



NEWSLETTER

The Ethical Dilemma of LinkedIn Specialties, Skills and Endorsements

By Anna Massoglia

Professional websites like LinkedIn can increase lawyers' exposure and benefit their practices. With 187 million unique visitors each month, more than 68% of attorneys say they use LinkedIn to engage other professionals or potential clients. Even a widely-used professional networking site such as LinkedIn presents a number of potential ethical conundrums for attorneys and law firms. The "Specialties" section as well as the "Skills and Endorsements" section of LinkedIn profiles can leave attorneys particularly vulnerable to ethical snags.

Attorneys listing "specialties" or "skills and endorsements" on LinkedIn has raised ethical quandaries for lawyers and law firms as it appears to conflict with state bar ethics rules governing attorney advertising. Although individual LinkedIn profiles now include a "Skills and Endorsements" section instead of a "Specialties" section since 2012, the "specialties" section remains a component of LinkedIn "Company Pages," which is used by many law firms. Isn't "endorsing" attorneys for a skill basically the same thing as having a specialty? Unfortunately, this is still the subject of ongoing debate among legal professionals. The ABA and state bar ethical rules discourage such flagrant use of the word "specialty," instead instructing lawyers to use the term meticulously.

Under ABA Rule of Professional Responsibility 7.4 and equivalent state ethics rules, attorneys are generally prohibited from claiming to be a "specialist" in the law. ABA Rule 7.4(d) prohibits attorneys from stating or even implying that they are certified as a specialist in a particular field of law, unless:

- (1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association; and
- (2) the name of the certifying organization is clearly identified in the communication.

Upcoming Events Calendar

April 9

Estate Planning and Probate Section

12:15 - 1:15 p.m.

Law Offices of Nancy Kaupp Ewin, Esq.
8166 La Mesa Blvd., La Mesa

Topic: TBD

Speaker: TBD

April 29

**Civil Litigation Section &
Family Law Section**

12:00 - 1:15 p.m.

BJ's Restaurant, Grossmont Center, La Mesa

Topic: How to Impress Your Judge (and Court Staff)

Speaker: Hon. Eddie Sturgeon, Hon. Joel Pressman and Hon. Christine Goldsmith (Ret.)

Many states bar associations extend this restriction to use of terms like “expert” or “expertise.” ABA Model Rule 7.1 prohibits attorney from making any false or misleading claims about his or her services. If a lawyer knowingly permits an endorsement to remain on his or her personal LinkedIn profile that is misleading, that could pose a problem under ABA Model Rule 7.1, even if another user posted the endorsement. Former chair of the Illinois State Bar Association Standing Committee on Professional Conduct, Michael Downey, has indicated that truthful endorsements are okay, even when an endorser does not know an attorney directly. One can deduce, that you must keep a watchful eye as new endorsements come in.

The Professional Guidance Committee of the Philadelphia Bar Association first distinguished between using the word “expert” and listing a practice area under the general category of “Skills and Expertise” in Opinion 2012-8, finding that an attorney may list practice areas under the LinkedIn heading “Skills and Expertise” because it is akin to listing practice areas on law firm websites. However, the Committee advised that listing yourself an “expert” in a particular practice could violate ABA Model Rules 7.1 and 7.4 by misleading a potential client to believe that the lawyer was a “specialist” in that area even if it is noted elsewhere on the LinkedIn profiles that you are neither certified nor an “expert.”

In South Carolina, these requirements are even more stringent. South Carolina Ethics Opinion 12-03 concluded that lawyers may not participate in websites designed to allow non-lawyer users to post legal questions where the website describes the attorneys answering those questions as “experts.”

In April 2013, the Florida Bar imposed social media advertising guidelines on attorneys, containing prohibitions on statements that might imply “expertise” in an area of law to legal consumers by characterizing skills, experience, reputation or record unless they are objectively verifiable. A Florida Bar advisory advertising opinion written in response to one attorney’s inquiry later in 2013 declared that lawyers cannot list their practice areas under the “Skills & Expertise” section of their LinkedIn pages unless they are board certified in those particular areas pursuant to Florida Rule 4-7.14(a)(4).

In June 2013, the New York State Bar Association Committee on Professional Ethics similarly considered whether a lawyer or law firm could list areas of practice under the “Specialties” category, concluding that non-certified lawyers and law firms could not ethically list areas of practice under the “Specialties” heading on LinkedIn’s “Company Pages” unless the lawyer is appropriately certified as a specialist.

