Ethics: Social Media In Litigation - An Ethical Minefield

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Forty years ago, a lawyer sitting at home had access to a rotary dial telephone, his secretary used a typewriter, he did all of his research in a library with real books, and if he wanted personal information on someone, he hired an investigator. Today, the same lawyer has access to more information through the cell phone in his pocket. It is difficult to fully grasp the amount of information available, and social media has expanded the available information exponentially.

There are over 1.28 billion active monthly Facebook users world-wide, with 802 million of those people logging onto their accounts daily.[1] Every second, five new Facebook profiles are created, and every sixty seconds 510 comments are posted, 293,000 statuses are updated, and 136,000 photos are uploaded.[2] Instagram introduced the ability to post videos in June 2013, and within the first 24 hours, users uploaded 5 million videos. There are over 645 million Twitter users who, on average, tweet 58 million times a day.[3]

The proliferation of social media has turned trial lawyers into online investigators. As we stand at the crossroads, every lawyer should stop and consider how our ethical and professional standards both restrict *and* require online investigation. The following is a list of twenty common questions regarding online investigation and communication.

Are social networking sites potential sources of evidence for use in litigation?

The Association of the Bar of the City of New York Committee on Professional and Judicial Ethics, Obtaining Evidence From Social Networking Websites, Formal Opinion 2010-2 states:

> "Lawyers increasingly have turned to social networking sites, such as Facebook, Twitter and YouTube, as potential sources of evidence for use in litigation. In light of the information regularly found on these sites, it is not difficult to envision a matrimonial matter in which allegations of infidelity may be substantiated in whole or part by postings on a Facebook wall. Nor is it hard to imagine a copyright infringement case that turns largely on the postings of certain allegedly pirated videos on YouTube. The potential availability of helpful evidence on these internet-based sources makes them an attractive new weapon in a lawyer's arsenal of formal and informal discovery devices. The prevalence of these and other social networking websites, and the potential benefits of accessing them to obtain evidence, present ethical challenges for attorneys navigating these virtual worlds.

Does a lawyer have an obligation to investigate online? If so, what is the scope of a lawyer's duty to investigate?

ABA Model Rule 1.3 states: "A lawyer shall act with reasonable diligence and promptness in representing a client." That duty includes the obligation to undertake research and to collect documents to support or defend against the complaint. *See Attorney Grievance Com'n of Maryland v. Patterson*, 421 Md. 708, 737, 28 A.3d 1196 (Md. 9/21/11)(accepting as not clearly erroneous finding that Respondent violated Rule 1.3 when he "neglected to perform any kind of services or undertake research, to collect documents to support the complaint").

ABA Model Rule 1.1 states: "A lawyer shall provide competent representation to a client. Competent

1 This information is current as of as of April 2014 and represents 15% and 21% increases respectively from March 2013 to March 2014. http://investor.fb.com/releasedetail.cfm?ReleaseID=842071.

2 http://zephoria.com/social-media/top-15-valuable-facebook-statistics/

3 http://www.statisticbrain.com/twitter-statistics/

representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." The commentary to Rule 1.1 provides that "[c]ompetent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem." *Id.*, comment ¶ 5. "The history of Rule 1.1 notes that the rule and accompanying commentary was unchanged from the Rules' adoption by the ABA in 1983 through 2001. The commentary accompanying the 2002 amendments provides that the evaluation of evidence is "required in all legal problems." *Bozeman v. Bazzle*, 07-01344, at fn. 15 (D.S.C. 7/24/08)(citing Model Rules of Prof'l Conduct R. 1.1 cmt. ¶ 2 (2002)), 2008 WL 3850703, *rev'd & remanded,* 364 Fed.Appx 796 (C.A. 4 (S.C.) 2/9/10), *cert denied,* 131 S.Ct. 174, 178 L.Ed.2d 104 (2010). In 2012, Comment 8 to Rule 1.1 was amended to specifically address the issue of technology: "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, *including the benefits and risks associated with relevant technology*…." (emphasis added).

Have the courts recognized the failure to use technology as grounds for relief?

