

# Legal Influencing in the Court of Public Opinion: Balancing Institutional Competency with the LawTok Takeover

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## INTRODUCTION

News has long adapted to the technology of the day, starting with the printing press, then penny papers, radio, TV, and more recently, the internet. The media plays a central role in cultivating public discourse and sparking national conversation. Bearing in mind the media's power, the American Bar Association (ABA) notes that "technology, globalization, and other forces continue to transform how, why, and by whom legal services are accessed and delivered."<sup>1</sup> However, the birth of TikTok fundamentally changed the way that *many* business professionals—including journalists, financial advisors, accountants, and real estate professionals—use media to market their services and engage with the public. TikTok is a hub for short, fast-paced videos that are recorded and posted online by a digital creator.<sup>2</sup> These videos are capable of reaching app-users around the world<sup>3</sup> and can be posted with any motive: to educate, opine, advertise products and services, or merely boost the popularity of one's personal online profile.

Specifically, legal professionals use these short-form videos to post a variety of content that ranges from educating the public on legal rights to personally opining on highly publicized cases. These posts have culminated to form "LawTok": a niche community on TikTok where lawyers, law students, and legal professionals use current events and pop culture to educate the public, break down news headlines, offer professional insight, and debunk misconceptions about the legal industry. LawTok has grown vastly in recent years, attracting an audience beyond legal professionals and prospective law students.<sup>4</sup> Legal creators today have large traction among the general public because their TikTok content makes legal concepts more engaging and accessible. Today, the LawTok hashtag has more than 106,000 posts<sup>5</sup> and as of January 2023, over 2.1 billion views.<sup>6</sup>

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1. ABA Comm'n on the Future of Legal Services, *Report on the Future of Legal Services in the United States* 8 (Aug. 2016) [hereinafter COMMISSION ON THE FUTURE OF LEGAL SERVICES REPORT].

2. See Deborah D'Souza, *TikTok: What It Is, How It Works, and Why It's Popular*, INVESTOPEDIA, <https://www.investopedia.com/what-is-tiktok-4588933#:~:text=TikTok%20allows%20users%20to%20watch,countries%2C%20particularly%20the%20United%20States> [https://perma.cc/Y466-BQEE] (last visited Feb. 20, 2025).

3. *Post Privacy Settings*, TIKTOK, <https://support.tiktok.com/en/account-and-privacy/account-privacy-settings/video-visibility> [https://perma.cc/ZX9U-X6RM] (last visited Feb. 19, 2025) (explaining that if a user creates content, it may be visible to others globally).

4. See *Social Media Compliance For Lawyer Influencers, Legal Industry Creators, and Law Firms*, HENDERSHOT COWART P.C., <https://www.hchl.com/social-media-law/compliance-for-legal-influencers/> [https://perma.cc/T6YX-PWMD] (last visited Feb. 21, 2025) (explaining that social media platforms such as LinkedIn, Instagram, Threads, and X allow lawyers to connect and share information with a broad audience).

5. See #LawTok, TIKTOK, <https://www.tiktok.com/tag/lawtok> [https://perma.cc/5CVY-XTRY] (last visited Feb. 19, 2025).

6. TikTok has since disabled a data feature that was used to see the total number of video views on posts associated with a hashtag. Center for Countering Digital Hate, *TikTok Removes Views From Hashtags*, COUNTERHATE (Feb. 7, 2024), <https://counterhate.com/research/tiktok-removes-views-from-hashtags/> [https://perma.cc/Q3YV-EQLU]. The view count cited in this sentence was captured prior to the disabling of this data feature. See Alissa Selover, *#Lawyer: The Ethics of LawTok*, VAND. J. OF ENT. AND TECH. L. (Jan. 10, 2023), <https://www.vanderbilt.edu/jetlaw/2023/01/10/lawyer-the-ethics-of-lawtok/> [https://perma.cc/X8TG-3FQC]. Neither

Legal scholarship has heavily addressed the professional and ethical implications of using social media as a forum for legal advice. Recently, this scholarship has addressed the popularity of TikTok and calls upon legal influencers to be mindful of the professional and ethical implications of using such a vast platform for any legal means. However, little research has gone beyond the direct implications of legal influencing on lawyers, clients, and law firms to discuss how the LawTok space is affecting the court of public opinion. Both judges and litigators are influenced by public scrutiny on social media in ongoing matters<sup>7</sup> and are increasingly conscious of the impact that social media has on the public opinion of the legal profession. Notably, given LawTok's ability to make legal issues more streamlined and accessible, members of the public who once took a more passive stance in the political process are now actively seeking to understand high-profile issues through the lenses of their favorite legal creators.

The critical question then becomes what impact, if any, the LawTok community will have on the legal profession's practical wisdom, litigation strategies, judicial decision-making, and overall, the public's view of the legal community. While social media has undoubtedly contributed to public opinion regarding law and politics for decades, LawTok creators' ability to quickly—and often unsolicitedly<sup>8</sup>—reach millions of global social media users increase the influence that legal creators have on public opinion. With such a potentially vast outreach and the media's ability to quickly rile up an angry public audience, it is more crucial than ever for these short-form videos to be carefully crafted, diligently researched, and respectfully articulated. Although there is much controversy surrounding the future of TikTok for American-based social media users,<sup>9</sup> apps such as Instagram have sought to “mimic TikTok's success” by creating Instagram Reels: “an almost exact clone of TikTok's marquee short-form video format.”<sup>10</sup> Facebook and YouTube Shorts are also among the social media apps well-known for generating video content and discussion forums.<sup>11</sup> Thus, it is foreseeable that the LawTok community and its legacy will continue on, regardless of TikTok's legality in the United States.

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statistic in this Note includes posts with “#Lawyer,” “#LawyersofTikTok,” or other hashtags that also associate videos with the LawTok feed. Many posts associated with the LawTok community on TikTok may be posted without any hashtags.

7. See discussion *infra* Part IV.

8. TikTok's algorithm often displays content and creators that users have not previously searched for or interacted with on the For You Page (FYP). The FYP is tailored to each individual's interests and preferences and provides content recommendations based on the user's prior interactions. See Taylor Perry, *What Is The 'For You Page' (FYP) & Why It Matters*, FOUND. INC., <https://foundationinc.co/lab/for-you-page/> [https://perma.cc/8U83-UEUJ] (last visited Feb. 21, 2025).

9. See discussion *infra* Part V.

10. Mike Isaac, *Instagram Debuts New Video-Editing App, as TikTok Deals With a Ban*, N.Y. TIMES (Jan. 19, 2025), <https://www.nytimes.com/2025/01/19/technology/instagram-video-app-tiktok-ban.html> [https://perma.cc/7NMF-M9R7].

11. See *id.*

This Note will explore the positive and negative consequences of LawTok's popularity on both the public's perception of the legal profession and the integrity of the court of public opinion. Part I provides a brief overview of already established ethical considerations that come with legal influencing.<sup>12</sup> Part II discusses the key aspects of LawTok that could distort the public's view of the legal profession, specifically the brief nature of TikTok videos and the tendency of influencers to post for quantity rather than quality.<sup>13</sup> Here, this Note argues that such negative aspects—if not mitigated—threaten the integrity of the court of public opinion, and thus its ability to influence legal professionals and shape the public's perceptions of justice.<sup>14</sup> Next, Part III addresses the positive impact that LawTok and legal influencing can have on civic engagement and access to justice.<sup>15</sup> Finally, Part IV suggests that if the LawTok community is here to stay, educational institutions, legal content creators, and the judiciary must collaborate to safeguard practical wisdom by balancing a newly amplified court of public opinion with institutional competency.<sup>16</sup>

## I. PROFESSIONAL AND ETHICAL IMPLICATIONS OF LEGAL INFLUENCING

The ABA has generally acknowledged the transformative nature of technology and social media on legal services.<sup>17</sup> Following the ABA's Commission on Ethics 20/20, the ABA Model Rules of Professional Conduct clarified that competent legal representation includes “[keeping] abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology . . . .”<sup>18</sup> In response to this amendment, a variety of Continuing Legal Education (“CLE”) courses are currently offered across the United States to educate attorneys on e-professionalism and ethical social media use.<sup>19</sup>

In addition to technological competency, legal scholarship has been quick to address the potential confidentiality risks, communication issues, and jurisdictional concerns that accompany legal influencing.<sup>20</sup> For example, lawyers must ensure that any legal insight or advice provided on social media does not inadvertently “represent that the lawyer is admitted to practice law in [a specific] jurisdiction.”<sup>21</sup> A lawyer may not use social media in any way that reveals confidential client

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12. See *infra* Part II.