These opinions and ethical rules demonstrate the potential ethical ramifications that can arise from how professionals choose to present themselves in the digital sphere. Lawyers should keep that in mind and avoid blindly following a particular state bar determination when state bars vary substantially in their opinions on lawyers’ social media interactions. Nevertheless, these opinions are instructive and indicate that lawyers should carefully consider their jurisdiction’s past holdings regarding listing skills, expertise, and specialties, before listing their areas of practice under those sections of their LinkedIn profiles or through other mediums.

About the Author ... Ms. Anna Massoglia is a 2015 Juris Doctor candidate from the University of the District of Columbia David A. Clarke School of Law. Ms. Massoglia's background includes community based engagement, multiple publications related to domestic and international issues, including evaluation and implementation of social media analytics strategies as a foreign service intern. As part of the HessConnect team she provides high quality content based on the most relevant updates for law firms' online engagement.

Real Estate Mantra: Disclose, Disclose, Disclose

By Keith A. Jones, Esq.

Real estate agents frequently tout "Location, Location, Location" when referring to a property's top three attributes. For decades, California real estate agents have represented sellers or buyers separately, or both parties under a dual agency relationship. California law has required residential agents to provide mandatory written disclosure forms to the parties in such transactions identifying the role that the agent is serving, and very specific explanations about the nature of each role.

Until recently, California law did not require commercial real estate agents to make such detailed written disclosures, regardless of whether they represented the seller, the buyer, or both. The rationale that parties in commercial transactions did not need such disclosures include that they are: i) more sophisticated; ii) able to understand who represents whom; and iii) able to retain consultants, such as legal counsel and financial advisors, to protect their interests.

Amended California Civil Code Section 2079.16 became operative in January 2015, and sets out the language to be included on the front page of the disclosure form. It further requires Sections 2079.13 to 2079.24 (exclusive of Section 2079.16) to be printed on the reverse side. The requirement applies to real property transactions in which an agent represents one or more principals in the transaction, and includes the sale of one to four dwelling units, any commercial real property, any leasehold in any such property exceeding one year, and mobilehomes.

The disclosure language describes the agent's fiduciary duty owed to one or more of the parties, depending upon the extent of the representation. Regardless of whom the agent is representing, the fiduciary duty includes one of "*utmost care, integrity, honesty, and loyalty*" in the dealings with the parties.

Agents will be exposed to potential conflicts when serving in the dual capacity. For example, the statute states that an agent may not disclose to the other party that the seller will accept less, or that the buyer would pay more, than the price offered unless the agent obtains the express permission of the party.

Section 2079.14 sets forth the timing for presenting the disclosure, which can be in the purchase agreement, the lease, or a separate agreement. The statute states when and how the parties can sign the form, which must ultimately be signed by the seller, the buyer, and the agent in most cases. An agent who fails to comply with these statutory requirements could be subject to a suspension of his or her license, and risks potential liability to sellers, buyers, landlords, and/or tenants. In other words, agents need to "Disclose, Disclose, Disclose."

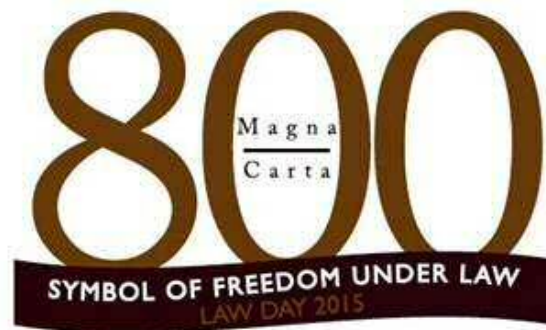
Agents have served as dual agents in the residential market for years. Some industry experts predict the statute will lead to the formation of commercial agencies representing only sellers and landlords, or only buyers and tenants, in the commercial property markets, particularly because a dual agency may result if the parties are represented by separate agents but the agents work for the same company. Others experts expect little impact since the residential real estate market has operated with dual agency relationships for years. Stay tuned as all experts expect the changes will lead to new cases to be decided by California's supreme and appellate court justices.

Update from the San Diego Law Library

By Cheryl Weeks-Frey, Librarian

Law Day is May 1st

To celebrate the 800 year anniversary of its signing, this year's theme is Magna Carta: Symbol of Freedom Under Law. Plans are in the works for the Law Library and Foothills Bar Association's annual celebration. Please contact Carolyn Brock (619-741-0233) or Librarian Cheryl Weeks-Frey (619-441-4451) for more information.



