Surviving
the e-mail onslaught

practice PRO

E-mail has become an essential tool for lawyers and law office staff alike. It allows faster and easier communications between lawyers and their clients, and for many has become a preferred way of communicating. However, while communicating more efficiently via e-mail has led to a gain in productivity, there is no doubt that dealing with large numbers of e-mail messages is now causing losses in productivity. Although estimates vary, in round numbers approximately nine billion e-mails are sent daily in North America. That means that just over 100,000 people hit "Send" every second of every day. All those messages end up in someone's inbox.

E-mail will become even more common and vital to the practice of law as people become more connected to the Web, and as electronic filing becomes more widespread. This article reviews how you can use e-mail more effectively and efficiently.

Use proper netiquette

What is "netiquette"? It is simply etiquette in the electronic world of e-mail and the Web. Exercising good netiquette means you should do the following:

- **Use proper spelling and grammar:** Messages that have proper spelling and grammar are more professional and easier to read. Avoid using short-forms for words.

- **Exercise good manners and be polite:** Keep in mind that there is a real person on the other end that will receive and read the message you are sending. Be respectful and polite, and don't say anything you wouldn't say in person.

- **Count to ten before you hit "Send":** Every lawyer has dictated an overly aggressive letter in a moment of anger or frustration, only to tone it down later with the benefit of some time to cool off while the letter was being typed. The instantaneous nature of e-mail doesn't give you this built-in cooling off period. Be careful not to send an inappropriate message in a moment of anger.

- **Clearly describe the message contents in the "Subject" line:** A clear and concise description of the message in the "Subject" line helps ensure your message actually gets read.

- **Help people find the relevant parts:** E-mail makes it very easy to forward long messages or large attachments to others. To help the recipient of your e-mail quickly get to the key points, forward only the necessary parts of the original message, or identify where the relevant parts can be found in an attachment (eg. " See pages 3 and 45-48 of the attached document").

- **Don't use e-mail when it is inappropriate:** E-mail is not the same as a phone or a face-to-face conversation. At the top of the hierarchy of communications are face-to-face meetings, then phone calls, then voice mail, and lastly e-mail. Face-to-face meetings have the most impact. Not only can you hear and talk back to the other person, you also have the ability to see gestures and facial expressions etc. E-mail has the narrowest communications bandwidth – it is only words on a screen. Make sure the mode of communication you use fits the circumstance.

- **Clean up messages before you forward them:** Many e-mail programs have a feature that highlights or indents the original text of a forwarded message. This can be helpful in distinguishing between new comments and original text. However, it can make messages that have been forwarded many times unreadable. To avoid this problem, clean up all text in any message you forward.

- **Check before sending attachments to anyone:** Downloading large attachments can be time consuming. Although less of a concern now as more people have high-speed Internet connections, it is a common courtesy to ask someone if they want to receive a large attachment.

- **Use correct document extensions on all attachments:** Document extensions are the three letters at the end of a file name. For example, Word files have the .doc extension, and WordPerfect files have the .wpd extension. These extensions are important as they tell a computer what program should open the file. Including the proper extension on an attachment helps insure that it can be opened by the recipient.

Common e-mail don'ts

The following list reviews some of the most common e-mail "don'ts":

- **Don't "cc" people or use group mail unless it is absolutely necessary:** "cc", "bcc", "reply-to-all" and group addressing make it extraordinarily easy to send messages to large groups of people. You should use these addressing features sparingly, especially the "Everyone" group. Whenever you use

one of these addressing options, ask yourself, do all these people absolutely need to read this message?

- **Don't forward jokes, Spam or chain-mail messages:** They waste not only the recipient's time, but also valuable network and Internet capacity.

- **DON'T TYPE EVERYTHING IN CAPITALS:** In Web-speak this is the equivalent to shouting. You can occasionally use capitals to emphasize an important word or point.

- **Don't forward virus warnings!:** As 99.999999% of them are hoaxes, you are simply wasting your time, and the time of the people you are forwarding the warning to. Go to www.symantec.com/avcenter/hoax.html or a similar site to verify if a virus warning is legitimate.

- **As a general rule, don't reply to Spam:** Doing so confirms that there is a live body at your e-mail address, and this will likely result in even more Spam being sent to you. If you get Spam from a reputable company, it is safe to use the Spam opt-out option that is usually included in messages.

Avoid inbox overload

Don't use your inbox as a catch-all folder for everything you need to work on. Doing this almost guarantees that at some point you will miss something important. Read items once, and answer them immediately if necessary, delete them if possible, or move them to task or matter-specific folders. Consider setting up one or more temporary holding folders. For example, put messages that need to be dealt with in a "current" holding folder, and put wait-and-see messages that are not time sensitive in a "wait" folder. Putting all messages to or from a specific client into one folder makes it easier to review the messages relevant to just that client.

Most e-mail programs have a "Rules" feature. Rules can help you manage your Inbox by automatically moving incoming messages to various sub-folders based on specific criteria. You create Rules to meet your own needs by specifying your own criteria. They can be set to run automatically without your intervention. Rules are especially helpful if you are on an e-mail list, and in particular a high-volume list.

For example, if messages from a list you are on always have the text [LawInfo] in the subject line, you create a rule that checks the subject line of every incoming message, and automatically moves any message with this text into the appropriate folder. This removes them from your Inbox. You simply go to this folder whenever you want to review the messages from the list.

Remember that e-mails are lawyer/client communications

When it comes to e-mails, remember, they fall somewhere between phone calls and letters. On one hand, e-mail is like correspondence written on paper and probably should be kept. On the other hand, some e-mails are like phone message slips and are not important to keep (unless you ever need to confirm the date or time when a client called or left a message at your office). Use your own judgment. When in doubt take the cautious approach and keep the e-mail in question.

Consider having a system to print and file each e-mail in the proper client file, or create a system to store all e-mails electronically, which gives you the ability to retrieve them later – up to many years later, if necessary. Most case management products allow you to do this very easily. You may also consider as part of your closing procedure for a file, printing

up all the e-mail communications on the file and storing those with the closed file. If the electronic records are lost, the paper copies would be preserved.

E-mail confidentiality and encryption

The *Rules of Professional Conduct* specify that lawyers shall ensure that client confidentiality is maintained when electronic communication is used. The steps required include understanding how to minimize the risks of the disclosure, discovery or interception of confidential client information, as well as using technology and creating office management practices to maintain confidentiality.

The use of encryption software is not mandatory for e-mail communications, although it is something that should be discussed with any client with whom you intend to e-mail. However, when information is extraordinarily sensitive, a lawyer should use, and advise a client to use, encryption software to help maintain confidentiality.

Summary

E-mail is now an essential tool for lawyers. By using the techniques outlined above you should be able to use it more efficiently and effectively. Don't forget to take steps to increase the e-mail skills of your staff so that they can also make the most of this communications tool.

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