13. See *infra* Part III.

14. *Id.*

15. See *infra* Part IV.

16. See *infra* Part V.

17. See COMMISSION ON THE FUTURE OF LEGAL SERVICES REPORT, *supra* note 1.

18. MODEL RULES OF PROF'L CONDUCT R 1.1, cmt. [8] (2018) [HEREINAFTER MODEL RULES].

19. Colleen T. Scarola, *What Happens on Social Media . . . Could Derail Your Legal Career: Teaching E-Professionalism in Experiential Learning*, 44 VT. L. REV. 165, 175 (2020) (listing a variety of CLE courses, including *The Ethics of Social Media: What Attorneys Need to Know; Identifying and Avoiding Social Media Traps for Lawyers*; and *Social Media and the Bar Rules*, among others).

20. *Id.* at 174-180.

21. MODEL RULES R. 5.5.

information or leads to the inadvertent disclosure of such information.<sup>22</sup> Further, LawTok creators should prevent using their platforms to facilitate unprofessional or prejudicial attacks on other members of the legal community.<sup>23</sup> The foundation beneath these standards is one of the basic, longstanding tenets of professional responsibility: the duty to uphold the public's confidence in the integrity and competence of the legal profession.<sup>24</sup>

Still, the ABA has yet to issue platform-specific social media guidance.<sup>25</sup> In the absence of more nuanced guidelines, creators such as Ana Juneja stay within the ABA's broad framework by ensuring that the primary purpose of their legal content is to educate rather than to attract viewers by posting dramatic or controversial content.<sup>26</sup> Some creators, including Ryan Stygar, who use TikTok to cast a net for potential clients, "[attempt] to align [their] social media content with American Bar Association advertising rules governing signage, including billboards and flyers."<sup>27</sup> Although some legal influencers are content using the broad ethical standards and general social media guidelines, many still maintain that such sweeping guidance cannot effectively stretch to fit the vast and unique forms of social media.<sup>28</sup> Such advocates believe that the ABA regulations "have not evolved with the times," and there is a need to revise or clarify the preexisting guidelines to comport with the distinct features of platforms such as TikTok to mend the "disparity between current practices and what the rules accommodate."<sup>29</sup>

Still, some lawyers believe that the Model Rules are sufficiently broad to cover ethical issues on social media, treating media posts as equivalent to press releases.<sup>30</sup> Judge Stephen Dillard of the Georgia Court of Appeals believes that the regulations need not be revisited in light of increased social media and AI

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22. MODEL RULES R. 1.6(a).

23. MODEL RULES R. 8.4, cmt. [3].

24. "In America, . . . it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration." ABA Comm. on Code of Prof'l Ethics, *Final Report of Committee of Professional Ethics*, Canon 1 (1908, amended 1963).

25. See Cedra Mayfield & Aleeza Furman, *Yes. Lawyers Can Be Social Media Influencers—But Is the Bar Behind the Times?*, ALM GLOBAL (Aug. 16, 2023, 05:00 AM), <https://www.law.com/2023/08/16/yes-lawyers-can-be-social-media-influencers-but-is-the-bar-behind-the-times/> [<https://perma.cc/82V4-UXT2>]; see also Kylie Burns & Lillian Corbin, *E-Professionalism: The Global Reach of the Lawyer's Duty to Use Social Media Ethically*, J. OF THE PRO. LAW. 153-171 (2016).

26. Mayfield & Furman, *supra* note 25. Ana Juneja ensures that "her legal content maintains an educational, rather than sensational aesthetic." Preserving an educational and non-sensational aesthetic requires a focus on content that is designed to inform, explain, or teach rather than content that is overly dramatic and delivers a shock value to viewers.

27. *Id.*

28. *Id.*

29. *Navigating the Intersection of Law, Social Media Influencers, and AI: Does the Bar Need Modernizing?*, LEGAL NEWS FEED (Aug. 16, 2023), <https://legalnewsfeed.com/2023/08/16/navigating-the-intersection-of-law-social-media-influencers-and-ai-does-the-bar-need-modernizing/> [<https://perma.cc/G7MT-PY5K>].

30. Mayfield & Furman, *supra* note 25.

usage because regardless of the media platform in question, a lawyer's heightened ethical standards and professional obligations remain constant.<sup>31</sup> However, Judge Dillard does contend that it may be helpful to add more nuanced commentaries to the rules that address how to navigate certain ethical issues that arise with social media platforms or AI tools.<sup>32</sup>

Beyond the ethical pitfalls of legal influencing that stem from the ABA guidelines is the intersection of LawTok and the court of public opinion. A primary consideration that arises with the popularity of legal influencing is maintaining institutional integrity and upholding public confidence. Where some creators may prioritize posting well-rounded, educational content, the brief nature of TikTok videos may inevitably oversimplify complex legal issues.<sup>33</sup> Further, a legal influencer should be mindful about the public discussion that can transpire from their online platform. The fast-paced nature of social media can not only amplify errors in a posted video but can irreparably harm the public's understanding of law.<sup>34</sup> Given social media's ability to quickly escalate a situation and stir public angst, legal influencers must be especially careful to avoid placing themselves, their clients, or other legal professionals in a vulnerable or prejudicial position.

## II. LAW TOK'S POTENTIAL TO HARM THE COURT OF PUBLIC OPINION

The court of public opinion refers to the collective judgment, opinion, and influence of the general public regarding a legal issue or event.<sup>35</sup> Today, collective public judgments are largely shaped by media coverage, social media discussions, and shared community values.<sup>36</sup> Lawyers have long engaged with the court of public opinion in an effort to favorably resolve legal disputes based on the public discourse surrounding the issue.<sup>37</sup> Thus, the court of public opinion acts as an alternate forum to administer justice and promote social responsibility, both among the legal community and the general public.<sup>38</sup> However, the public's perception is fragile, and in the internet age, easily susceptible to bias and misinformation.

Because the internet disseminates information at an alarmingly quick speed, more cases and legal issues catch the public eye than ever before.<sup>39</sup> Publicity can

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31. *Id.*

32. *Id.*

33. *Infra* Part III.

34. *Id.*

35. See Mark Broughton, *What Does Court of Public Opinion Mean?*, MARK A. BROUGHTON, PC ATTORNEY AT LAW (July 28, 2024), <https://fresnocriminalattorney.com/what-does-court-of-public-opinion-mean/> [<https://perma.cc/5TJE-4U2E>].

36. *Id.*

37. See *id.* (discussing how criminal defense attorney must navigate both the legal system and court of public opinion in order to counteract misinformation and protect their client's reputations).

38. Michele DeStefano Beardslee, *Advocacy in the Court of Public Opinion, Installment One: Broadening the Role of Corporate Attorneys*, 22 GEO. J. LEGAL ETHICS 1259, 1260 (2009).