Litigation on this issue is not yet common. In *State v. Hales,* (Utah, 1/30/07), 152 P.3d 321, the Utah Supreme Court granted a defendant's claim of ineffective assistance of counsel because his attorneys failed to retain a qualified expert to examine CT scans of the victim's brain injuries. In support of that motion, Defendant attached an affidavit by a pediatric neuroradiologist interpreting the CT scans. The court found that an expert opinion consistent with that post-trial affidavit could have been obtained before trial, and stated in support of that conclusion: "In fact, the State noted in its argument on a separate point of appeal that Dr. Barnes's testimony did not meet the standard for new evidence because Dr. Barnes was a prominent physician in his field whom the defense could have discovered with a '30–second' search on 'Google'." *Id.,* at 342. This case begs the question: what could most lawyers discover in most cases after a 30-second search on Google?

May I send a Facebook "friend" request to a plaintiff?

ABA Model Rule 4.2 states: "In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order."

May I accept a Facebook "friend" request sent to me by a plaintiff?

Comment 3 to ABA Model Rule 4.2 states: "The Rule applies even though the represented person initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule."

May I send a Facebook "friend" request to an unrepresented third party without disclosing my true purpose for "friending"?

ABA Model Rule 4.1(a) states: "In the course of representing a client a lawyer shall not knowingly… make a false statement of material fact or law to a third person." Comment 1 to Rule 4.1 provides: "A lawyer *is required to be truthful when dealing with others on a client's behalf*, but generally has no affirmative duty to inform an opposing party of relevant facts." (emphasis added).

ABA Model Rule 4.3 states, in pertinent part: "In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding."(emphasis added).

Comment 1 to Rule 4.3 states, in pertinent part: "An unrepresented person, particularly one not experienced in dealing with legal matters, might assume that a lawyer is disinterested in loyalties or is a disinterested authority on the law even when the lawyer represents a client. In order to avoid a misunderstanding, a lawyer will typically need to identify the lawyer's client and, where necessary, explain that the client has interests opposed to those of the unrepresented person."

Philadelphia Bar Association Opinion 2009-02 concluded that it would be unethical for a non-lawyer personnel to attempt to "friend" a non-party witness for the purpose of accessing information on the witness' Facebook page; unless employee disclosed identity and purpose of "friending".

Has any Bar Association held that a lawyer can send a Facebook "friend" request to an unrepresented third party if the lawyer uses his or her real name?

The Association of the Bar of the City of New York Committee on Professional and Judicial Ethics, Obtaining Evidence From Social Networking Websites, Formal Opinion 2010-2 has long been regarded as a leading opinion on this ussye:

> Consistent with the policy, we conclude that an attorney or her agent may use her real name and profile to send a "friend request" to obtain information from an unrepresented person's social networking website without also disclosing the reasons for making the request. While there are ethical boundaries to such "friending," in our view they are not crossed when an attorney or investigator uses only truthful information to obtain access to a website, subject to compliance with all other ethical requirements. *See, e.g., id.*, [*Muriel, Siebert & Co. v. Intuit Inc.*, 8 N.Y.3d 506, 511, 836 N.Y.S.2d 527, 530 (2007)] ("Counsel must still conform to all applicable ethical standards when conducting such [ex parte] interviews [with opposing party's former employee]." (citations omitted))." .

The opinion makes it clear that the key is whether the attorney is honest in the "friending":

> Rather than engage in "trickery," lawyers can -- and should -- seek information maintained on social networking sites, such as Facebook, by availing themselves of informal discovery, such as the truthful "friending" of unrepresented parties, or by using formal discovery devices such as subpoenas directed to non-parties in possession of information maintained on an individual's social networking page. Given the availability of these legitimate discovery methods, there is and can be no justification for permitting the use of deception to obtain the information from a witness on-line. Accordingly, a lawyer may not use deception to access information from a social networking webpage. Rather, a lawyer should rely on the informal and formal discovery procedures sanctioned by the ethical rules and case law to obtain relevant evidence.