Update on San Diego Law Library Finances

One of the most frequently asked questions about the San Diego Law Library is what is the source of our funding? Contrary to popular belief, we do not receive any tax dollars. Instead, county law libraries receive a portion of the filing fee paid for the [first filing](#) made in superior court. The [amount](#) of the portion varies by county. For instance, the San Diego Law Library receives \$38 from the filing fee. Law libraries do not receive this portion from all types of cases, but only from certain civil, probate, family, and vehicle forfeiture cases.

This relationship is important because as court filings increase and decrease so does the amount that law libraries receive. Over the past several years, court filing fees have been dropped considerably. This has dramatically affected our library. During the 2009 fiscal year, the San Diego Law Library received over \$4.1 million from court filing fees. Over the course of the [2014 fiscal year](#), we received less than \$2.8 million, a decrease of over 30%. This current fiscal year, the revenue from filing fees has declined even further. Through January 2015, the Law Library has received \$1,528,334. This projects out to filing fee receipts of \$2,653,000 for the year, a decline of 4% from last year's \$2,777,117. This would be a 36% decline from fiscal year 2008-2009.

These declines in revenue have caused reduced hours at library branches, fewer staff available to assist patrons, and the cancellation of numerous print titles.

As you can see, the system for funding county law libraries is broken. The Council of California Law Libraries (CCLL) is working together to bring several proposals before the legislature. Click [here](#) to find out what's being proposed and how you can voice your support of the San Diego Law Library to your state lawmakers.

New Face at the El Cajon Branch of the Law Library

As you may have heard, there is a new Librarian at the El Cajon location of the San Diego Law Library. Cheryl Weeks-Frey is now at the law library, ready and waiting to assist you. Cheryl has been with the law library for 15 years, having spent most of her time assisting patrons at the North County and Downtown locations. When she's not at the law library, Cheryl can be found on the dance floor, enjoying a Zumba Fitness® class, either as a student or the Instructor.



The El Cajon branch of the law library is located on the First floor of the courthouse. Hours are Monday and Wednesday, 9 am to 4 pm, and Friday, 9 am to 1pm. The El Cajon branch is closed Tuesdays and Thursdays.

Looking for Speakers for Future FBA Civil Litigation Section Meetings:

If you have a litigation topic you would like to present at an upcoming Civil Litigation Section MCLE meeting, please contact Section Co-Chairs Mark Raftery at mraftery@epsten.com or Elizabeth Smith-Chavez at liz@smithchavezlaw.com.

Newsletter Advertising Rates
Business Card Size
\$25.00 for two months
\$125.00 for twelve months

The Foothills Bar Association seeks a chairperson for the criminal law section. Responsibilities will involve scheduling speakers for lunch time MCLE programs on topics of interest and providing Section meeting status reports to the Foothills Board of Directors. Interested attorneys should contact Cheryl Stengel at clstengel@outlook.com.

Foothills Bar Association Notice of Board Meeting:

The Foothills Bar Association Board of Directors meets on the third Tuesday of each month. The next meeting will be on April 21 2015 at the Kriger Law Firm, 8220 University Avenue, 2nd Floor Conference Room, La Mesa, CA. The meeting will begin at 4:45 p.m. If you want your voice to be heard in policy discussion and upcoming events planning or would simply like to learn more about the organization, your attendance is welcome.

The Family Court needs settlement conference judges. Please volunteer and share your expertise. Contact Kelly Fabros at 619-456-4065 or Kelly.Fabros@SDCourt.CA.Gov.



**FOOTHILLS BAR ASSOCIATION
OF SAN DIEGO COUNTY**
Service, Professionalism, Collegiality

THE CIVIL LITIGATION AND FAMILY LAW SECTIONS OF
THE FOOTHILLS BAR ASSOCIATION PRESENT:

“HOW TO IMPRESS YOUR JUDGE (AND COURT STAFF)”

Speakers

Hon. Eddie Sturgeon Hon. Joel Pressman

Hon. Christine Goldsmith (Ret.)

**Wednesday, April 29, 2015 – Noon to 1:15 p.m.
BJ’s Restaurant, Grossmont Center, La Mesa**

The seminar is free for members of FBA and only \$10.00 for non-members. Walk in registrants will be accommodated as space allows.