39. Nicolas Enrique O'Connor, *The Pitfalls of Litigating in the Court of Public Opinion*, ALM GLOBAL (March 10, 2022), <https://www.law.com/thelegalintelligencer/2022/03/10/the-pitfalls-of-litigating-in-the-court-of-public-opinion/> [<https://perma.cc/WK5P-XE8S>].

easily turn combative and quickly be mishandled by both the parties to a legal dispute and unrelated commentators on social media.<sup>40</sup> Although many legal influencers are conscious about the information and opinions they post to their online profile, information on social media can quickly be distorted as it is “whispered down a lane” of users. “[T]he spread of misinformation is a threat to both the credibility of the law influencer and how viewers understand the law.”<sup>41</sup> Thus, although media coverage is capable of bringing “substantial benefits to a case” by allowing parties to control the narrative, many legal professionals, judicial institutions, and law enforcement officials are sensitive to the public opinion as it is morphed on social media.<sup>42</sup>

As discussed below in detail, the two main aspects of legal influencing that have the potential to harm public opinion are the brief nature of LawTok video content and the incentive for social media influencers to post content in favor of quantity rather than quality.

#### A. BREVITY OF TIKTOK VIDEOS

The concise and digestible nature of short-form video content has made TikTok an attractive news source. Since its launch, TikTok has gradually increased the maximum length of content that users can post.<sup>43</sup> Originally, videos were limited to just 15 seconds.<sup>44</sup> Today, videos recorded within the app can be a maximum of 10 minutes long, and videos recorded outside of the app and uploaded as a post can be up to 60 minutes long.<sup>45</sup> It has been suggested that allowing for longer videos is an attempt to appeal to TikTok’s older audience, possibly to compete with online sites like YouTube.<sup>46</sup>

Still, the TikTok algorithm prioritizes brief, short-form videos rather than lengthier content. In a report from Wired, TikTok disclosed that nearly half of its users found videos longer than one minute to be “stressful,” with nearly a third of users watching longer content at double speed.<sup>47</sup> The brief nature of TikTok videos appears to be one of the app’s most attractive features. After all, news has never been conveyed so quickly in a manner that is so easily digestible. For

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40. *Id.*

41. Katy Beth Crowe, Note, *Real or Reel: #LawTok and the New Idea of the Legal Profession*, 48 LAW & PSYCH. REV. 197, 210 (2024).

42. See O’Connor, *supra* note 39.

43. Adam Birney, *What is the Maximum Length for a TikTok Video in 2024?*, ANDROID AUTHORITY, <https://www.androidauthority.com/how-long-are-tiktok-videos-3163309/> [<https://perma.cc/DL8D-Q672>] (last updated Aug. 21, 2024).

44. *See id.*

45. *Id.*

46. *Id.*

47. Chris Stokel-Walker, *TikTok Wants Longer Videos—Whether You Like It or Not*, WIRED (Feb. 21, 2022), [https://www.wired.com/story/tiktok-wants-longer-videos-like-not/?utm\\_brand=wired-uk&utm\\_campaign=onsite-share&utm\\_medium=social&utm\\_social-type=earned&utm\\_source=twitter](https://www.wired.com/story/tiktok-wants-longer-videos-like-not/?utm_brand=wired-uk&utm_campaign=onsite-share&utm_medium=social&utm_social-type=earned&utm_source=twitter) [<https://perma.cc/A49Z-FQZX>].

example, rather than read a dozen articles or court documents that detail a case in the news, a user can simply log onto TikTok and watch a handful of case summaries to receive what they might deem as the same value. On its face, LawTok can summarize weeks of complex legal proceedings to users in a sixty-second video.

For this reason, TikTok has become an attractive way for the public to stay informed on high profile issues or raise awareness of lower profile cases that are swept under the rug by main news outlets. However, while a sixty-second video explaining a case or giving legal advice in a hypothetical scenario sounds appealing, it threatens to oversimplify truly complex legal concepts.<sup>48</sup> Explaining legal topics in such brevity poses a risk that viewers might act upon inaccurate or misunderstood information—particularly in scenarios where legal advice is not universally applicable.<sup>49</sup> For example, viewers across the country could misunderstand a creator’s interpretation of a court order, directive, or law that is exclusive to certain jurisdictions. In addition to jurisdictional concerns, short-form videos may omit critical details, caveats, or variations of law where precedent is rather nuanced, thus creating a false sense of certainty in LawTok viewers.<sup>50</sup> Creators may avoid their content being misinterpreted by providing a general disclaimer on their profile or below specific posts that appear to offer formal legal advice, or even by encouraging their followers to conduct further research.<sup>51</sup> However, given the fast-paced nature of social media to disseminate information, is an initial disclaimer truly a safeguard that prevents false generalizations or misunderstood legal advice from spiraling out of hand?

Beyond creating an overgeneralized perception of substantive law, condensing highly complex legal matters into short-form videos may affect how viewers perceive the legal profession generally. It is difficult to fully understand legal concepts as discussed on LawTok by merely watching a handful of succinct videos.<sup>52</sup>

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48. Lindy Laurence, *Why You Shouldn't Get Legal Advice From TikTok and Social Media*, RATIONAL UNICORN LEGAL SERVS. (Oct. 24, 2024), [https://www.rationalunicornlegalservices.com/blog/why-you-shouldnt-get-legal-advice-from-tiktok-and-social-media?utm\\_source=chatgpt.com](https://www.rationalunicornlegalservices.com/blog/why-you-shouldnt-get-legal-advice-from-tiktok-and-social-media?utm_source=chatgpt.com) [<https://perma.cc/CV7G-3SQ8>].

49. TikTok and social media generally has the potential to reach users across multiple jurisdictions across the globe, and lawyers must be especially cognizant about sharing legal advice both in a jurisdiction where they are not authorized to practice law, or that may be interpreted as applicable by users in outside jurisdictions. Cyber Breach, *Tips for Staying Ethical When Using Social Media in Legal Practice*, EPIQ GLOBAL (last visited Jan. 6, 2025), [https://www.epiqglobal.com/en-us/resource-center/articles/tips-for-staying-ethical-social-media?utm\\_source=chatgpt.com](https://www.epiqglobal.com/en-us/resource-center/articles/tips-for-staying-ethical-social-media?utm_source=chatgpt.com) [<https://perma.cc/64WW-BGD7>].

50. Some legal creators may opt to create longer videos in an effort to discuss potential caveats or variations of law. However, it should be noted that a notable proportion of these users watch longer video content at double speed. See Stokel-Walker, *supra* note 47. When such content is not afforded the appropriate amount of scrutiny or attention to detail by viewers, the same risk of misinformation is at large.

51. See Breach, *supra* note 49.

52. Karen North and Erika Kullberg stress the importance of digging into the fine print to “verify if what [a user] is seeing is in fact correct and applicable to [their] own situation” when it comes to retaining advice from social media. Social media content should serve as “more a starting point rather than a be-all-end-all source of information. Glen Luke Flanagan, *She Teaches Millions About Personal Finance Online. Here's What Erika Kullberg Thinks You Should Know About Managing Your Money*, FORTUNE (Feb. 13, 2025), <https://fortune.com/article/advice-from-personal-finance-influencer-erika-kullberg/> [<https://perma.cc/D8YN-BPGW>]. Legal

As legal professionals understand, law and precedent is often windy and complex. An accessible legal education does not equate to a formal legal education, and legal concepts have nuanced layers that are not easily noticed or understood by the untrained public eye. Thus, while LawTok fosters a casual discussion of legal topics or ongoing cases, it risks creating a misleading portrayal of a truly complex profession. As the LawTok platform grows larger and continues to generate collective community judgments, this risk poses a threat to both the prestige and institutional competency of the legal profession.

