

Technology

E-mail Etiquette

Professionalism and Common Sense Also Apply to Electronic Communication

BY DANIEL J. SIEGEL

With its ease of use, and ability to access virtually anywhere, e-mail has become the default method that lawyers use to communicate with colleagues, clients and other counsel. There are many advantages to using e-mail, yet there are also pitfalls and some ethical concerns. Every law firm should consider some important issues relating to e-mail and ways to make your e-mail more effective.

On balance, e-mail is a good thing. We use it all the time, and the thought of going back to communicating exclusively through snail mail and faxes gives many of us nightmares. However — and this is a big “however” — every law firm that uses e-mail to communicate with clients and others must ensure that confidentiality is preserved and that e-mail is not used inappropriately. There’s the rub.

By definition, e-mail is not confidential. To the contrary, as noted at www.e-mail-privacy.info, “E-mail is as public as a postcard! Every message you send through the Internet can easily be snatched and scanned for interesting details by anyone having the necessary know-how. Privacy is virtually nonexistent online.” So what are the alternatives? You could encrypt (secure) your e-mail using passwords or special software. The sheer volume of e-mail, however — the typical business user in the United States sends and receives an average of 171 e-mails a day (J. Nicholas Hoover, *The Problems with E-mail*, www.informationweek.com/software/showArticle.jhtml?articleID=196902129) — makes the use of passwords or encryption software a practical impos-

sibility. Rather, law firms must balance the advantages of technology with the need for efficient communication, as the American Bar Association Standing Committee On Ethics and Professional Responsibility acknowledged in its March 10, 1999 Formal Opinion (No. 99-413).

ABA OPINION ON E-MAIL

A lawyer may transmit information relating to the representation of a client by unencrypted e-mail sent over the Internet without violating the Model Rules of Professional Conduct (1998) because the mode of transmission affords a reasonable expectation of privacy from a technological and legal standpoint. The same privacy accorded U.S. and commercial mail, land-line telephonic transmissions, and facsimiles applies to Internet e-mail. A lawyer should consult with the client and follow her instructions, however, as to the mode of transmitting highly sensitive information relating to the client’s representation.

Once you overcome confidentiality and security hurdles, your next step is learning to use e-mail effectively. For example, cryptic e-mails with those strange symbols (geeks call them emoticons) may work for your teenagers, but are not effective or appropriate when communicating with clients.

QUESTIONS TO ASK BEFORE SENDING E-MAIL

One effective model is the McGhee Productivity Solutions (MPS) E-mail P.A.S.S. model, which reminds users to ask four simple questions when they compose messages to help ensure their e-mail is more useful for the recipient. The questions are:

- P: What is the purpose of this communication, and does the purpose relate to an objective?
- A: What action is required; is there a due date; and who owns the action?
- S: What supporting documentation does the recipient need?
- S: Does the subject line effectively summarize the message?

The P.A.S.S. model reminds senders to consider the same factors that you would when sending traditional correspondence. For example, if you would have enclosed a document with a letter, you should probably do so with an e-mail. On the other hand, because e-mail tends to be shorter and less formal than snail mail, the need for descriptive subject lines becomes far more important. After all, when you receive e-mail without a subject, don’t you wonder what it’s about, and what you’re supposed to do?

Another helpful resource is *Send, The Essential Guide to E-mail for Office and Home*, by David Shipley and Will Schwalbe, (Knopf, 2007), a pocket-size guide to e-mail etiquette. It’s an easy read, very entertaining, and a great guide to improving the quality of your e-mail.

MAKING YOUR E-MAIL MORE USER-FRIENDLY FOR RECIPIENTS

E-mail is a reflection upon the sender and the sender’s law firm. If the e-mail is sloppy, isn’t spell-checked, and looks like it came from a child, it will not present the professional appearance your firm desires and, in fact, should demand. Treat e-mail as you would a letter. Proofreading, punctuation and professionalism are your watchwords. If you follow these easy suggestions, you will be a more effective e-mail user:

- Remember, e-mail should be one channel of communication, not your only one. Sometimes a letter is the appropriate form. In those cases, avoid sending e-mail.

■ Keep it short and to the point. Wordiness and repeating things again and again while using too many words is very annoying and disconcerting to the reader, who will get annoyed at the messenger and may never get the point of the message.

■ Follow e-mail etiquette.

■ Avoid writing when you're mad or upset. If you need to vent, save the e-mail, and read it a day later and then decide whether it really needs to be sent.

■ Avoid sarcasm or irony. It can easily be misinterpreted in an e-mail.

■ DON'T USE ALL UPPERCASE!

■ and i strongly suggest remembering to capitalize words, it also helps to use proper punctuation plus it will make it easier to read

■ Change the subject line if you change the topic of the e-mail thread.