Mark Raftery, Cheryl Stengel, and Elizabeth Smith-Chavez,

Co-Chairs

The Foothills Bar Association certifies that this activity has been approved by the State Bar of California for 1.0 hour General MCLE credit

Registration for the Program on April 29, 2015

Name _____ Number Attending _____

Telephone _____

Fax registration to Mark Raftery at (858) 527-1531 or email to
mraftery@epsten.com by April 27, 2015

2015 FBA OFFICERS, DIRECTORS, SECTION CHAIRS & COMMITTEES

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REPRESENTATIVES

Dan Bacal, SDCBA	619-588-2064
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FAMILY LAW:	Traci Hoppes
CIVIL LITIGATION:	Cheryl Stengel, Mark R. Raftery & Elizabeth Smith-Chavez
ESTATE PLANNING:	Nancy Kaupp Ewin, Carolyn R. Brock

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LAW DAY	Chair: Carolyn R. Brock & George de la Flor
HARD-TO-GET	Chair: Keith Jones, Garrison Klueck & Elizabeth Smith-Chavez
CREDITS SEMINAR	
MEMBERSHIP	Chair: Bradley Schuber & George de la Flor
ADDRESS CHANGES	Chair: Bradley Schuber

SUBMISSIONS

Your submissions are welcome! Send articles, letters, flyers, and other non-advertising submissions to Cheryl Stengel at clstengel@outlook.com.

ADDRESS CHANGES

Send change of address or telephone number to Bradley Schuber at bschuber@krigerlawfirm.com

**Foothills Bar Association
P.O. Box 1077
El Cajon, CA 92022**

**Addressee Name
4321 First Street
Anytown, State 54321**

The Board of Directors of Federal Defenders
and Appellate Defenders

Presents

2015 Annual Defender Dinner

Celebrating the work and dedication of criminal defense attorneys and
appointed counsel

Featuring Keynote Speaker

Jeffrey L. Fisher

Professor of Law at Stanford Law School and Co-Director, Supreme Court Litigation Clinic

Friday, April 10, 2015

No host cocktails at 5:00 p.m.; Dinner at 6:00 p.m.

**Westin San Diego Gaslamp Quarter, 910 Broadway Circle, San
Diego**

Presentation of the following awards will be made:

E. STANLEY CONANT AWARD for exceptional and unselfish devotion to
protecting the rights of the indigent accused will be presented to Laura
Berend

PAUL BELL AWARD for significant appellate achievement will be
presented to Patrick Ford

SPECIAL BOARD OF DIRECTORS AWARD will be presented to Jeffrey
L. Fisher for outstanding advocacy on behalf of those accused of crimes
before the United States Supreme Court. He has successfully argued
Crawford, Blakely, and Riley

\$65 per person/\$650 table of 10

Board of Directors of Federal Defenders and Appellate Defenders
225 Broadway, Suite 900
San Diego, CA 92101

(619) 234-8467
www.adi-sandiego.com
www.fdsdi.com

2015 Annual Defender Dinner

Response Form

RSVP by April 3, 2015

- Please reserve ___ seat(s) at \$65 each
 Please reserve ___ table(s) (10 guests per table) at \$650 each

Name: _____

Phone: _____

E-mail: _____

Please list all guests (including yourself):

Guest Name	Dinner Selection (circle one; see below for details)			
_____	Chicken	Short Rib	Seafood	Vegetarian
_____	Chicken	Short Rib	Seafood	Vegetarian
_____	Chicken	Short Rib	Seafood	Vegetarian
_____	Chicken	Short Rib	Seafood	Vegetarian
_____	Chicken	Short Rib	Seafood	Vegetarian

For additional guests, add page

Dinner option details:

Chicken: Oregano Lemon Organic Chicken Breast

Short Rib: Temecula Table Wine Braised Short Rib

Seafood: Seasonal Seafood Selection with Miso and Roasted Ginger

Vegetarian: Grilled Shiitake and Goat Cheese Napoleon w/ Balsamic Reduction and Micro Greens

Make checks payable to: **Federal Defenders of San Diego, Inc.**

Mail to:

Federal Defenders of San Diego, Inc.

Attn: Linda Acosta

225 Broadway, Suite 900

San Diego, CA 92101

For further information, contact Linda at (619) 234-8467 Linda_Acosta@fd.org

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