#### B. LEGAL INFLUENCERS VALUING QUANTITY OVER QUALITY

While many creators initially join the LawTok community to educate or raise civic engagement, legal influencing can also generate revenue.<sup>53</sup> Creators who post regularly are highlighted on TikTok's global algorithm, and it follows that they experience a more rapid increase in their views and following.<sup>54</sup> This can transform an influencer's platform into an additional source of income, as popularity among TikTok users can attract partnerships or brand deals with well-known companies.<sup>55</sup> A legal influencer may make such steady income from content creation that they decide to stop practicing and pursue content creation full time. While this is not the goal of every legal creator who begins posting content, it can quickly become a reality for those who prioritize developing their online presence.

Generating leads on TikTok and developing a prominent online persona requires frequent posting.<sup>56</sup> As the TikTok algorithm highlights users who post more frequently, an influencer who posts five times a day will likely receive a higher view count than an influencer who posts once a day.<sup>57</sup> Given this nature of the platform, creators seeking to increase the popularity of their profile will be incentivized to post content for quantity rather than quality to receive high engagement.<sup>58</sup> While legal influencers must adhere to the general ABA guidelines on social media usage and the rules of professional conduct regarding their substantive content, nothing directly applies to constrain the *frequency* of using the platform to market or advise.

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creators should continue to stress the importance of seeking professional aid, especially where posted content concerns a seemingly general hypothetical, to ensure that posted advice is applicable to a viewer's own situation.

53. Tony Song & Justine Rogers, *Lawfluencers: Legal Professionalism on TikTok and Youtube*, 37 GEO. J. OF LEGAL ETHICS 507, 510 (2023).

54. *Id.* at 533.

55. *Id.* at 522.

56. See Talia Schwartz, *How Lawyers Can Use TikTok To Generate Leads*, GOOD2BSOCIAL (Aug. 10, 2020), <https://good2bsocial.com/how-lawyers-can-use-tiktok-to-generate-leads/> [<https://perma.cc/D2SJ-L73A>] (stating that to effectively use TikTok as a marketing platform to generate leads, a lawyer should post every day, and ideally five times a day in order to highlight themselves on the TikTok algorithm).

57. *See id.*

58. Song & Rogers, *supra* note 53, at 533.

Many legal creators and businesses have effectively used this aspect of TikTok's algorithm to their advantage because "it's easy for everyone on the platform to get their 15 minutes of fame."<sup>59</sup> Influencer marketing has taken over the marketing industry, and participating businesses aim to create brand awareness and consumer relationships by captivating a large audience.<sup>60</sup> However, as LawTok content expands beyond mere marketing, it is important to consider how the incentive to opt for quantity rather than quality can impact influencers who use their content to provide casual legal education or opine on complex current issues. Given the brief nature of TikTok videos, combined with the urge to post multiple times a day, there is a potential for advice to be rushed or poorly researched.<sup>61</sup> While many legal creators undoubtedly assure their content is up to ABA standards, the TikTok algorithm places external pressure on the speed of posting.

The persona that a legal influencer creates online is drastically different than their persona within office walls. Legal work requires great time and attention. Thus, it is important to recognize social media as a vehicle for free speech and self-expression, but equally as important to ensure that legal influencers avoid succumbing to the incentive of achieving high TikTok engagement at the expense of spreading practical wisdom.

### C. THE EFFECTS ON PUBLIC OPINION AND THE LEGAL PROFESSION

A query yet to be formally explored is LawTok's impact on the court of public opinion and collective judgment of the legal profession. The court of public opinion generally refers to the public's view of the legal profession, or the public's informal judgment regarding a particular case or issue.<sup>62</sup> While public opinion has no binding legal authority, it can effectively serve as a catalyst for reform by advocating for a change in the law or influencing a lawyer's argument for a highly publicized case.<sup>63</sup> Thus, the court of public opinion is both influential and important to the legal profession because it reflects the public's confidence in the legal system and can have an indirect effect on ongoing litigation. Legal creators must be aware of the power that their profiles wield in shaping public opinion "[a]s more cases [now] catch . . . TikTok's eye" at unprecedented speed.<sup>64</sup>

If public opinion is to remain influential to the legal community and policy-makers, it is crucial that legal influencers use their platforms to foster well-

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59. Schwartz, *supra* note 56.

60. See Alyssa Hirose, *The 2025 Guide to TikTok Marketing: Tips, Examples, & Tools*, HOOTSUITE (Aug. 29, 2024), <https://blog.hootsuite.com/tiktok-marketing/> [<https://perma.cc/WQ32-5BLS>].

61. Song & Rogers, *supra* note 53, at 533.

62. See Broughton, *supra* note 35.

63. See discussion *Infra* Part III, at 13-14 (discussing the highly publicized Disney litigation that nearly barred a decedent's estate from pursuing a jury trial in a wrongful death action pursuant to an infinite arbitration clause, had there not been intense public scrutiny).

64. O'Connor, *supra* note 39.

founded collective judgments. Rather than law and fact, public opinion is founded in emotions, biases, public sentiment, and communal values.<sup>65</sup> Collective judgments are fueled by news outlets, political happenings, social media commentaries, among other forms of public communication.<sup>66</sup> Some legal influencers use LawTok and Instagram Reels to discuss highly-publicized cases where there has been a notable injustice and are able to utilize their profiles to control the narrative. This concept is of second-nature to many great lawyers who are also great storytellers. Given that a TikTok following, like a jury, is comprised of the general public, a legal influencer's choice of words and presentation likely resembles that of a case presented at trial.<sup>67</sup>

When a creator uses their platform to discuss ongoing litigation, it is important to be mindful of how their storytelling might manifest in an audience and affect the administration of justice.<sup>68</sup> If an influencer were to deliver their personal opinion on a proposed policy or present an ongoing case in favor of one party over another, there is a chance their following will resonate with them. Further, if the creator's following is largely members of the general public as opposed to the legal community, there is a risk that the followers will not divulge in further research or simply take the creator's word as fact. Thus, when legal influencers frame a case through a moral or social lense that attracts the public eye as opposed to delivering an unbiased presentation of facts, LawTok has a greater ability to prejudicially shape the public's understanding of the litigation or perception of justice.

Additionally, providing such accessible legal education may threaten the value of formal legal services in the eyes of the public. Where users can receive free, brief, digestible advice from social media content, they may be less likely to consult a lawyer in their jurisdiction for effective aid. Although many legal influencers provide brief and generalized advice, such an approach could lead to oversimplification<sup>69</sup> and cause viewers to undervalue the need for professional counsel.<sup>70</sup> It is important for creators to emphasize that an accessible legal education does not equate to a formal legal education, and creators should encourage their followers to conduct research beyond the information accessible on LawTok. Further, if a legal influencer oversimplifies a concept or posts misleading advice, it can erode their followers' trust in legal services altogether. It is

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65. See Broughton, *supra* note 35.

66. *Id.*

67. See Alex Miller, *If You Have a "Case", You Have a Problem*, TRIAL GUIDES (Feb. 25, 2021), <https://www.trialguides.com/blogs/news/the-power-of-storytelling-for-lawyers?srsItd=AfmBOopQpyeCGXLKRim3w6aHmX0CXcogE4IOXnyQvRE7XFGhO11Jb4qS> [<https://perma.cc/7UML-3LKT>] (discussing how choice of words and presentation matters when the audience is not a sophisticated legal audience, and "[a] case, when presented only as a set of facts, is as good as lost.").