■ Don't forward poems, chains, jokes, videos and other things unless the recipient has previously agreed to receive them.

■ Avoid comments that could be "misinterpreted."

■ Send e-mail to the correct person. Check your auto-fill addresses; sometimes they pull up the "wrong" names.

■ Don't use one e-mail address for everything. Business e-mail should be sent from your business e-mail account. Have a personal e-mail address for non-business-related e-mail.

■ Don't click "send" too quickly. Make sure the message is complete and ready to be sent. While you may be able to retrieve a letter from the "Out" bin, you generally can't recall an e-mail once you hit "send."

■ Don't use fonts that are unusual, too big or too small. They do not look nearly as interesting to recipients as they do to you.

■ Spell check! Enough said. And while you're spell-checking, don't just click on the suggested corrections. They're not always correct. If you don't believe me, check out www.youtube.com/watch?v=FjhOBiSk8Gg&feature=related.

■ Don't rely solely on spell-check. Read and proofread every e-mail before you send it. (Hopefully) you wouldn't send a letter without proofreading it and correcting mistakes. The same rule applies to e-mail.

While recipients may excuse some sloppiness when an e-mail is sent from a BlackBerry or other PDA, they will not be so generous about office-generated e-mail. Just as you would wear a suit to meet with clients and wear jeans in non-business settings, the rules of professionalism apply to e-mail. While informality may be acceptable in social e-mail, it is not appropriate

for business e-mail.

■ Make the purpose of the message clear.

■ Tell the recipients what you want them to do. If you want a reply by Tuesday, say so. If no reply is needed, say so.

■ Write a subject line that relates to what you want. Vague subject lines (or blank ones) lead to confusion. Your recipients want direction; help them. Doing so will help to avoid questions.

■ Send your message only to relevant recipients. If there is no reason to copy the world with your e-mail (and usually there isn't), don't. Send the message only to the people who need to receive it.

■ Ask yourself: "Is the message (the content of your e-mail) sufficiently clear so that the sender will not respond with more questions rather than the answer you seek?"

■ Use the carbon copy (cc) and blind carbon copy (bcc) lines judiciously.

■ Don't send — or forward — junk e-mail.

TIPS FOR RESPONDING EFFECTIVELY TO E-MAIL

■ Learn the difference between "Reply" and "Reply to All." Do you need to reply to all? For example, if you receive an e-mail asking 48 people to confirm their attendance at a meeting, you should generally respond to the sender and not the other 47 recipients. Or, does that "Thank you" e-mail really require a "You're welcome" and so on?

■ As noted above, keep it short and to the point.

■ Do you understand the intent of the message you are answering? If not, ask the sender to clarify his or her message rather than guessing and answering incorrectly.

■ Read, then re-read e-mail to remove emotion, i.e., signs of impatience or irritation. Because your recipients cannot see your face, they can easily misinterpret your comments, creating unpleasant situations.

■ Stop runaway e-mail threads.

■ If you must use "out of office" messages, make them useful. Say more than you'll be back in a week. Say whom to contact in your absence, etc.

■ Provide alternative/emergency contact information.

■ Include necessary attachments.

Remember, e-mail can be a very effective means of communication when used properly. Treat it with the same care you give to traditional correspondence. ■

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Tech BRIEFS

Bar RSS Feeds on iPhone

All iPhone users can now stay up to date on the latest Philadelphia Bar news by getting the Association RSS feeds directly on your iPhone. Getting the feed on your iPhone is simple. Just visit the Association's homepage at philadelphiabar.org from your iPhone and click on the RSS icon (shown at left) in the Today's News



Section. The latest Association news is displayed in a clear, readable format and updated every time a new news item is added to the feed. Stay informed even when you're on the go.

Purdon's Free Online

ThomsonWest's unofficial compilation of statutes for the Commonwealth of Pennsylvania is now available for free to the public on the Internet. The West version replaces the official consolidated statutes resource posted by the General Assembly on its Web site. West's consolidated



resource, which does not include court rules

and is not annotated, is considered the best resource for subject-based research of Pennsylvania statutes. Search functions using keywords as well as specific citations make West's Purdon's Pennsylvania Statutes even easier to use. Find it at: government.westlaw.com/linkedslice/default.asp?SP=pac-1000.

Marketing Blog Launches

Advancements in marketing and business development for the legal industry have prompted the startup of a new marketing blog from Pennsylvania-based manage-



ment consultant firm Altman Weil.

Charles A. "Biff" Maddock, an expert on law firm marketing, will be the primary author of "Maddock on Marketing." Entries will cover business development, sales programs, building relationships with clients, market research, branding, advertising, Web sites, and much more. In addition to being a resource for lawyers looking for a leg up on landing new clients, Maddock will also address ways in which vendor companies can best reach law firms and legal departments who use their services.