The same prohibitions apply against having an associate, paralegal or investigator send requests. ABA Model Rule 5.3(c)(1) states: "With respect to a nonlawyer employed or retained by or associated with a lawyer…a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved."

ABA Model Rule 8.4 states: "It is professional misconduct for a lawyer to… violate or attempt to violate the Rule of Professional conduct, knowingly assist or induce another to do so, or do so through the acts of another…."

ABA Model Rule 4.1(a) states: "In the course of representing a client a lawyer shall not knowingly… make a false statement of material fact or law to a third person."

The Philadelphia Bar Association, Professional Guidance Committee, issued Opinion 2009-02 (March 2009) involving an "inquirer [who] proposes to ask a third person, someone whose name the witness will not recognize, to go to the Facebook and Myspace websites, contact the witness and seek to 'friend' her, to obtain access to the information on the pages." *Id*., p. 2 of 6. The Committee concluded that the proposed conduct would violate Pennsylvania Rule of Professional Conduct 5.3(c)(1) and Rule 8.4, and Rule 4.1.

May I counsel my client to remove online information, video, entries, posts, or comments that have potential evidentiary value? May I counsel my client against future online communications, including posts, blogs, and Facebook entries?

ABA Model Rule 3.4(a) states, in pertinent part: "A lawyer shall not... unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. *A lawyer shall not counsel or assist another person to do any such act*." (emphasis added). Again, whether or not deleted videos, blogs, Facebook entries, and posts can be electronically recovered, the question is whether the deletion "obstructs" or "conceals" the information.

ABA Model Rule 8.4 states: "It is professional misconduct for a lawyer to… violate or attempt to violate the Rule of Professional conduct, knowingly assist *or induce another to do so, or do so through the*

acts of another…" (emphasis added)

With respect to future online communications, in civil cases, a civil lawyer has the right to advise his client not to speak with anyone about the case, and to refrain from any communication, online or otherwise, which is contrary to his or her interests. In a criminal case, a defendant has a constitutional right against self-incrimination that is guaranteed by the Fifth Amendment; and a criminal defense lawyer may advise his client of that right.

May I counsel my client to change a profile page to "private"?

ABA Model Rule 3.4(a) states, in pertinent part: "A lawyer shall not... unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value." Changing a profile page to private does not alter or destroy evidence. While it may technically conceal evidence, that evidence is still there should the opposing party subpoena it (and he certainly should).

May I counsel my client to post misleading or inaccurate information online to deceive or confuse counsel?

ABA Model Rule 3.4(b) states: "A lawyer shall not… falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law."

ABA Model Rule 8.4 states: "It is professional misconduct for a lawyer to… engage in conduct involving dishonesty, fraud, deceit or misrepresentation…"

May I post inaccurate information online about an investigation or litigation in which I am participating?

ABA Model Rule 4.1(a) states: "In the course of representing a client a lawyer shall not knowingly... make a false statement of material fact or law to a third person." Comment 1 to Rule 4.1 states: "A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false."

May I post online about an investigation or litigation in which I am participating when that post will have a substantial likelihood of materially prejudicing an adjudicative proceeding?

ABA Model Rule 3.6(a) states: "A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer 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 in the matter. Comment 5 to Rule 3.6(a) contains a list of "certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury."

What may I post online about an investigation or litigation being handled by another attorney in my firm?

ABA Model Rule 3.6(d) states: "No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a)."

May I perform an online investigation of potential jurors during *voir dire*?

ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 466 (April 24, 2014) finds that attempting to "friend" jurors or prospective jurors, or to follow a juror or prospective juror, or to "link in" with him or her through an access request, is akin to a communication by which a lawyer is asking the juror for information that the juror has not made public is an ex parte communication prohibited by Rule 3.5(b).

