

# Can Twitter really #helptHELAWYERS? A new era of marketing and brand-building via social media

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On Saturday morning Jan. 28, as the Trump administration's first executive order barring refugees and travelers from seven majority-Muslim nations went into effect, widespread public opposition first registered on Twitter.

This, in itself, was not particularly notable. As the president's favored social media tool, Twitter had become, from the very beginning of the 2016 election cycle, a key source of breaking news and a driver of political conversation in other media.

In short, tweets themselves were becoming news events.

Until 2016, attorneys had been slow to engage with life in the Twittersphere. Twitter's primary use for lawyers was as a curated newsfeed.

Legal marketers, noting Twitter's popularity among journalists, considered it an important — if not always fully predictable — media relations tool.

Twitter ranked far below LinkedIn and Facebook for popularity and perceived utility for lawyers, barely registering as a source of referrals or leads. It also ranked well behind client newsletters, e-alerts and other means as a useful tool for sharing brand-building content.<sup>1</sup>

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On Jan. 28 though, the legal profession's presence on Twitter was forever changed.

Protesters from all walks of life gathered outside major airports, most notably John F. Kennedy International Airport in New York, Washington Dulles International Airport in the Washington area and O'Hare International Airport in Chicago.

Volunteer attorneys also began assembling inside the airports to advocate on behalf of airline passengers who were detained due to the new executive order.

The first lawyers to arrive generally hailed from established immigrant rights and civil liberties groups, but were soon joined by lawyers from various practice areas. Together, the volunteer attorneys offered pro bono assistance independent of any specific organizing body.

These so-called airport lawyers have turned out to be at the vanguard of a new era in legal marketing communication.

Lawyers traditionally have been cautioned to limit their professional presence on social media, and many maintain anonymous or private social media accounts only accessible to personal contacts.

The airport lawyers, however, explicitly organized themselves using social media tools and initially publicized their work through posts marked with the hashtag #airportlawyers from their personal Twitter accounts. Later, they tweeted through newly created and dedicated Twitter accounts like @DullesJustice and @ORDLawyersHQ.

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That experience, in addition to the lawyers' demonstrable impact on a social/political cause, has also been the driver for a groundswell of interest in the broader professional applications of social media channels, especially Twitter within the legal industry.

The public embrace of the airport lawyers has motivated attorneys and legal marketers to reconsider conventional wisdom about social media marketing best practices for the profession.

It has also prompted them to consider what the newly visible presence of attorneys on Twitter means for legal public relations and marketing generally.

The question remains whether attorneys, bound by professional guidelines for ethical conduct, can fully and effectively participate in the often-volatile marketplace of ideas that exists in the Twittersphere.

Technically speaking, the founding of the airport lawyers' Twitter movement was quite simple and used existing Twitter tools in typical ways.

Sara Kubik, a recent law school graduate with a background in technology and business, launched the hashtag #helptHELAWYERS Jan. 29.

By the following afternoon, the hashtag had been stamped on over a thousand tweets asking supporters to donate coffee, pizza and other supplies for attorneys who camped out at airports around the country and worked on behalf of detained travelers.

Freelance writer Kelly Clay managed a Google document tracking specific requests from legal teams at each location, which



included requests for storage bins and donations to cover parking fees and Wi-Fi access.

She posted those requests on her Twitter feed using the #helpthelawyers hashtag and used Twitter's "direct message" function to coordinate deliveries and schedules with attorneys on the ground.

A third independent activist, Natalie Woods Lyda, launched the @helpthelawyers Twitter account, which became a clearinghouse for tweets regarding the airport lawyers, their work and supporters.

On Feb. 3, several days into the airport lawyers' near-continuous vigils at major airports, Emily Nussbaum, a New Yorker magazine writer with 153,000 followers on Twitter, posted, "First, we thank all the lawyers."<sup>2</sup>

Nussbaum issued her tweet after legal actions by the American Civil Liberties Union and Washington state Attorney General Bob Ferguson resulted in a restraining order blocking enforcement of the executive order. The tweet was "liked" more than 4,000 times and retweeted by nearly 1,000 other users.