68. MODEL RULES R. 8.4(d); MODEL RULES R.8.4, cmt. [3-4].

69. Laurence, *supra* note 48.

70. Sara Kahn, *TikTok Threatens Professionalism in Law and Medicine*, DAILY TROJAN (Jan. 19, 2022), [https://dailytrojan.com/2022/01/19/tiktok-threatens-professionalism-in-law-and-medicine/?utm\\_source=chatgpt.com](https://dailytrojan.com/2022/01/19/tiktok-threatens-professionalism-in-law-and-medicine/?utm_source=chatgpt.com) [<https://perma.cc/374F-JP9R>].

important to strike a balance between using LawTok as a platform to increase public awareness and access to justice while also maintaining a high level of institutional competency.<sup>71</sup>

Another way that legal creators have utilized their platforms in an effort to sway public opinion is in light of the 2024 Presidential Election. Many influencers used their platforms to present legal arguments for or against a political candidate. An example is @legaleagle, a practicing attorney and social media personality who occasionally uses their platform to discuss political happenings and gained much attention during the recent election.<sup>72</sup> With nearly 300,000 followers on TikTok and 3.59 million subscribers on YouTube (as of February 2025),<sup>73</sup> an influencer such as Legal Eagle holds great weight in shaping public understanding of the legality surrounding political issues and could even reform a user's stance entirely. Although such creators attempted to present campaign promises from a legal and impersonal standpoint, not every commentator beneath Legal Eagle's post was receptive.<sup>74</sup> On political media generally, viewers are sure to leave remarks expressing utter outrage and disagreement for both the speaker and other commentators.<sup>75</sup> Politics, to a degree, are inherently personal. Thus, it is important to recognize the double-edged sword that comes with legal influencing and political media. Well-established creators who have earned the trust of their audience have great potential to sway public opinion at the intersection of politics and law. However, such content may ultimately deepen polarization, and from viewers who disagree, nodes of contempt.<sup>76</sup>

### III. THE BENEFIT OF LAW TOK AS A PUBLIC FORUM

There are some clear benefits of using LawTok as a forum to publicize legal knowledge and cultivate public discourse. Primarily, LawTok creators make content that is digestible for the general public and thus can improve "public access

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71. *Infra* Part V.

72. Legal Eagle (@legaleagle), TIKTOK, <https://www.tiktok.com/@legaleagle> [<https://perma.cc/NJ8C-PBKE>] (last visited Jan. 6, 2025). Legal Eagle is a practicing attorney, TikTok creator, and YouTube personality that gives the public an inside view on the justice system and uses their platforms to answer the public's questions about the legal profession.

73. *Id.*; LegalEagle, YOUTUBE, <https://www.youtube.com/@LegalEagle> [<https://perma.cc/ZL2K-A7Z5>].

74. "This whole video is disgraceful either you are ignorant or willfully misleading millions i pray for your soul" in response to Legal Eagle's thoughts on the election. Kiethcevera5760, Comment to *The Most Important Election of Our Lifetimes*, YOUTUBE (Oct. 21, 2024), <https://www.youtube.com/watch?v=6bTpbDL5dgc> [<https://perma.cc/5J54-4LYQ>]. While many users appreciated the prominent creator's viewpoints, this is one of many commentators who expressed outrage with Legal Eagle's opinions on the 2024 Presidential Election.

75. Tevah Platt, *Political Rage on Social Media is Making Us Cynical*, UNIV. OF MICH. NEWS (Mar. 11, 2024), <https://news.umich.edu/political-rage-on-social-media-is-making-us-cynical/> [<https://perma.cc/9P8P-NJE4>] (discussing how much of the political content that Americans see on social media is hostile, uncivil, and emotionally driven by anger and anxiety).

76. Neta Kligler-Vilenchik, Christian Baden, & Moran Yarchi, *Interpretive Polarization Across Platforms: How Political Disagreement Develops Over Time on Facebook, Twitter, and WhatsApp* (Aug. 18, 2020), <https://doi.org/10.1177/2056305120944393>.

to legal information and access to justice.<sup>77</sup> While some content on LawTok is at risk of being oversimplified, raising awareness of civil liberties and legal issues can ultimately advance civic engagement and education.<sup>78</sup> In a time where many Americans fear that the state of civics is in jeopardy due to the wave of election interference and misinformation tactics, the increasing presence of legal professionals on social media can provide much-needed training, education, and mentorship to the public.<sup>79</sup> A recent 2023 study has shown that video sharing platforms have been most efficient in promoting participatory civic and political engagement, when compared to informative news outlets and other social networking sites.<sup>80</sup>

As discussed below, three main ways that LawTok and legal influencing can enhance public opinion are by increasing access to justice, encouraging civic engagement, and humanizing the legal profession.

#### A. INCREASING ACCESS TO JUSTICE

Recent cases demonstrate that public discourse on social media can improve access to justice by shaping ongoing litigation strategies. Recently, Disney faced immense public scrutiny after moving to compel arbitration in a wrongful-death action brought by the widow of a woman who suffered a fatal allergic reaction on Disney property.<sup>81</sup> Disney initially moved for arbitration on the grounds that a clause in the free-trial subscription to its streaming service, Disney+, signed by the victim nearly five years ago waived the victim's right to a jury trial in any action against the company.<sup>82</sup> The company received backlash almost immediately, and Disney's lawyers waived their right to arbitration soon after.<sup>83</sup> While this case successfully reached the headlines of multiple news outlets, it also was heavily discussed on social media including LawTok.

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77. Burns & Corbin, *supra* note 25, at 154.

78. See Fedbarblog, *How the Legal Profession Advances America's Civic Engagement and Education*, FED. BAR ASS'N. (Apr. 30, 2024), <https://www.fedbar.org/blog/how-the-legal-profession-advances-americas-civic-engagement-and-education/> [https://perma.cc/ANE8-CPHW] (stating that the legal profession "has untapped potential to advance our society" and civic education by taking a "central role in public education about law in government.").

79. *See id.*

80. Su Jung Kim, *The Role of Social Media News Usage and Platforms in Civic and Political Engagement: Focusing on Types of Usage and Platforms*, 138 COMPUTS. IN HUM. BEHAV. (Jan. 2023), <https://doi.org/10.1016/j.chb.2022.107475> [https://perma.cc/8RRQ-Q8KL]. However, it remains important to note that the media is also charged with spreading misinformation, as discussed in Part II, and the impact these tactics have on civic engagement.

81. See Christine Chen Zinner, *Gone With the Click of a (Disney) Mouse: How Corporations Use Forced Arbitration to Strip Away Your Rights*, AMS. FOR FIN. REFORM (Aug. 22, 2024) <https://ourfinancialsecurity.org/2024/08/blog-gone-with-the-click-of-a-disney-mouse/#:~:text=Whether%20you%20access%20a%20bank,to%20go%20through%20a%20byzantine> [https://perma.cc/DZW4-DZTW].

82. *Id.*

83. *Id.*

In this case, LawTok positively contributed to the public opinion in two ways: (1) improving the victim's access to justice; and (2) raising public awareness of common corporate tactics that take advantage of consumers. Despite their common inclusion in corporate agreements, including food delivery or rideshare apps, much of the public is unaware that when they sign up to stream movies or take an Uber ride, they waive their constitutional right to a fair trial.<sup>84</sup> Companies are generally shielded from public scrutiny in arbitration cases because the terms often indicate that the resolution is confidential and cannot be appealed.<sup>85</sup> A variety of legal influencers, including Lawyer Veronica (@vlucss), used TikTok to show the public how Disney planned to use this unfair litigation tactic to shield such a sensitive matter from the public eye while also offering the influencer's personal insight.<sup>86</sup> Distinguishable from the threat of biased storytelling on social media discussed above,<sup>87</sup> the Disney litigation served as a cautionary tale to safeguard consumers from potentially unconscious practices.