"It is proper and ethical under RPC 3.5 for a lawyer to undertake a pretrial search of a prospective juror's social networking site, provided that there is no contact or communication with the prospective juror and the lawyer does not seek to 'friend' jurors, subscribe to their Twitter accounts, send jurors tweets or otherwise contact them." New York County Lawyers' Association Committee on Professional Ethics Opinion 743 (2011). The same opinion states further:

> Some authorities have examined a lawyer's use of internet resources to investigate potential jurors in the voir dire stage. For example, one recent Missouri decision considered and set aside a jury verdict in which a juror had

specifically denied (falsely) any prior jury service. *See Johnson v. McCullough*, 306 S.W. 3d 551 (Mo. 2010). In holding that the juror had acted improperly, the Court observed that a more thorough investigation of the juror's background would have obviated the need to set aside the jury verdict and conduct a retrial. The trial court chided the attorney for failing to perform internet research on the juror, and granted a new trial, observing that a party should use reasonable efforts to examine the litigation history of potential jurors. 306 S.W. 3d at 559. A New Jersey appellate court similarly held that the plaintiff counsel's use of a laptop computer to google potential jurors was permissible and did not require judicial intervention for fairness concerns. *See Carino v. Muenzen*, No. A-5491-08T1, N.J. Super. Unpub. LEXIS 2154, at *26-27 (App. Div. Aug. 30, 2010); *see also* Jamila A. Johnson, 'Voir Dire: to Google or Not to Google' (ABA Law Trends and News, GP/Solo & Small Firm Practice Area Newsletter, Fall 2008, Volume 5, No. 1)."

May I send a Facebook "friend" request to jurors during the trial?

ABA Model Rule 3.5(b) states: "A lawyer shall not communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order." Attempting to friend a juror during trial is generally impermissible, at least if a juror becomes aware of the attempt, which ordinarily he would through social media notifications. New York County Lawyers' Association Committee on Professional Ethics Opinion 743 (2011). This may also extend to web sites as well as social media. *Id. (*"If a juror becomes aware of an attorney's efforts to see the juror's profiles on websites, the contact may well consist of an impermissible communication, as it might tend to influence the juror's conduct with respect to the trial.").

Do I have an obligation to my client to recognize the danger of online jurors?

The reality is that potential jurors and sworn jurors are going online to investigate the cases. In *In re Methyl Tertiary Butyl Ether (MTBE) Products Liability,* 739 F.Supp.2d 576 (S.D.N.Y. 2010), Juror No. 5 learned that ExxonMobil was the only remaining defendant in this case and that many of the other defendants had settled for approximately one million dollars each." The district court dismissed the juror but was asked to grant a mistrial after the jury returned a $100 million verdict. The district court noted numerous instances of jurors conducting their own investigations in other cases:

- Christina Hall, Facebook Juror Gets Homework Assignment, The Detroit Free Press, Sept. 2, 2010 (reporting that a Michigan juror who posted on Facebook that a defendant was guilty before the completion of trial was dismissed from the jury, held in contempt of court, ordered to pay a $250 fine and required to write a five page essay on the defendant's Sixth Amendment right to a jury trial)

- Noeleen G. Walter, Access to Internet, Social Media by Jurors Pose Challenges for Bench, N.Y. L.J., Mar. 3, 2010 (reporting that a state trial court in the Bronx determined that a woman breached her obligations as a juror by sending a Facebook "friend" request to a government witness but rejected the defense's argument that this act had tainted the jury's guilty verdict)

- Andrea F. Siegel, Judges Confounded by Jury's Access to Cyberspace: Panelists Can Do Own Research on Web, Confer Outside of Courthouse, The Balt. Sun, Dec. 13, 2009 (discussing the increasing trend in Maryland courts of defendants seeking a mistrial on the ground that one or more of the jurors conducted Internet research about the defendant's case while the trial was ongoing)

- Debra C. Weiss, Juror Whose Revelation Forced a Mistrial Will Pay $1,200, A.B.A. J., Oct. 13, 2009 (reporting that a New Hampshire juror charged with contempt of court for revealing during deliberations that the defendant was a convicted child molester pleaded guilty to a reduced charge and agreed to pay $1,200 to reimburse the county for expenses related to two days of deliberations)

- Daniel A. Ross, Juror Abuse of the Internet, N.Y. L. J., Sept. 8, 2009 (examining the problem of "Internet-tainted" juries across the United States and abroad

- John Schwartz, As Jurors Turn to Web, Mistrials Are Popping Up, N.Y. Times, Mar.