A week later attorney David Lash, who is managing counsel for pro bono and public interest services at O'Melveny & Myers, posted an article on legal blog Above the Law reflecting on the work of the airport lawyers and declared their mobilization to be "the day the lawyer jokes died."<sup>3</sup>

Clearly, lawyers were having a social media "moment."

More and more people were paying attention to what lawyers were saying and doing on Twitter, but the airport lawyers' Twitter activity associated the legal profession with a particular political position: one in opposition to the Trump administration's immigration policies. That association made things more complicated for attorneys whose presence on Twitter was purely personal.

A reporter for Corporate Counsel magazine, David Ruiz, discussed this phenomenon in an article about a Google lawyer, Priya Sanger, who posted a photo to her personal Twitter account featuring herself and several colleagues outside the office of U.S. Sen. Dianne Feinstein, asking the senator to vote against Jeff Sessions for U.S. attorney general.<sup>4</sup> Sanger deleted the tweet shortly after she posted it, according to the article.

Sanger's tweet did not purport to represent in Google in any way. In fact, Sanger's Twitter biography, as is common, explicitly states: "Tweets my own, not my employer's."<sup>5</sup> Her Twitter biography does not include her employer's name and only states that she is a "Tech/Banking/Payments lawyer."<sup>6</sup>

Even for those who might happen to know who Sanger's employer is, the political position the tweet espoused would not be surprising: Sessions is a hard-liner on immigration reform, while Google has publicly opposed the administration's immigration policy.<sup>7</sup>

In fact, at least two Twitter users posted selfies with Google co-founder Sergey Brin at a Jan. 30 protest against the executive order at San Francisco's airport.<sup>8</sup>

Still, attorneys and firms seem to note that Twitter posts are somehow different from posts on Facebook and in other forums.

A Facebook user can fully engage with the platform yet only share posts privately with "friends" and make a clear delineation of what is private and personal versus what is public.

The ethos of the Twitter community, however, is quite different. Though it is technically possible to have a private account on Twitter, the full of experience of participating on Twitter is a far more public one.

As the three original #helpthelawyers activists demonstrated, Twitter's power comes from the quick conveyance, through retweets and likes, of ideas originally broadcast to one's own followers to a broader network of loosely connected people.

In the current highly charged political climate, this is Twitter's double-edged sword: it can quickly put your message in front of a lot of people who don't actually know you.

In theory, this shouldn't create problems or conflicts for law firms and other businesses. In practice, it's easy to connect the online dots between individuals and their employers and draw inferences not only about an employer's "company stance" on a particular issue, but also about the cultural and political leanings of the people who work there.

Enough anti-Sessions tweets from Google employees can cast the entire corporation as an opponent of the Trump administration in this age of alternative facts and fake news.

This possibility is particularly problematic for law firms, which are by their very nature in the business of advocating for different positions at different times.

It's no coincidence that the first explicit guidance for lawyers on personal social media postings came from the Washington bar. In such a politicized environment, Ethics Opinion 370 is almost understated in its description of the potential consequences of politically charged tweets.

According to the opinion, "Caution should be exercised when stating positions on issues, as those stated positions could be adverse to an interest of a client, thus inadvertently creating a conflict."

Despite the inherent risks of offending potential clients, the power of Twitter tempts attorneys and legal marketers to join the conversation. For those avidly following political and other news, checking one's Twitter feed has become a first-thing-in-the-morning and last-thing-at-night kind of activity, as the president himself regularly tweets in the very early morning hours, and numerous major news stories have broken late in the evening.

For the attorneys who became part of the airport lawyers movement, the decision to take a public stance on a political issue was, presumably, a matter of principle. But it also was a marketing calculation, intentionally or not.

Their activity created positive association and high visibility with the liberal segment of the population, in exchange for a clearly negative association with the conservative sector.

The airport lawyers are hailed as heroes by left-leaning participants in the Twittersphere, and they are equally easily vilified by those on the right. Their experiences on Twitter are best illuminated by the different paths followed by the three activist founders of the #helpthelawyers movement in the weeks and months that have followed Trump's original immigration executive order.

