
Hughes Hubbard & Reed

Ignatius Grande was quoted in the ABA Journal

Articles & Press | People

Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

Attorney advertising. Readers are advised that prior results do not guarantee a similar outcome. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. For information regarding the selection process of awards, please visit <https://www.hugheshubbard.com/legal-notices-methodologies>.

Ignatius Grande was quoted in the July issue of the ABA Journal in a story headlined, "What You See Is What You Get: Lawyers may look at what jurors post online, but only if it's available to the public."

The story examined how the opinions of bar associations offering lawyers guidance on reviewing a juror's or potential juror's online postings diverged on whether automatic, third-party notification amounts to improper, ex parte communication by a lawyer.

The American Bar Association (ABA) Standing Committee on Ethics and Professional Responsibility issued an opinion on April 24 that allows lawyers to review jurors' postings, but warned lawyers not to send them a request for access to their social media accounts because it would constitute an ethical violation. The ABA committee also concluded that the fact that a potential juror may become aware that a lawyer is reviewing his social media presence when a network setting notifies the juror does not constitute a communication from the lawyer.

In March, the New York State Bar Association issued a different conclusion, saying the automatic, third-party notification to a potential juror amounts to improper, ex parte communication by a lawyer.

The ABA ethics committee suggested judges should advise jury pools that the lawyers have legitimate interests in learning more about their backgrounds, and that they likely will be looking for information about them on the internet, including social media. This, however, is not currently standard practice at all jury trials.

"If judges warn jurors of possible background checks...then it might be somewhat less [of] an issue," Grande was quoted as saying in the ABA Journal, which described him as co-chair of the social media committee of the Commercial and Federal Litigation Section of the New York State Bar Association. "I doubt it's being mentioned in every jury trial, and getting that notification can affect a juror."

Related Areas of Focus

Information Governance & eDiscovery.