

M E M O R A N D U M

TO: All Fourth Department Panel Attorneys for Children

FROM: Tracy M. Hamilton, Attorneys for Children Program Director
Appellate Division, Fourth Department

RE: Social Media

DATE: June 25, 2014

At the annual AFC Advisory Committee meeting with the County liaisons yesterday, the issue of the dangers of attorney communication on social media was discussed. As some of you know, Professor Robert A. Heverly, from Albany Law School, addressed this issue at the recent Rochester AFC topical seminar on “Social Media and Technology.” The video of this ethics presentation will be available soon on the AFC website. The entire presentation is excellent and I highly recommend that you view it when it becomes available.

Some liaisons voiced concerns about attorneys who discuss cases, judges and parties on “closed sites.” There is a particular concern in the smaller counties where, even when the attorneys use pseudonyms, “everybody knows who the attorney is talking about.” Therefore, the liaisons suggested that I send AFC a memo highlighting the part of Professor Heverly’s discussion about this topic. Basically, according to Professor Heverly there is no such thing as a closed site or group. Anything you write or say can come back to you, e.g., a person on the site or group prints a screen shot of your comments and disseminates it. You are not shielded from ethical violations because you consider the site or group to be closed. Do not discuss people and matters on a closed site because you think no one except group/site members will know what you said.

Thank you.