Additionally, LawTok increases access to justice by making legal knowledge more accessible and providing a surface-level education on basic rights and responsibilities. Although this is a double-edged sword because these concepts are at risk of being oversimplified in short-form videos, providing a basic level of legal education can empower public opinion by fostering a greater understanding of the justice system. For example, LawTok creator and New York public defender Eliza Orlins uses her online platform to educate viewers on fundamental rights in the criminal justice system.<sup>88</sup> Orlins's prior content is focused on consent to unwanted searches and seizures<sup>89</sup>, police deception<sup>90</sup>, and misconceptions about the justice system that affect marginalized communities.<sup>91</sup> Such content reaches a vast audience through LawTok, and in the digital age, can prove an effective way for legal professionals to educate the general public of basic rights and liberties.<sup>92</sup>

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84. *Id.*

85. See Jackson Weatherall, *Is the Magic of Disney Hiding a Dark Legal Strategy? A Look into Arbitration Clauses and Their Power*, Blog Post, UNIV. OF MIA. BUS. LAW REV. (Oct. 24, 2024), <https://business-law-review.law.miami.edu/is-the-magic-of-disney-hiding-a-dark-legal-strategy-a-look-into-arbitration-clauses-and-their-power/> [https://perma.cc/5ZU5-QP5G].

86. Lawyer Veronica (@vlucss), TIKTOK, [https://www.tiktok.com/@vlucss/video/7403158066633411870?\\_r=1&\\_t=ZP-8ss5x0PDFZ0](https://www.tiktok.com/@vlucss/video/7403158066633411870?_r=1&_t=ZP-8ss5x0PDFZ0) [https://perma.cc/KZ23-S8JH] (last visited Jan. 7, 2025).

87. *Supra* Part III, at 10.

88. Eliza Orlins (@elizaorlins), TIKTOK, <https://www.tiktok.com/@elizaorlins> [https://perma.cc/4K68-UWC5] (last visited Jan. 7, 2025).

89. Eliza Orlins (@elizaorlins), TIKTOK, <https://www.tiktok.com/@elizaorlins/video/7083259766964833578> [https://perma.cc/S4MJ-LTGU] (last visited Jan. 7, 2025).

90. Eliza Orlins (@elizaorlins), TIKTOK, <https://www.tiktok.com/@elizaorlins/video/7275536892018609454> [https://perma.cc/TRR2-SCFQ] (last visited Jan. 7, 2025).

91. Eliza Orlins (@elizaorlins), TIKTOK, <https://www.tiktok.com/@elizaorlins/video/7275181765545905454> [https://perma.cc/5B5M-C5MA] (last visited Jan. 7, 2025).

92. It remains important to note the negative implications of advising on general situations or legal hypotheticals online. See discussion *supra* Part III, at 7-8.

Further, a study conducted by the American Bar Foundation revealed that the leading reason many Americans do not obtain professional counsel is because they do not recognize they have a legal problem.<sup>93</sup> An additional survey by the Legal Services Corporation (LSC) revealed that one in three participants did not initially obtain professional help in civil justice cases because they either thought they could resolve the issue themselves or did not believe the problem was serious enough to consult a lawyer.<sup>94</sup> Contributing to the gap in access to justice is a shortage of pro bono and legal aid resources, unaffordable legal services, and an inaccessible justice system.<sup>95</sup> As Orlins and other LawTok creators continue to educate their followers on topics such as informed consent and police deception,<sup>96</sup> one can hypothesize that listeners will become better equipped at recognizing whether they have a legal issue and should seek professional counsel. Thus, with time, LawTok may be an additional force that lessens the gap in access to justice by providing an accessible, basic legal education.

## B. ENCOURAGING CIVIC ENGAGEMENT

LawTok can encourage civic engagement by demystifying the justice system and portraying social justice issues in a digestible manner. Shedding light on systemic issues through a legal lens could empower members of the community to become more engaged citizens and even inspire advocacy for change. Legal influencers may encourage their audience to volunteer in the community, participate in national and local elections, and communicate with elected representatives. Given TikTok's popularity among younger generations, with 22 percent of US teenagers spending 2–3 hours per day on the app,<sup>97</sup> LawTok could become an effective modern way to foster civic engagement among young Americans.

Recent studies support that TikTok, like Snapchat and Instagram, is an effective platform to encourage civic engagement among young adults because it provides a lighthearted and low-stakes environment.<sup>98</sup> It enables users to connect with like-minded peers and serves as a vibrant sphere for activism.<sup>99</sup> Further,

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93. Rebecca L. Sandefur, *Accessing Justice in the Contemporary USA: Findings From the Community Needs and Services Study*, AM. BAR FOUND. (Aug. 8, 2014).

94. Carl Rauscher, *More Than Half of Americans Mistakenly Think They Have a Right to an Attorney in Civil Cases*, LEGAL SERVICES CORPORATION (July 29, 2024) <https://www.lsc.gov/press-release/more-half-americans-mistakenly-think-they-have-right-attorney-all-civil-cases#:~:text=A%20lack%20of%20awareness%20may,were%20worried%20about%20the%20cost> [<https://perma.cc/QD3W-5FYR>].

95. See Bob Glaves, *And the #1 Reason People Don't Have a Lawyer When They Need One Is*, CHI. BAR FOUND., <https://chicagobarfoundation.org/bobservations/1-reason-people-dont-lawyer-need-one/> [<https://perma.cc/Z6J3-ATX5>] (last visited Feb. 19, 2025).

96. *Supra* notes 89-91.

97. Fabio Duarte, *Average Time Spent on TikTok Statistics (2024)*, EXPLODING TOPICS (Feb. 27, 2024), <https://explodingtopics.com/blog/time-spent-on-tiktok> [<https://perma.cc/66TP-HXF9>].

98. See Kenneth W. Moffett & Laurie Rice, *TikTok and Civic Activity Among Young Adults*, SIUE FAC. RESCH., SCHOLARSHIP, AND CREATIVE ACTIVITY 164 (2023) <https://doi.org/10.1177/08944393231188470>.

99. See Ioana Literat & Neta Kligler-Vilenchik, *TikTok as a Key Platform for Youth Political Expression: Reflecting on the Opportunities and Stakes Involved* (Feb. 26, 2023), <https://doi.org/10.1177/20563051231157595>.

TikTok has been shown to encourage expression that is “quintessentially collective—a vital element for the success of social movements.”<sup>100</sup> Thus, legal creators such as Orlins, who use their platform to amplify issues affecting marginalized communities and legal issues beyond news headlines, are increasingly able to spotlight injustice to young viewers and inspire them to engage in advocacy efforts.

Additionally, many legal influencers recently used their platforms to educate voters and promote voter registration during the 2024 Presidential Election. Orlins, for one, used her platform to communicate the risks of taking a photo with an official ballot<sup>101</sup> and inform her New York followers on early voting procedures and ballot propositions.<sup>102</sup> Another prominent legal influencer, Attorney Martinez, used her platform to educate against the wave of misinformation regarding non-citizen voting in America and urged minorities to cast their vote in the upcoming election.<sup>103</sup> Though discussing political opinions may have the effect of deepening polarization,<sup>104</sup> using LawTok as a platform to encourage voter registration and education before an election both increases civic engagement and encourages the public to make informed judgments.

### C. HUMANIZING THE LEGAL PROFESSION

A rather controversial benefit surrounding LawTok concerns the debate over whether legal creators humanize the profession by posting entertaining videos, or whether such content is harmful to the prestige of the profession. Some legal scholars believe that when TikTok users see lawyers making “funny videos,” it “make[s] the legal profession seem less serious.”<sup>105</sup> These scholars believe that “[t]he best approach is to maintain professionalism across the board,” and lawyers should do so by posting professional and personal content to separate accounts.<sup>106</sup> While the legal profession should not dissuade its members from social media usage, legal influencers should maintain a professional tone as lawyers are generally held to a high standard of conduct.<sup>107</sup>

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100. *Id.* (citing Ioana Literat & Neta Kligler-Vilenchik, Youth Collective Political Expression on Social Media: The Role of Affordances and Memetic Dimensions for Voicing Political Views (Apr. 1, 2019), <https://doi.org/10.1177/1461444819837571>).

