

#Lawyer: The Ethics of LawTok

TikTok is one of the most popular social media apps, racking up over 1.5 billion monthly active users in the third quarter of 2022.¹ In fact, some lawyers and law students have found themselves experiencing heightened success on the platform. The hashtag, #LawTok, which consists primarily of lawyer and law student posts, has over 2.1 billion views.²

Many lawyers and law students have used the platform to share more about their lives outside of school or their job, highlight their individual experiences, and demystify the law. For example, Ashleigh and Maclen Stanley, two Harvard Law graduates, use their TikTok account, @the.law.says.what, to explain court cases and other modern legal issues to their over 971,000 followers.³ Further, Judge William Dawson from Ohio live-streams proceedings on TikTok to help viewers understand the legal system.⁴ However, platforms like TikTok allow for monetization, which raises concerns regarding the ethics of this type of content creation.⁵ Livestreaming on TikTok allows for users to send “gifts” which equate to, generally, a fraction of a cent. Judge Dawson often receives gifts on his livestreams, which poses a risk to the impartiality of Judge Dawson in the public eye.⁶

Monetization on livestreaming isn’t the only way that content creators can make money off of social media. Many content creators receive payment for promoting a brand’s products through a paid advertisement that is posted to their profile.⁷ All lawyers must comply with the Model Rules of Professional Conduct and while technological advancements, such as a social media, have allowed lawyers to communicate with wider audiences and in different ways, there is still the expectation that all lawyers will abide by the ethical obligations set by the Model Rules. Under Model Rule 1.7, lawyers must avoid engaging in conduct that may create a conflict of interest with a client.⁸ Accepting a brand deal from a company may be considered a conflict of interest for a lawyer’s other clients, specifically through the relationship that the company and the lawyer are creating.

Finally, some lawyers on social media provide legal tips to their followers. Erika Kullberg, @erikakullberg on TikTok, provides legal tips to navigate airline issues, receive discounts, and possibly be compensated, by claiming that she “reads the fine print” so her followers don’t have to.⁹ In situations like Erika’s, lawyers must be careful to avoid any comments or responses on these posts or in the content itself that may indicate the establishment of an attorney-client relationship.¹⁰ While lawyers like Erika may provide advice about general situations, they are on the edge of a gray area of professional ethics that may pose future issues for the American Bar Association.

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¹ Daniel Ruby, *35+ TikTok User Statistics: How many TikTok Users are There in 2022?*, DEMAND SAGE (Nov. 16, 2022) <https://www.demandsage.com/tiktok-user-statistics/>.

² #LawTok, TIKTOK, <https://www.tiktok.com/tag/lawtok> (last visited Jan. 5, 2023).

³ Maclen and Ashleigh Stanley (@the.law.says.what), TIKTOK, <https://www.tiktok.com/@the.law.says.what> (last visited Jan. 5, 2023).

⁴ William Dawson (@judgedawson), TIKTOK, <https://www.tiktok.com/@judgedawson> (last visited Jan. 6, 2023).

⁵ Nikki McCann Ramirez, *This TikTok Judge is ‘Demystifying’ the Judicial System – and Accepting Tips*, THE ROLLING STONE (July 8, 2022); *TikTok LIVE, Gifts, and wallet*, TIKTOK, <https://support.tiktok.com/en/live-gifts-wallet>.

⁶ Ramirez *supra* note 5.

⁷ *Branded Content on TikTok*, TIKTOK, <https://support.tiktok.com/en/business-and-creator/creator-and-business-accounts/branded-content-on-tiktok>.

⁸ MODEL RULES OF PROF’L CONDUCT R. 1.7.

⁹ Erika Kullberg (@erikakullberg), TIKTOK, <https://www.tiktok.com/@erikakullberg?lang=en>.

¹⁰ ABA Formal Op. 18-480 (2018).