

How to Remain Ethical on Social Media



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2024 Annual Conference NAWJ

Fundamentals of Justice



- Trustworthy
- Neutral
- Fair - integrity
- Equal treatment
- Consistent
- Due process
- Transparent
- Accessible
- Competent

Code of Judicial Conduct

Canon 1: A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

Canon 2: A JUDGE SHOULD PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

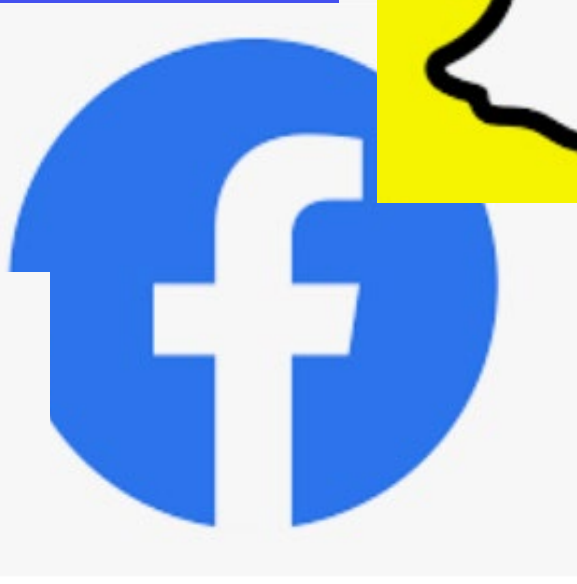
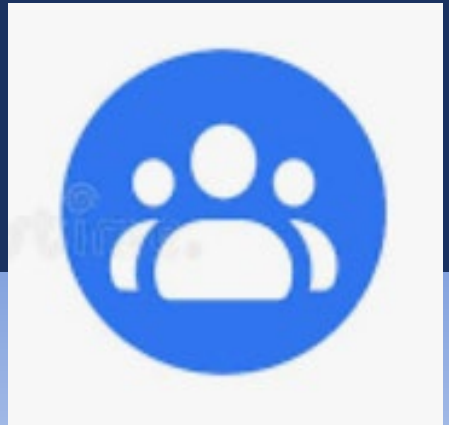
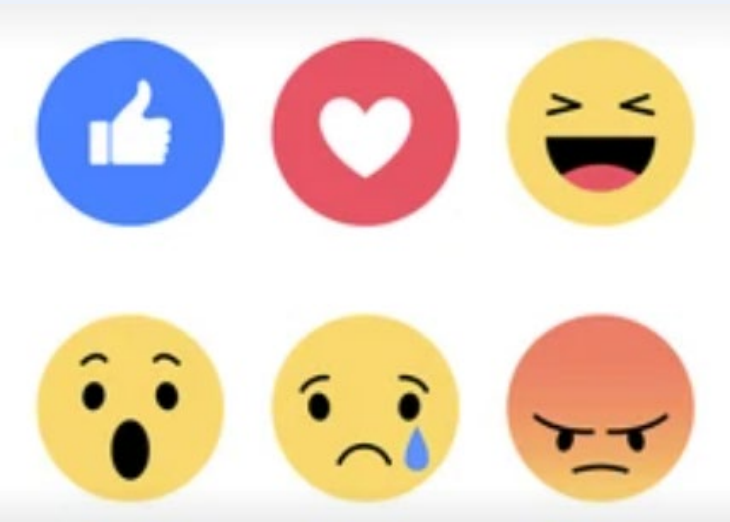
Canon 3: A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

Canon 4: A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.



“The same Rules of the Code of Judicial Conduct that govern a judicial officer’s ability to socialize and communicate in person, on paper, or over the telephone also apply to the Internet and social networking sites like Facebook.”





The “Online Disinhibition Effect”

“You don’t know me” (dissociative anonymity)

“You can’t see me” (invisibility)

“See you later” (asynchronicity)

“It’s all in my head” (solipsistic introjection)

“It’s just a game” (dissociative imagination)

“We’re equals” (minimizing authority)

“A judge must exercise caution when engaging in any type of electronic communication, including communication by text or email, or when participating in online social networking sites or otherwise posting material on the Internet, given the accessibility, widespread transmission, and permanence of electronic communications and material posted on the Internet.”



