I recently started blogging/facebooking/twittering about various things nonlegal, and I use my law office contact information because I don’t want to give out my personal residential information. Are there any lawyer advertising issues I need to consider?

Yes. Absolutely, especially if you are using your office contact information on the site. There are numerous issues to consider in addition to advertising. But before we even begin this analysis and answer, you should check the exact wording of your jurisdiction’s adopted version of the Model Rules as well as any relevant case law regarding this issue. The applicable jurisdiction’s Model Rules and related case law (if any) may differ from the ABA Model Rules and thereby affect the framework of issues and the analysis and answer to your question. And this issue, more than the others I have dealt with here in The Ethics Corner, is very jurisdiction-specific.

In addition, and probably first and foremost, if you are a member/partner in a law firm, you should refer to the firm’s policies regarding the use of the firm’s computers, web access, and its web and physical address in this matter. You owe this to your partners. If you are an associate, you should know that firms typically supervise this activity to ensure that nothing violates the applicable ethical rules, especially for client confidentiality and a host of other concerns. Many firms have policies in place about the use of these sites (whether you are using the firm’s computer or your own at home and whether you are using the firm’s web or physical address, or not). These social networking sites have dramatically increased in popularity over the last few years. From The Ethics Corner’s perspective, the red alert concern here stems from the risk that everything gets blended in this fast paced world. Even though you say you are only discussing nonlegal things, there is a significant risk that you will post something that gets into your work, and then the ethical rules of conduct automatically apply.

Here are the top concerns raised by the sometimes unfiltered use of these social and professional networking sites. I’d say these concerns may make you want to consider using disclaimers on the site/page/blog/post in question.

1. Confidentiality. You could easily break the confidentiality code without actually discussing a legal issue. ABA Model Rule 1.6 requires that all information relating to the representation of the client be kept confidential, even the client’s identity and the fact of representation is confidential. You could try to scrub the post clean of this information (keeping the post general and vague), but this is ripe for error because you are undoubtedly trying to make your post interesting, which requires detail.

2. Misrepresentation; Credibility with Judges and Colleagues. I think we have all read examples in which a lawyer embarrassed himself or herself by requesting an extension or continuance for something, citing a legitimate reason, but then facebooking/blogging/twittering something that shows the reason cited was a fabrication.

3. Advertising. What if your posts include responses from “friends” that describe how good a lawyer you are? Are these references? Does this venture into the world of lawyer advertising? Some states make lawyers responsible for all references on their behalf, even those that are unsolicited. Even if the intent of your page/site is to remain focused on the part of your life that is outside your work, it can venture there (to your professional life). Most states have rules requiring lawyers to ensure that lawyer advertising rules are followed if the Internet is used to promote their services, even indirectly. Also remember that some states prohibit lawyers from holding themselves out as a specialist or expert.

4. Creating Unintended Lawyer-Client Relationships. It is fairly easy to see how these networking sites could create a client expectation, especially if a discussion is created with a “friend” or site visitor that ventures into the legal world, for instance, when someone inquires:
(a) I am selling my house and have a quick question; (b) I am thinking about investing in a real estate partnership; (c) my grandparent died and the will is confusing; or (d) should I put our house in my spouse’s name?

General legal information about a particular subject should not create any lawyer-client issues. But, if you respond, even as a friend, to a person’s particular legal question or problem and inadvertently provide “advice” (for example, a choice of what to do) to that person, you risk entering into a lawyer-client relationship with this person.

Good luck! And if you or anyone reading this would like to be part of The Ethics Corner, to discuss this issue or a host of other tricky ethics issues we are faced with every day, join one of the Divisions’ Ethics Committees by e-mailing Adam J. Sigman at asigman@maynardcooper.com (for the RP side) or Patricia H. Char at pat.char@klgates.com (for the TE side).