18, 2009 ("It might be called a Google mistrial. The use of BlackBerry's and iPhones by jurors gathering and sending out information about cases is wreaking havoc on trials around the country, upending deliberations and infuriating judges.").

Is there an instruction that I can ask the trial court to give to reduce the likelihood of online jurors?

At least twelve jurisdictions and four federal courts have adopted a model instruction regarding a juror's online usage during the pendency of a trial. *See* http://goingpaperlessblog.com/social-media-in-the-legal-profession. In December of 2009, the Judicial Conference Committee On Court Administration And Case Management prepared "Proposed Model Jury Instructions The Use of Electronic Technology to Conduct Research on or Communicate about a Case," which included the following instruction at the close of the case:

> During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.

May I monitor jurors' publicly available blog or Facebook pages?

"During the evidentiary or deliberation phases of a trial, a lawyer may visit the publicly available Twitter, Facebook or other social networking site of a juror but must not 'friend' the juror, email, send tweets to the juror or otherwise communicate in any way with the juror or act in any way by which the juror becomes aware of the monitoring. Moreover, the lawyer may not make any misrepresentations or engage in deceit, directly or indirectly, in reviewing juror social networking sites." New York County Lawyers' Association Committee on Professional Ethics Opinion 743 (2011).

What if I learn that a juror is communicating online or tweeting about the trial, and I know that juror's opinion is favorable to my client?

Comment 12 to ABA Model Rule 3.3 states: "Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as bribing, intimidating or otherwise unlawfully communicating with a witness, juror, court official or other participant in the proceeding, unlawfully destroying or concealing documents or other evidence or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b) requires a lawyer to take reasonable remedial measures, including disclosure if necessary, whenever the lawyer knows that a person, including the lawyer's client, intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding."

"In the event the lawyer learns of juror misconduct, including deliberations that violate the court's instructions, the lawyer may not unilaterally act upon such knowledge to benefit the lawyer's client, but must promptly comply with Rule 3.5(d) and bring such misconduct to the attention of the court before engaging in any further significant activity in the case." New York County Lawyers' Association Committee on Professional Ethics Opinion 743 (2011).

"Any lawyer who learns of juror misconduct, such as substantial violations of the court's instructions, is ethically bound to report such misconduct to the court under RPC 3.5, and the lawyer would violate RPC 3.5 if he or she learned of such misconduct yet failed to notify the court. This is so even should the client notify the lawyer that she does not wish the lawyer to comply with the requirements of RPC 3.5. Of course, the lawyer has no ethical duty to routinely monitor the web posting or Twitter musings of jurors, but merely to promptly notify the court of any impropriety of which the lawyer becomes aware." New York County Lawyers' Association Committee on Professional Ethics Opinion 743 (2011)(citing RPC 3.5(d)).

"Lawyers who learn of impeachment or other useful material about an adverse party, assuming that they otherwise conform with the rules of the court, have no obligation to come forward affirmatively to inform the court of their findings. Such lawyers, absent other obligations under court rules or the RPC, may sit back confidently, waiting to spring their trap at trial. On the other hand, a lawyer who learns of juror impropriety is bound by RPC 3.5 to promptly report such impropriety to the court. That rule provides that: 'A lawyer shall

reveal promptly to the court improper conduct by a member of the venire or a juror, or by another toward a member of the venire or a juror or a member of his or her family of which the lawyer has knowledge.'" New York County Lawyers' Association Committee on Professional Ethics Opinion 743 (2011)(citing RPC 3.5(d)).

May I friend judges?

ABA Standing Comm. on Ethics & Prof'l Responsibility, Formal Op. 462 (2013) concluded that a judge may participate in electronic social networking. The states have reached varying results on this issue.