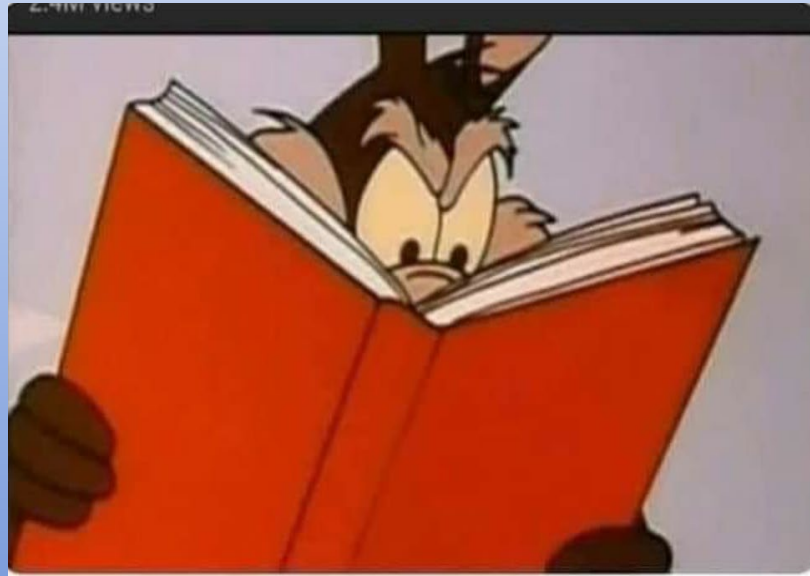
Session Outline

- 1) Controversial Topics
- 2) Charitable Fundraising
- 3) Liking/Friending/Reposting/
Reviewing

Controversial issues

facebook

Baca Bennett
(2021)



How to carry kids
across the border...

Rothman, Cal.
Judicial
Conduct
Handbook, 4th
ed. §10:33

Public involvement on either side in ongoing debates about controversial social and political issues is improper. Such issues (e.g., abortion and same-sex marriage) are frequently the subject of public debate and litigation. A judge who is politically active may be perceived to have prejudged issues that may come before the courts. Public involvement politicizes the judicial institution, demeans the judiciary, and impairs judicial independence and impartiality.

facebook

Canning
(2019)



Kyle Canning shared a post

February 18 · 🌐

**IF WE WANT TO MAKE
AMERICA GREAT AGAIN WE
WILL HAVE TO MAKE EVIL
PEOPLE FEAR PUNISHMENT AGAIN**



imgflip.com





James Woods  @RealJamesWoods · Jan 21, 2017

These are the [#women](#) we should be fighting for. This [@womensmarch](#) is an abomination...



O'Gara
(2021)



In the Matter Concerning Michael J. O'Gara

- Judge O'Gara maintained a public Twitter account.
 - His username was @mjogara.
 - His display name was Michael J. O'Gara.
 - His followers included the City of Glendale, at least one DDA and several private attorneys.
 - Between 2014-2021 Judge O'Gara posted remarks, retweeted content or liked tweets by others.

O'Gara Case

Examples:



John Cleese  @JohnCleese · Dec 10, 2019

Can this be right ?

If a Democrat is President, lying about a blow-job is grounds for impeachment

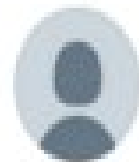
If a Republican is President, betraying his country's defence policy again Russia...isn't

What am I missing here ?

 5.3K

 28.8K

 133.9K



Michael J. O'Gara @mjogara · Dec 15, 2019

Perjury





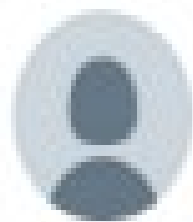
George Takei  @GeorgeTakei · Apr 26, 2019 ...

Will you join me in pledging not to speak negatively about any of our candidates? We don't know who the nominee will be, but they need to be as strong as they can be going into the election against Trump.

 7.8K

 11K

 45.6K



Michael J. O'Gara @mjogara · Apr 27, 2019 ...

So hide the truth and weakness in hopes of winning in November? That sounds like a winning strategy.



One tweet appeared critical of Black Lives Matter supporters who were exercising their First Amendment right to protest.



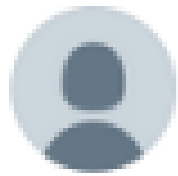
UCLA  @UCLA · Jun 2, 2020 ...

We're troubled by accounts of Jackie Robinson stadium being used as a "field jail." This was done without UCLA's knowledge or permission. As lessee of the stadium, we informed local agencies that UCLA will NOT grant permission should there be a request like this in the future.