Sara Kubik formed Help the Lawyers LLC and is launching it as a business that trains lawyers and firms on how to effectively use Twitter for marketing and business development. Kelly Clay ended her affiliation with the #helpthelawyers movement, objecting to its commercialization.

Natalie Lyda formed a nonprofit Help the Lawyers foundation that is, according to her LinkedIn page, working "to develop a financial pipeline that empowers legal professionals to provide pro-bono services throughout the world. We aim to serve as a catalyst to develop attorneys across all nations to become living examples of humanitarianism."<sup>9</sup>

Analogous paths are available to all lawyers embracing Twitter. They can, as Kubik has, embrace its commercial potential and refine their use of Twitter as a means for connecting with potential clients, colleagues and journalists.

It's worth noting that most law firm Twitter accounts, as distinguished from those created by individual attorneys themselves, exist almost exclusively to push out firm news and website content and use very little of the medium's interactive features.

Lawyers can, as Lyda has, embrace the tool's unique capacity for organization and mobilization around causes. That decision, however, comes with the associated risk of identifying oneself with only one side of our polarized political dialogue.

Or lawyers can, as Clay has, participate at a personal level in the truly social aspects of Twitter and post as an individual, separate from one's employer or any other formal organization.

While firms, bar associations and legal marketers can impose social media policies and guidelines on attorneys, ultimately, an attorney "owns" his or her Twitter account, just as he or she owns a Facebook or LinkedIn page or a personal email address.

The difference is that Tweets are potentially more public and readily visible than posts on other social networking websites. For attorneys, the decision about whether and how to engage with the Twittersphere is simply another spin on the age-old question of how one's personal conduct reflects on one's professional life.

The airport lawyers, enshrined as heroes for changing public perception of the legal profession, might well benefit from their association with the high-profile #helpthelawyers movement, but as political winds shift, they might also

someday find themselves losing key business relationships based on their actions in early 2017.

Ultimately, the question of whether Twitter can truly #helpthelawyers is one that must be decided by individual attorneys themselves.

## NOTES

<sup>1</sup> Attorney at Work editors, "2017 Survey Results: Lawyers' Use of Social Media for Marketing" (Mar. 15, 2017), <https://www.attorneyatwork.com/2017-survey-results-lawyers-use-of-social-media-marketing/>.

<sup>2</sup> Emily Nussbaum (@emilynussbaum), TWITTER (Feb. 3, 2017, 11:03 PM) <https://twitter.com/emilynussbaum/status/827744405691981824>.

<sup>3</sup> David A. Lash, *The Day The Lawyer Jokes Died*, Above the Law Blog (Feb. 10, 2017) <http://abovethelaw.com/2017/02/the-day-the-lawyer-jokes-died/>.

<sup>4</sup> David Ruiz, *Lawyers Using Social Media Lack Framework for What's Allowed*, CORP. COUNSEL, Mar. 15, 2017, <http://www.corpcounsel.com/id=1202782237344/Lawyers-Using-Social-Media-Lack-Framework-for-Whats-Allowed>.

<sup>5</sup> Priya Sanger (@priyasanger), TWITTER, <https://twitter.com/priyasanger>.

<sup>6</sup> *Id.*

<sup>7</sup> Rich McCormick, *Apple, Facebook, Google, and 94 others file opposition to Trump's immigration ban*, TheVerge.com (Feb. 6, 2017) <https://www.theverge.com/2017/2/6/14519450/trump-immigration-ban-apple-google-facebook-opposition>.

<sup>8</sup> Maria J. Diaz Candamio (@vilavaite), TWITTER (Jan. 29, 2017, 1:32 AM), <https://twitter.com/Vilavaite/status/825607578566656001>; Vasil Mladjov (@vassko), TWITTER (Jan. 28, 2017, 10:42 PM), <https://twitter.com/vassko/status/825564683318857728>.

<sup>9</sup> Natalie-Claire Lyda, LINKEDIN, <https://www.linkedin.com/in/nclyda/> (last visited May 31, 2017).

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