101. Eliza Orlins (@elizaorlins), TIKTOK, <https://www.tiktok.com/@elizaorlins/video/7428010223383629098> [<https://perma.cc/YVN8-K9LL>] (last visited Jan. 7, 2025).

102. Eliza Orlins (@elizaorlins), TIKTOK, <https://www.tiktok.com/@elizaorlins/video/7430188984858348843> [<https://perma.cc/FG5D-YRU6>] (last visited Jan. 7, 2025).

103. Attorney Martinez (@attorneymartinez), TIKTOK, [https://www.tiktok.com/@attorneymartinez/video/7428768376983538986?\\_r=1&\\_t=ZP-8ssKkYFvcH1](https://www.tiktok.com/@attorneymartinez/video/7428768376983538986?_r=1&_t=ZP-8ssKkYFvcH1) [<https://perma.cc/5KF4-JCWM>] (last visited Jan. 7, 2025).

104. See discussion *supra* Part III, at 12.

105. Grace Monzel, *Attorney-Tok: An Analysis of Lawyers Advertising on TikTok*, Blog Post, UNIV. OF CINCINNATI L. REV. (May 13, 2021), <https://uclawreview.org/2021/05/13/attorney-tok-an-analysis-of-lawyers-advertising-on-tiktok/> [<https://perma.cc/J9GS-BVE4>].

106. See Agnieszka McPeak, *The Internet Made Me Do It: Reconciling Social Media and Professional Norms for Lawyers, Judges, and Law Professors*, 55 IDAHO L. REV. 205, 227 (2019).

107. See *id.* at 232.

However, perhaps it is to the legal profession's benefit that lawyers are able to showcase themselves as approachable and relatable. A few of the most prevalent stereotypes among the public reflect the notion that lawyers are untrustworthy, manipulative, expensive, and intimidating.<sup>108</sup> The public often sees the legal system as overwhelmingly complicated and archaic, and many potential clients hesitate to seek advice at the expense of seeming naïve.<sup>109</sup> In an office setting, it's possible for a lawyer to overcome these stereotypes by using everyday terms to explain a situation as opposed to legal jargon or reassuring a client that they are the primary decision-maker in their case.<sup>110</sup> In an initial consultation, a lawyer has the opportunity to make their client feel at ease rather than intimidated.

However, it's important to note that prevailing stereotypes can prevent many potential clients from booking an initial consultation. The American Bar Foundation study discussed above revealed that nearly 80 percent of people choose to handle civil justice issues on their own rather than seek professional aid.<sup>111</sup> While the majority of these findings are attributed to the gap in access to justice and the failure to recognize a need for legal aid, nearly 10 percent of respondents indicated that they felt the process was too stressful.<sup>112</sup> The thought of navigating the complexities of the legal system instills doubt in potential clients.<sup>113</sup> Perhaps a way that the legal community can alleviate this concern is by posting approachable social media content that makes seeking formal aid less daunting. Humanizing lawyers on social media could be a viable way to combat the overarching stereotypes of the legal community and gradually make the profession as a whole seem less rigid. One way to curb misconceptions about both the profession generally and the nature of those within it is to engage in public discourse.<sup>114</sup> In modern society, online platforms are among the most effective ways to do so. “[S]haring helpful content on social media helps lawyers build trust with their audience” and “makes legal services feel less intimidating [by helping] lawyers connect with potential clients on a more personal level.”<sup>115</sup>

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108. *Public Perception of Lawyers: Navigating the Stereotypes and Realities*, LEGAL PROFESSION BLOG (Apr. 24, 2024) <https://legalprofessionblog.com/public-perception-of-lawyers-navigating-the-stereotypes-and-realities/#:~:text=Understanding%20the%20Stereotypes&text=Lawyers%20are%20often%20depicted%20in,in%20their%20client's%20well%2Dbeing> [<https://perma.cc/8MK5-DFRX>]; see Adam Draper, *4 Myths About the Legal System (And How Lawyers Can Address Them in Their Marketing)*, FORBES (Jan. 13, 2023), <https://www.forbes.com/councils/forbesagencycouncil/2023/01/13/4-myths-about-the-legal-system-and-how-lawyers-can-address-them-in-their-marketing/> [<https://perma.cc/M5UG-Y9U7>].

109. Draper, *supra* note 108.

110. *Id.*

111. See Sandefur, *supra* note 93, at 3.

112. *Id.*

113. Debra Sloane, *5 Reasons We Don't Seek Help For Legal Problems*, COURTROOM5 (June 2, 2023), <https://courtroom5.com/blog/5-reasons-we-dont-seek-help-for-legal-problems/> [<https://perma.cc/7BXA-XQX4>].

114. See *Public Perception of Lawyers: Navigating the Stereotypes and Realities*, *supra* note 108.

115. Morgan Szarka, *The Rise of Influencer Marketing in the Legal Industry: A New Era for Law Firms*, CARDINAL CONCEPTS (Aug. 9, 2024), <https://cardinalconcepts.com/the-rise-of-influencer-marketing-in-the-legal-industry-a-new-era-for-law-firms/> [<https://perma.cc/N4UD-4ZSX>].

#### IV. LOOKING FORWARD: BALANCING LEGAL INFLUENCING WITH INSTITUTIONAL COMPETENCY

In 2024, Congress passed the Protecting Americans from Foreign Adversary Controlled Applications Act (the Act), requiring “foreign adversary controlled applications” such as TikTok to divest from foreign ownership or shut down operations in the United States.<sup>116</sup> TikTok and ByteDance,<sup>117</sup> among other sets of Petitioners, challenged the Act as an unconstitutional restriction on First Amendment activities including content moderation, content generation, freedom of expression, and freedom of association.<sup>118</sup> The United States Supreme Court upheld the Act despite the First Amendment challenges, finding that the Act was sufficiently tailored to achieve the government’s important interest in preventing foreign adversaries from collecting data on American social media users.<sup>119</sup>

On January 23, 2025, President Donald Trump began his second term with an executive order that delayed the enforcement of the federal TikTok ban for 75 days in hopes of negotiating a deal forward.<sup>120</sup> The future of the app in the United States remains uncertain; however, the future of legal influencing is likely here to stay. Should ByteDance refuse to sell its stake in TikTok, other forms of social media such as Instagram Reels and YouTube Shorts will carry on the legacy of LawTok.<sup>121</sup> Thus, it is important to examine the future of legal influencing and LawTok, regardless of TikTok’s future availability to American-based social media users.

Moving forward, the legal community must recognize both the value of LawTok as a platform for enhancing public engagement in legal and civic issues, and the potential drawbacks of using short-form videos to simplify complex legal concepts and create a professional online brand. Social media is especially valuable for free speech and self-expression, and although lawyers are held to a higher standard of conduct,<sup>122</sup> they should not be blocked from engaging with the public through LawTok. However, a grey area has undoubtedly emerged with a social

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116. Protecting Americans from Foreign Adversary Controlled Applications Act of 2024, H.R. 7521, 118th Cong. (2024).

117. ByteDance, founded in 2012, is a Chinese technology company that serves as the parent company of social media apps including TikTok. Under the Protecting Americans from Foreign Adversary Controlled Applications Act, ByteDance is required to sell its stake in TikTok to an American-owned entity in order to remain operational in the United States. Nicholas Gisonna, *ByteDance*, BRITANNICA, <https://www.britannica.com/topic/ByteDance> [<https://perma.cc/7F7N-ZNAZ>] (last updated Feb. 19, 2025).

118. *TikTok v. Garland*, 604 U.S. \_\_\_\_ (2025).