 291

 3.2K

 8.9K



Michael J. O'Gara @mjogara · Jun 3, 2020 ...

I'm sure your position would change if they had just devastated the student store or the medical center. But sure, local businesses, burn 'em down.



Judge O’Gara also liked tweets by other users that appeared to reflect strong political points of view and opinions on controversial issues.



Dinesh D’Souza  @DineshDSouza · Jan 6 

I don’t approve of storming the Capitol but isn’t it a fact that if Antifa and BLM did it, the media would be in raptures about the passionate demonstration of commitment to racial justice? [#CapitolBuilding](#)



2.9K



9K



34K



Dinesh D’Souza  @DineshDSouza · Jan 6 

It’s somehow okay for the Left to topple monuments, burn businesses, create “autonomous zones,” drag people out of restaurants & cars, and cause all kinds of violence and mayhem; yet it’s an “unprecedented assault on democracy” when Trumpsters stage their own protest?

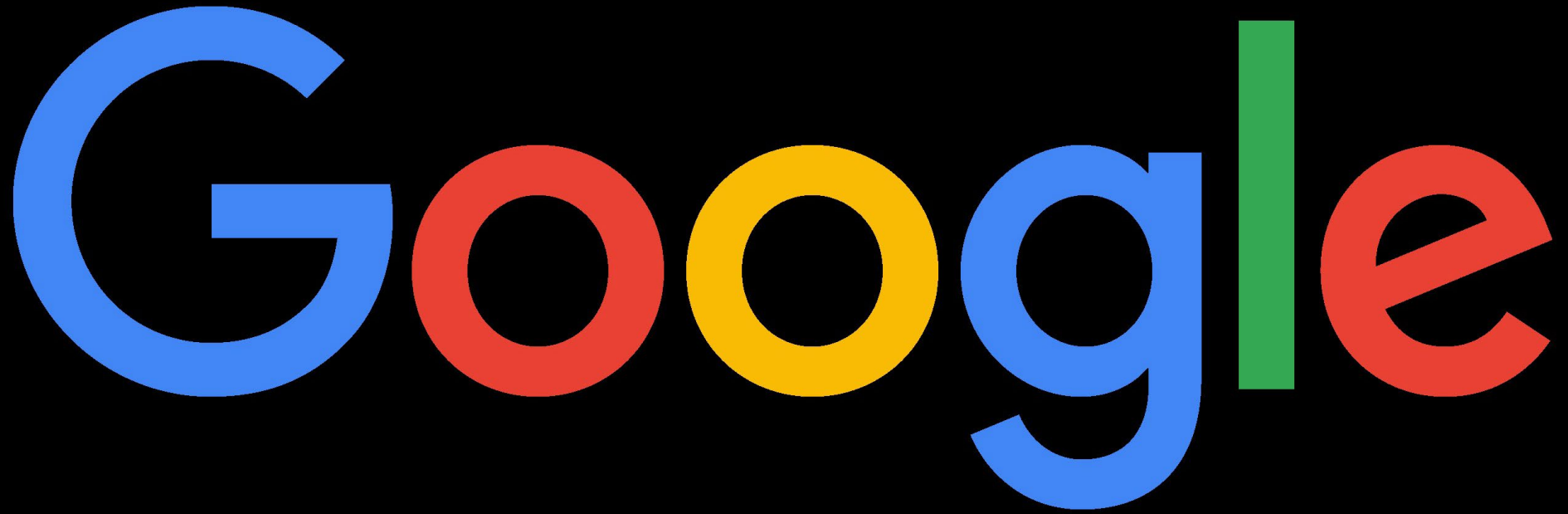
CJC Case – In the Matter Concerning Michael J. O’Gara

- The Commission found that the Twitter activity violated:
 - Canon 4A Failure to conduct extrajudicial activity in a manner that that did not cast doubt on the ability to act impartially or demean the judicial office.
 - Canon 1 Failing to maintain high standards of conduct.
 - Canon 2A Failing to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and making statements that the judge with respect to cases, controversies and issues.

facebook

Schmidt
(2020)



The Google logo is displayed in its characteristic multi-colored font (blue, red, yellow, blue, green, red) against a solid black rectangular background.

Google

You **WILL** be Googled

Charitable fund- raising



Why is this a
Code
violation?



