Reprinted with permission.

Have You Heard Us on the Radio?

Some library users have mentioned that they've heard the Law Library mentioned on WGUC 90.9 or WVXU 91.7 in recent weeks. We are underwriting Cincinnati Public Radio this year, because it's an excellent information resource and because we've heard that its listenership is loyal, influential, well-positioned, and highly educated. We think that of our law library users, too, so it seems like a good fit: we support local public radio and, in turn, public radio expands the pool of legal and business professionals who may have an interest in law library services. Thank you for referring prospective subscribers to the Law Library.



Subscriber Renewals

Thanks to all of the Law Library's subscribers who have taken the time to renew for 2014. We are pleased to provide you with another year of legal information, services, and education. There is still time to renew if you haven't done that yet. We revoke library subscriber services and access after February 28 for anyone who has not yet paid for 2014. Please speak with [Mary Jenkins](#) or [Vanessa Reams](#) if you have any questions about your renewal or if you need another copy of the invoice.

Research Guides

The Law Library recently published a number of online research guides for use by library patrons and the general public. You'll find them at <http://libguides.hamilton-co.org> or via links to Research Guides under Get Started or Research Tools on the library's website at <http://www.hamilton-co.org/cinlawlib/>. Topics available include landlord tenant law, child custody and support law, divorce law, and the appeals process. We also offer a welcome guide to the Law Library to familiarize new and prospective subscribers with our services and resources. We think you will find these useful. Our intent is to introduce readers to the array of material to which we provide access as well as information freely available online, including books, databases, primary law, forms, and more. Please feel free to [suggest topics to us](#).

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to 6 weeks at a time

Access to extensive electronic databases from the Law Library, including LexisNexis, Shepard's, CCH Omnitax, CCH Human Resources Group, and CCH Business Group resources, Hein Online Law Journals and Federal Register, and over 70 Aspen / LOISLaw treatises in 16 substantive areas

Wireless network throughout the Law Library

Polycom videoconferencing

5 meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

Inexpensive CLE seminars throughout the year, on legal research and substantive topics

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/ LOISLaw treatises and CCH Newsletters

You and the Legal System: Bankruptcy Basics

Attorney Neal J. Weill is our next speaker in the *You and the Legal System* series for the public. Mr. Weill will discuss Bankruptcy on Friday, February 21 at noon at the Law Library.

The program is free to the public. To register, call 513.946.5300.

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact Laura Dixon-Caldwell at 513.946.5302.

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service.

Save the date for the next event in the *You and the Legal System* series: Stephen Olden will discuss Social Security/Disability on March 21.



Ethics Resources

The Law Library offers a variety of print and electronic resources on attorney ethics. If you have questions about access to any of these resources, just call us at 513.946.5300.

ABA compendium of professional responsibility and standards
KF305 .A722 2011

Anderson's law of professional responsibility in Ohio
KFO76.5 A2 B43 2012-13

Digging for buried treasure: how a search through the rules of ethics and professionalism reveals the seven secrets for attorney success
KF306 .T46 2012

Dirty litigation tactics: how to deal with the "Rambo" litigator in Ohio
KFO76.5 L45 2010

Discipline problems: how to avoid them
KFO76.5 A2 D47 2012

Do no wrong: ethics for prosecutors and defenders
KF9619 .J69

Ethical considerations unique to independent staff counsel
KFO185 .E83 2011

Ethical issues and practicing law in the digital age
KFO76.5.A2 B33 2012

Ethically creating an innovative law practice in the recovery
KFO77 .O357 2013

Ethics for title agents and attorneys
KFO126 .E8 2012

The ethics of e-Discovery
KF8902.E42 B373 2009

Kentucky legal ethics opinions and professional responsibility deskbook
KFK1276.5.A2 U54 2008

Introduction to social networking: what it is and why you need to know
KFO76.5 .A2 .L434 2011

Judicial conduct and ethics
KF8779 .S53 2013

Legal ethics and social networking in Ohio
KFO76.5.A2 .L433 2011

Model rules of professional conduct
KF305 .A2 2013

Professionalism, law office management, and client funds management: and Ohio notary law: your role, responsibilities, and risks as an Ohio notary
KFO526.N6 .P765 2012

Social networking and legal investigations: what it and isn't permissible
KFO76.5 .A2 L435 2011

Social networking and privacy: protecting yourself and your clients online
KFO76.5 .A2 L435 2011

Online Resources/Remote Access* Aspen/Loislaw

Law Practice Resources Library:
Lawyer's Desk Book
The Law of Lawyering
Social Media: Legal Risk & Corporate Policy

Links:

Ohio Supreme Court, Commission on Professionalism-

<http://www.supremecourt.ohio.gov/Boards/CP/default.asp>

Kentucky Bar Professional Conduct Rules-
<http://www.kybar.org/237>

Upcoming Events:

February 21: You and the Legal System-Bankruptcy

March 12: Westlaw CLE

March 27: Appeals CLE

Law Library Holidays:

The Law Library will closed on Monday, February 17 in observance of Presidents' Day.



February 2014 Law Library Newsletter

- Attorneys and Blogging
 - Tech Tip: HeinOnline and Fastcase
 - Integration
 - Website Needs Analysis
 - Free CLE
- INSIDE THIS MONTH**

ADDRESS CORRECTION REQUESTED

Hamilton County Law Library
Hamilton County Courthouse
1000 Main Street, Room 601
Cincinnati, OH 45202