119. *Id.* The Order upholding the Act “[made] it unlawful for companies in the United States to provide services to distribute, maintain, or update the social media platform TikTok, unless U.S. operation of the platform is severed from Chinese control.” *Id.*

120. David McCabe, *Trump Signs Executive Order in Attempt to Stall TikTok Ban*, N.Y. TIMES, <https://www.nytimes.com/2025/01/20/technology/trump-tiktok-ban-delay-executive-order.html> [<https://perma.cc/65RK-YRKY>] (last updated Jan. 23, 2025).

121. See Isaac, *supra* note 10 (stating that a recent survey from TD Cowen indicated that U.S. internet users will likely move to watching Instagram Reels if TikTok is banned, followed by YouTube Shorts).

122. See McPeak, *supra* note 106, at 232.

media platform as unique as TikTok, and more nuanced ethics guidelines must be established to preserve the integrity of the legal profession, public opinion of the legal profession, and the professional identities of legal influencers.

One possible solution, as noted by Judge Dillard, is for the ABA to issue commentaries on the pre-existing rules that are more narrowly tailored to a legal influencer's online brand and use of social media tools.<sup>123</sup> As much LawTok content goes beyond advertising legal services, perhaps additional commentaries should be tailored to preserving the integrity and value of formal legal services in the substance of video content. A less restrictive alternative would be to establish clear and universal professional boundaries on online profiles. However, as lawyer Kyla Lee recently noted, “[p]eople don’t go to TikTok for dry legal content . . . explaining the law in a monotonous voice. They want to feel like they’re dealing with somebody who’s engaging with them on a human level.”<sup>124</sup>

The future of LawTok is about striking a balance. Many legal influencers, including Lee, first joined TikTok “to educate the public and make sure people are informed about their rights.”<sup>125</sup> However, content only receives high engagement if users find it entertaining or relatable, and the time constraints on videos that receive high engagement make it difficult to unpack an entire legal analysis in one video.<sup>126</sup> Thus, while the future of legal influencing hinges on finding a balance between professionalism and personality, it also hinges upon carefully crafting content that (a) informs the public on legal happenings, and (b) stresses the true complexity of the profession and value of seeking professional legal aid.

While firms themselves have the ability to further regulate social media usage among their attorneys in lieu of additional ABA guidance, many are opposed to using the app altogether. Despite the ability to connect to thousands of viewers on TikTok, larger law firms are risk adverse given the fast pace of the app.<sup>127</sup> Additionally, TikTok content is heavily driven by trending culture, and larger law firms are often reluctant to post entertaining trendy content.<sup>128</sup> Husch Blackwell and Bracewell, among the few Big Law firms to embrace LawTok, believe the platform is a great way to appeal to a younger generation of recruits and potential clients by showing off firm culture.<sup>129</sup> Smaller law firms and personal injury firms are among the most prevalent on the app, with some using it to

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123. See Mayfield & Furman, *supra* note 25.

124. Charles Toutant, *Lawyers on TikTok Seek the Right Mix of Substance and Levity*, N.J. L. J. (Jan. 2, 2025), <https://www.law.com/njlawjournal/2025/01/02/lawyers-on-tiktok-seek-the-right-mix-of-substance-and-levity/?sreturn=20250107183949> [<https://perma.cc/85DM-CHQD>].

125. *Id.*

126. See discussion on the popularity of one-minute-long videos among TikTok users as opposed to longer content. *Supra* Part III, at 7.

127. Amanda O’Brien, *Missing Out on Tens of Thousands of Views, Big Law Balks at TikTok*, THE AM. LAW. (Dec. 3, 2024), <https://www.law.com/americanlawyer/2024/12/03/missing-out-on-tens-of-thousands-of-views-big-law-balks-at-tiktok/> [<https://perma.cc/33BU-HRR2>].

128. *Id.*

129. *Id.*

teach legal issues and others using it to humanize the field, put the name of their firm out there, and keep followers entertained.<sup>130</sup> Though there is a strong argument for “[pulling] back the curtain” on both big and small firms to humanize the profession to the public, it’s important to maintain a sense of professionalism.<sup>131</sup>

Thus, it would be most beneficial for the legal community to receive more nuanced ABA guidance regarding social media usage that applies to both law firms and individual practitioners alike. While individual attorneys and small law firms have dominated the LawTok space thus far, it is possible for larger firms to join them once the profession better understands the privacy, security, and ethical risks of posting content.<sup>132</sup> However, even once the intersection of LawTok and public opinion are better understood, it is possible that large firms will continue to minimize their social media presence due to the risks of launching inherently private aspects of business into the public eye. Regardless, in the absence of more nuanced guidelines, it’s important for legal influencers to remain mindful about the way their platform may cultivate public opinion and the potentially vast outreach of their legal content on TikTok. More stringent guidelines will only go so far, and it is up to individual creators to facilitate meaningful discussions that preserve both the informal value of public opinion in the legal system, and the public’s faith in the legal system itself.

Additionally, in future research, it would be interesting to study whether practicing legal influencers feel their online brand has helped or hindered their practice, or whether clients are generally aware of their social media presence. These worlds have undoubtedly merged for some legal creators. In such instances, it would be valuable to hear from a client perspective whether a firm or attorney’s social media presence impacted their choice to seek formal legal aid or even seek aid from that creator specifically.<sup>133</sup> As the LawTok platform has only recently come to light, and as it increases in popularity, the long-term effects of legal influencing on public perception of the profession, judicial processes, and justice as a whole are yet to be uncovered. As studies conclusively reflect social media’s extensive ability to disseminate information, foster community discussion, and raise civic engagement,<sup>134</sup> it is important to note LawTok’s growing role in fueling public opinion of the profession and ongoing litigation. Although the future of TikTok in the United States is uncertain, legal influencing will continue to impact the profession for years to come.

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130. See Toutant, *supra* note 124.

131. See O’Brien, *supra* note 127.

132. See *id.*

133. If a potential client sought aid from a legal creator directly due to the creator’s online presence, it would contribute to the hypothesis that LawTok effectively humanizes the legal profession and make lawyers themselves seem less daunting. See discussion *supra* Part IV.

134. See generally Moffett & Rice, *supra* note 98; Literat & Kligler-Vilenchik, *supra* note 99.

## CONCLUSION

LawTok and legal influencing is a relatively new phenomenon that is taking the legal profession by storm and quickly attracting a vast audience. There are both positive and negative implications of using TikTok as a forum for legal discussion and advertising, both on the legal profession itself and on the informal court of public opinion. The popularity of TikTok's short-form video content poses a risk to legal creators who use the app to break down complex legal issues and high-profile cases, as advice must be short, to-the-point, and spoken in a manner that is easily digestible to a public audience. Additionally, the TikTok algorithm incentivizes creators to post frequently, as creators who post multiple times a day are more likely to receive higher levels of engagement. This threatens the integrity of LawTok content by incentivizing legal creators to opt for quantity rather than quality in their posted content. These aspects of TikTok's nature threaten both the integrity of the legal profession and the court of public opinion, as information online is quickly disseminated and can largely fuel misconceptions about legal concepts, ongoing cases, and the legal profession as a whole.

However, there are many benefits of using TikTok as a modern way to increase access to justice, encourage civic engagement, and humanize the legal profession. Whether the benefits outweigh the potential harm to public opinion will be better understood in future studies that focus on the long-term effects on legal influencing, including whether the public has grown more or less confident in the ability to seek professional legal aid and the public's overall respect for the industry. Regardless of TikTok's future availability to American-based social media users, it is clear that the practice of legal influencing will carry on. Thus, it remains critical for legal professionals to remain mindful of how public opinion is curated by online communities such as LawTok and consider the legacy that legal influencing will have for years to come.