“A judge may not use social media or social networking platforms to promote the activities of educational, religious, charitable, fraternal, or civic organizations when the judge would be prohibited from doing so using another means of communication. For example, just as a judge may not write or telephone nonfamily members or judges over whom the judge has supervisory authority to encourage them to attend organizations' fundraising events, a judge may not promote those events via social media or social networking platforms.”



Svaren (2018)



Judge David Svaren

@judgedavidsvaren

Home

About

Endorsements

Photos

Likes

Videos

Posts

Create a Page

Like

Message

Save



Judge David Svaren added 2 new photos.

1 October at 10:50 · 🌐

The Burlington Fire Department Pancake Feed is happening now and 100% of the proceeds go to benefit the families of the victims of the recent tragedy at Cascade Mall. Please consider attending, it runs until noon today.

#SkagitStrong



facebook

Yu (2018)



Justice Mary Yu

@JMarryYu

Home

About

Endorsements

Photos

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Videos

Posts

Community

Create a Page

Like

Follow

Share

...



Justice Mary Yu

22 April at 13:06 · 🌐

Join Lifelong for Dining Out For Life on April 26!

On Thursday, April 26, raise your fork for Dining Out For Life! Join Lifelong at one of 90 restaurants in the Greater Seattle Area who are set to donate 30-50% of their proceeds to vital programs that support people facing serious illness and poverty in our community.

<https://www.diningoutforlife.com/seattle>



Join Lifelong for Dining Out For Life on April 26! | Dining Out for Life, Seattle, Lifelong AIDS Alliance, Restaurants, HIV/AIDS, fundraiser, Lifelong, DOFL,...

DININGOUTFORLIFE.COM

Like

Comment

Share



McCroskey (2023)



Write a comment...

Robin Stone McCroskey
January 14 · GoFundMe · 🌐

She's one of a kind!!!

GOFUNDME.COM

Help Ashley cover her medical expenses!, organized by Kadee Coatney
Hi, my name is Kadee Coatney, and I am trying to help my lifelong best friend r... Kadee Coatn...

“If a judge posts on social networking sites such as Facebook or crowdsourced sites such as Yelp or TripAdvisor, the judge may not lend the prestige of judicial office to advance the pecuniary or personal interests of the judge or others. For example, a judge may not comment on, recommend, or criticize businesses, products, or services on such sites if it is reasonably likely that the judge can be identified as a judge.”





California Advisory Opinion 78 (2020)



- 1) How likely is it that a reader can identify that a judge wrote the review?
- 2) Where will the post appear?
- 3) Is there a reasonable possibility the reviewed business can tell the post was written by a judge?
- 4) How detailed is the review?
- 5) Who is the review being written for?

California Advisory Opinion 78 (2020)



Whether “liking” a business abuses the prestige of office depends on who can see the judge’s “likes”

- Only the judge
- Anyone
- Only “friends”
- Only close friends & relatives



Robin Stone McCroskey

Love Nissa. Love this place!!!



facebook

McCroskey
(2023)



“Judges should be vigilant in minimizing reasonable apprehensions of bias arising from these communications and associations. . . . Judges who choose to use social media should exercise great caution in their communications and associations within these networks, including expressions of support or disapproval.”



“A violation of the Code may occur when a judge uses the Internet, including social networking sites, to post comments or other materials such as links to websites, articles, or comments authored by others, photographs, cartoons, jokes, or any other words or images that convey information or opinion. Violations may occur even if a judge's distribution of a communication is restricted to family and friends and is not accessible to the public.”



“A judge may not use social media or social networking platforms to promote the activities of educational, religious, charitable, fraternal, or civic organizations when the judge would be prohibited from doing so using another means of communication. For example, just as a judge may not write or telephone nonfamily members or judges over whom the judge has supervisory authority to encourage them to attend organizations' fundraising events, a judge may not promote those events via social media or social networking platforms.”



“Judges must carefully monitor their social media accounts to ensure that no communication can be reasonably interpreted as suggesting a bias or prejudice; an ex parte communication; the misuse of judicial power or prestige; a violation of restrictions on charitable, financial, or political activities; a comment on a pending or impending case; a basis for disqualification; or an absence of judicial independence, impartiality, integrity, or competence.”





