

LL.M. Program on Information Technology

IT 880F

**GATEWAYS AND BARRIERS
TO
MARKETING THROUGH TECHNOLOGY**

May 1 and May 2, 2009
9:00 AM to 5:00 PM
(30 minute lunch break)

SYLLABUS

Purpose of this Course: This course looks at the full array of methods to market legal services through technology, ranging from online directories to social networking. Issues include the potential effectiveness of various techniques as they are applied to different practice settings, the constitutional permissibility of legal services promotions, the application of state ethics rules and the influence of professionalism within cultural norms. Students will be able to design a strategic marketing plan that maximizes the use of technology for specific practice settings, within ethical parameters and consistent with ideals of professionalism.

Day 1:

9:00 to 10:30: Course Overview, Marketing Plans, Ethics Rules and Disciplinary Procedures

- Strategic marketing plans
- The context of the state rules of professional conduct
- Sources to understand the application of rules to client development techniques – Comments, ethics opinions, disciplinary cases
- Disciplinary procedures
- Consequences beyond discipline

Readings: [ABA Model Rules 7.1 through 7.5](#) prior to and after 2002
[IL Rules of Professional Conduct 7.1 through 7.5](#)
www.iardc.org
[Birbrower v. Superior Court of Santa Clara County](#)
Illinois Opinion 96-10

10:40 to 12:10: The Doctrine of Commercial Speech

- The origin of the constitutional authority to market legal services
- Definition of Commercial Speech
- Application of Commercial Speech

Readings: Texans Against Censorship v. State Bar of Texas, 888 F. Supp. 1328 (ED Texas 1995)
[Stern v. Bluestone](#)
[Nike v. Kasky: The Definition of Commercial Speech](#), pages 70-72

12:40 to 2:10: State Rules Governing Technology – The two tracks taken

- Application of current rules to current technologies
- Adoption of rules that specifically address technologies

Readings: [In re Canter](#)
[ABA Model Rule 7.3](#)
[Florida Rule of Professional Conduct 4-7.6](#)
[New York Code of Professional Responsibility](#), Sec. 1200.1; 1200.6(f) and (g); 1200.7(a), (e) and (f); 1200.8(c) and (h)

2:40 to 3:20: Online Marketing Tools

- Online Directories
- Online Brochures
- Issues of misleading communications, disclaimers, linkage and imputed obligations

Readings: ABA Model Rule [7.1](#) and [8.4](#)
[South Carolina RPC 7.3\(d\)](#)
[Wyoming RPC 7.2\(f\) and g\)](#)

3:30 to 5:00: Issues of law firm web sites

- Client Development sites: First generation sites, Next gen sites, geographic boundaries, specific state limitations
- Online intake; creation of the attorney/client relationship; conflicts of interest
- Sites to influence juries
- Consumer complaint sites – Feeding class action
- Networking sites – Collective thought
- Harvesting data and follow-up

Readings: [ABA Model Rules 1.6, 1.7, 1.18 and 7.3](#)
[Barton v. US District Court](#)

Day 2

9:00 to 10:30: Technology-dependent Client Development Tools – Commercial Speech Issues

- Blogs: Content; Filing/Screening obligations
- Email: Content; CAN SPAM Act and state counter-parts

Readings: [Florida RPC 4-7.7](#)
[Texas RPC 7.07](#)

[Kentucky RPC 7.05](#)
[New York 1200.8\(c\)](#)
[CAN SPAM Act](#)

10:40 to 12:10: Technology-dependent Client Development Tools and the Flow of Money

- Matching Services: Advertisement or Referral Service
- Pay-per-click: Leads or cases

Readings: [ABA Model Rule 7.1 and 7.2](#)
[FTC Opinion Letter](#)
[Texas State Bar Opinion 573](#)
[South Carolina Informal Advisory Opinion 01-03](#)

12:40 to 2:40: Marketing through social networks and virtual worlds

Readings: [Second Life Wikipedia entry](#)
[The Great Debate: Law in the Virtual World](#)

3:00 to 5:00: Student discussion/presentations

Instructor

William Hornsby
whornsby@staff.abanet.org
whornsby2@comcast.net
Tele: 312/988-5761
Office hours by appointment

Course Overview

This course examines the use of the Internet as a tool for client development and explores the policies that govern those endeavors. By understanding issues of professional responsibility and professionalism, students will be positioned to create a strategic marketing plan that is consistent with professional obligations and norms, while at the same time maximizes the lawyer's ability to use technology to maintain and expand his or her law practice.

Students are expected to advance discussions through their participation in class. Readings are designed to provide a background and insight into the issues discussed in each class. Most materials are easily accessible online. If you come across a cold link, please report it to be ASAP.

Grading

Class Participation: Your class participation will constitute 60 percent of your final grade. Participation involves meaningful contribution and advancement of the discussion. Although you may not participate without attending class, you should not assume that your attendance is in and of itself satisfactory participation.

Paper: A final paper will account for 40 percent of your grade. The paper should be in the form of a strategic marketing plan either for your current law firm practice or for a practice you would like to pursue. Your plan should demonstrate the use of technology in innovative ways and illustrate the concepts you have learned in the course.

A portion of the final class session is dedicated to student presentations. You should be prepared to discuss your strategic marketing plan. If there are a sufficient number of students, you will break up into “law firms” at the end of the first day and give a group report at the end of the second day.