In Florida, a judge may not add lawyers who may appear before the judge as friends on a social networking site, and permit such lawyers to add the judge as their friend. Florida Judicial Ethics Advisory Committee, Opinion 2009-20. Under Canon of Judicial Ethics 2B, "[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge." The opinion concluded that the judge's Facebook page would show lawyers as friends, which would convey the impression that the lawyers could influence the judge.

North Carolina has focused not on the "friending" itself but the substance of any communications on the Facebook page. North Carolina Judicial Standards Committee, Public Reprimand, Inquiry No. 08-234. There, the judge was reprimanded for discussing a pending case with one of the lawyers in the case on Facebook. Ohio, Kentucky, New York and South Carolina have similarly allowed friending so long as there are no ex parte communications or other violations of the applicable canons of judicial conduct.

There has also been a spate of cases focusing on whether a judge's social media relationship with attorneys in a case requires recusal. In *State v. Forguson*, 2014 WL 631246 at * 13 (Tenn.Crim.App. Feb.18, 2014), because the record failed to show "the length of the Facebook relationship between the trial court and the confidential informant, the extent of their internet interaction or the nature of the interactions," the court found that there was not sufficient proof showing that the trial court could not impartially fulfill its duty as thirteenth juror. *Cf. Youkers v. State*, 400 S.W.3d 200 (Tex.App. 2013) (designation of Facebook friend alone provides no insight into the nature of the relationship); with *Chace v. Loisel*, 2014 WL 258620 (Fla.App. 5 Dist. Jan 24, 2014) (relying on judicial ethics opinion prohibiting trial judges from engaging in social media with attorneys to require recusal based solely on "Facebook friendship" with prosecutor).

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Duris L. Holmes is a member of the firm's Business Department. He has more than twenty-five years of experience representing clients in the matters of antitrust and trade regulation, bankruptcy, business organization, contracts (government and private), directors' and officers' liability, franchising, health care, insurance, intellectual property, mergers and acquisitions, shareholders' rights, and trusts and estates. Mr. Holmes' practice includes representing clients in transactional matters as well as arbitration and litigation.

In the community, Mr. Holmes is active in Scouting, serving on the Executive Board of the Southeast Louisiana Area Council of the Boy Scouts of America. He is also the president of Advocates for Academic Excellence in Education, which is the sponsoring organization for Benjamin Franklin High School, recognized as one of the top high schools in the United States.

Mr. Holmes attended Louisiana Tech University. He earned his juris doctorate, cum laude in 1986 from Tulane University Law School, 1986, where he was a member of the Order of the Coif and The Order of Barristers and served as Chief Justice of the Moot Court Board. He received the Leadership in Law Award: Top 50 Lawyers in New Orleans, 2008 from New Orleans City Business. Mr. Holmes is also co-chair of the Securities Arbitration Subcommittee of the Business Litigation Committee of the American Bar Association Section of Business Law.

Practice Areas

- Banking Law
- Bankruptcy
- Commercial Transactions
- Corporations
- Franchising and Distribution
- Intellectual Property
- Professional Liability
- Trusts, Probate and Successions

Professional Honors and Activities

- Leadership in Law Award: Top 50 Lawyers in New Orleans, 2008
- American Bar Association -- Forum on Franchising (Litigation and Dispute Resolution Division); Business Section (Commercial Litigation Committee and Business Torts Subcommittee); Intellectual Property Law Section (Franchising and Insurance Committees); Co-chair, Securities Arbitration Subcommittee (Business and Corporate Litigation Committee of the Section of Business Law)
- Louisiana State Bar Association -- Antitrust and Trade Regulation Law Section; Corporate and Business Law Section; Consumer Protection Section; Lender Liability & Bankruptcy Law Section; Intellectual Property Law Section
- New Orleans Bar Association Intellectual Property Committee (Subcommittee on Franchising); Internet Committee

Education

- J.D., cum laude, Tulane University, 1986 -- Order of the Coif; The Order of Barristers; Chief Justice, Tulane Moot Court Board
- Louisiana Tech University, 1980-1983 -- Omicron Delta Kappa; Lambda Chi Alpha Fraternity; Past president and director, Theta Psi Zeta Corporation of Lambda Chi Alpha Fraternity