Good Use of Social Media

Examples of Appropriate Posts

Judicial civics education

← Tweet



Justice Brett Busby
@BrettBusby



It was a pleasure to welcome these dedicated Texas teachers to [@SupremeCourt_TX](#) yesterday! Thanks to the State Bar's Law-Related Education Department [@Texas_LRE](#) for organizing this training and helping to bring judicial civics education to Texas classrooms. [#SCOTX](#)



Examples of Appropriate Posts

Sharing information on role of judges and the judicial system

← Tweet

Justice Brett Busby Retweeted



David A. Furlow
@DavidAFurlow



☀️🏛️📄✍️ Volunteer lawyers & judges participating in the Texas Supreme Court Historical Society's TAMING TEXAS program have taught classes about history, courts, justice & the rule of law to over 22,000 students in the Houston area alone. RT, please... texascourthistory.org/journal

have been taught in schools since 2016. The Houston Bar Association (HBA) is back in the classrooms this Spring using our Taming Texas materials to teach students in Houston-area schools. It takes over a hundred volunteers to reach the thousands of students we teach each year, and we could not implement this vast program without the HBA's invaluable support. We appreciate the HBA and its President, Jennifer Hasley, partnering with us on Taming Texas again this year.

In the past six years, Taming Texas has reached over 22,000 Houston-area students. This year, the HBA is visiting eight schools and there will be forty-one classes, which represents eighty-two in-person lessons. This is about double the number of classes the HBA was able to conduct last year, and this year all classes will be in person. "One of my favorite aspects of the Taming Texas program is that the seventh graders gain exposure to lawyers and judges who are at the top of their profession and great role models. Often these students have either had no experience with the legal profession, or their experience has been negative because it involves a divorce or criminal issue," said Richard Whitley, HBA program co-chair. "In addition to teaching them the content of the program, being there, answering their questions about being a lawyer, and setting an example for the students is just as important."

Past co-chairs of the HBA program include Society Trustees Justice Brett Busby, Justice Ken Wu, and Judge Jennifer Walker Eboe. We appreciate their service as co-chairs and longtime

and the history of our supreme court. If you are not currently a fellow, please consider joining the Fellows and helping us with this important work.

If you would like more information or want to join the Fellows, please contact the Society office or me.

FELLOWS OF THE SOCIETY

Hemphill Fellows
(50 law or more annually)

David J. Beck*	Thomas S. Leatherbury
Joseph D. Jernai, Jr.* (deceased)	Richard Warren Mitchell*

Greenhill Fellows
(25 law or more annually)

Stacy and Douglas M. Alexander	Ben L. Mesches
Marlene M. Auld	Jeffrey L. Oldham
Robert A. Black	Hon. Marilee O'Meara and Kerry N. Calkins
Hon. Jane Blank and Doug Blank	Hon. Jack Fagan* (deceased)
S. Leon Carter	Shannon H. Ruffin*
Michael Easton	Harry M. Sauerer
Harry L. Gilman, Jr.	Robert M. Sauer, Jr.*

SCOTXHistSoc and 9 others

1:56 PM · Jul 11, 2022 from Houston, TX · Twitter for iPhone

9 Retweets 1 Quote Tweet 12 Likes

Examples of Appropriate Posts

Insights into Supreme Court procedures

← Tweet

Justice Brett Busby Retweeted



Supreme Court of TX

@SupremeCourt_TX

...

The Supreme Court of Texas holds court conference, at which the justices discuss all causes before the Court. Texas is one of very few state supreme courts that allow law clerks to attend deliberations. Clerks and staff attys sit against the walls. [#appellatetwitter](#) [#TXCourts](#)



12:00 PM · Apr 26, 2022 · Twitter for iPhone

Examples of Appropriate Posts

Involvement in educational organizations



The image shows a screenshot of a Twitter profile for Judge Stephen Dillard. The profile header includes a back arrow, the name "Judge Stephen Dillard" with a verified badge, and "33K Tweets". The profile picture is a circular image of Judge Dillard wearing a cap and a lanyard. To the right of the profile picture are icons for a menu, a message, and a "Follow" button. The bio reads: "Presiding Judge and 30th Chief Judge of @AppealsCourtGA | Deo • Doctrinae • Aeternitati". Below the bio, it shows the location "Atlanta, GA", the website "judgedillard.com", and "Joined October 2010". The profile statistics are "7,125 Following" and "23.5K Followers". It also shows "Followed by American Bar Foundation, Sonya Olds Som (she/her/hers), and 3 others you follow". The "Tweets" tab is selected, showing a "Pinned Tweet" from April 22. The tweet text says: "Tomorrow, I'll complete my 4-year tenure as president of @SamfordAlumni. It's been one of the greatest honors of my life to serve my alma mater in this capacity, & I have no doubt Casey Ramey & her amazing team will continue to do incredible work on behalf of all Samford alums." Below the text are four images: two photos of Judge Dillard with other men, one photo of Judge Dillard with a woman, and one photo of a document titled "Samford University Alumni Association Executive Council Meeting Minutes" dated November 5, 2023.

Examples of Appropriate Posts

Encouragement of Pro Bono Activities

← **Paul Thissen** ✓
6,796 Tweets Following

↻ Paul Thissen Retweeted

 **mnbar** @mnbar · Mar 24, 2021

The Judicial Branch and the MSBA are pleased to announce the Lawyers Step Up for Minnesota campaign. Step up in this unprecedented time to help fellow Minnesotans with legal issues affecting their basic human needs. Visit lawyersstepupmn.org



LAWYERS STEP UP
FOR MINNESOTA

Examples of Appropriate Posts

Civic and community activities

The image shows a LinkedIn profile for Robert T. Watson, a Judge in the Criminal Division of the Circuit Court. The profile includes a search bar, navigation icons for Home, My Network, Jobs, and Messaging, and a post from 1 day ago. The post describes a summer celebration at the Miami Beach Convention Center with seniors, featuring photos of a flag ceremony and a dining table with people. The post includes the text: "Great time with City of Miami Beach seniors at a fun summer celebration today at the Miami Beach Convention Center. A wonderful group of vibrant residents! #miamijudges #community" and several emojis. The profile also shows 2,264 followers and a "Message" button.

Robert T. Watson • 1st
Judge, Circuit Court - Criminal Division
1d • 🌐



Great time with [City of Miami Beach](#) seniors at a fun summer celebration today at the [Miami Beach Convention Center](#). A wonderful group of vibrant residents!
[#miamijudges](#) [#community](#)
👤 👥 🍷 🍷 🍷 🍷 🍷 🍷

Robert T. Watson
Judge, Circuit Court - Criminal Division

Followers 2,264

Talks about [#justice](#), [#miamijudges](#), and [#justicesystem](#)

[Message](#)



Examples of Appropriate Posts


Sharing information on role of judges and the judicial system



Peter M. Reyes, Jr.
Judge at Minnesota Court of Appeals

Followers **1,695**

Drafts **10**



Robert T. Watson • 1st
Judge, Circuit Court - Criminal Division
3mo • 🌐

It was a pleasure to host visiting Brazilian businessmen to observe our justice system in action. It is always an honor to represent our judiciary and explain how we operate in service of our community. [...see more](#)



Examples of Appropriate Posts

Promoting
judge's
activities
and
recognitions
received



Peter M. Reyes, Jr.
Judge at Minnesota Court of Appeals

Followers	1,695
Drafts	10

Peter M. Reyes, Jr. likes this



Michigan Supreme Court
9,724 followers
3mo • 

[+ Follow](#)

Chief Justice Bridget McCormack Named Alumna of the Year | The American Law Institute



Examples of Appropriate Posts

Court post
on LinkedIn
and
community
activities

The image shows a screenshot of a LinkedIn post. On the left is a profile card for Peter M. Reyes, Jr., a Judge at the Minnesota Court of Appeals, with 1,695 followers and 10 drafts. The main post is from the U.S. District Court, District of Minnesota, which has 2,427 followers. The post text states that Chief Judge John R. Tunheim will be the keynote speaker at the University of Minnesota Law School's 2022 commencement. Below the text is a large photograph of Chief Judge John R. Tunheim in his judicial robes, standing in front of an American flag.

LinkedIn Profile:
Peter M. Reyes, Jr.
Judge at Minnesota Court of Appeals
Followers: 1,695
Drafts: 10

Post Content:
Peter M. Reyes, Jr. likes this
U.S. District Court, District of Minnesota
2,427 followers
3mo • Edited •
Chief Judge John R. Tunheim, of the U.S. District Court for the District of Minnesota, will be the keynote speaker at the University of Minnesota Law School's 2022 commencement. [...see more](#)

Image:
A portrait of Chief Judge John R. Tunheim, a middle-aged man with grey hair, wearing a black judicial robe over a blue shirt and a patterned tie. He is standing in front of a wooden panel wall with an American flag to his left.



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**Bridging the Past, Present
and Future of Justice**

2024 Conference, October 17-19, San Diego

