

# E-Mail Etiquette in the Business World

By Tracy Turner

*Tracy Turner is the Director of the Legal Analysis, Writing and Skills Program at Southwestern Law School in Los Angeles, Calif.*

## The Beauty of E-Mail

E-mail can be an efficient and effective tool in the business world. E-mail allows us to communicate with multiple individuals simultaneously. It provides a permanent record of our message in an easily searchable database. It enables us to carefully word, organize, and edit our message to maximize its effectiveness. However, misuse of e-mail can strain interpersonal relationships and negatively affect your professional image. Therefore, this article aims to provide practical tips on the proper use of e-mail so that your e-mail communications will foster good relationships with your colleagues and clients and advance rather than hinder your reputation as a competent professional.

## Why Does E-Mail Etiquette Matter?

In this age of text messaging, the iPod®, and the BlackBerry® phone, many of us have become used to cryptic messages with incomplete sentences, abbreviations, and no punctuation. This method of communication is not ineffective. We do understand each other. However, it leaves no room for the nuances of language.

In a professional setting, the content of our message becomes more important than in our personal e-mails. We are not e-mailing about where we just saw Paris Hilton or what we ate for lunch. In a professional setting, we are communicating information that has the power to alter decisions and affect people's lives. We are also communicating information that is often too complex to be conveyed without the nuances of language. Moreover, we must occasionally communicate with people who became professionals before the advent of e-mail. Even if these folks have learned to use

e-mail, they expect to see a more formal, deliberate, and composed message.

The form of our business e-mails is also more important than the form of our personal e-mails. Everything we do as professionals sends a message to others about our trustworthiness, reliability, intelligence, and work ethic. As you will see as you read on, drafting a professional e-mail is easy. Take advantage of these little opportunities to advance your career by portraying yourself as a competent attorney.

## When Not to Use E-Mail

The first step toward drafting a professional e-mail is to consider whether you should even draft it in the first place. Some golden rules about the limits of e-mail are listed below.

### 1. Avoid using e-mail to convey sensitive, confidential, or confrontational information.

If you are conveying bad news or information that may upset the recipient, do not use e-mail unless it is the only way to reach the recipient within whatever time frame is required. Otherwise, convey bad news in person or by telephone. Even a professionally drafted e-mail is too blunt an instrument with which to communicate sensitive information. When you are conveying bad news, you need to be able to respond to the cues of your audience so that you can offer sympathy, explanation, hope, proof, or whatever else is needed to soften the blow.

Similarly, if you are conveying highly confidential information, e-mail may not be the best choice. One of the useful aspects of e-mail is that its content is recorded in your computer and can be retrieved at any time. However, sometimes this can be a double-edged sword. If you can retrieve your e-mail at any time, then an opposing party in a legal proceeding can require you to produce it. Although the attorney-client privilege often protects the information in our confidential e-mails, there are exceptions to the

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privilege that may require disclosure.<sup>1</sup> And, sometimes confidential e-mails are inadvertently disclosed and may, as a result, arm your opponent with inside information about your client or your legal strategy. In fact, inadvertently disclosed e-mails that would ordinarily be protected by the attorney-client privilege are sometimes admitted into evidence under a theory of waiver.<sup>2</sup> If the information you need to convey could damage your client's interests if disclosed and the information does not need to be in writing, consider conveying the information in a telephone call or in person instead.

Finally, e-mail is often the wrong choice when the purpose of your communication is to disagree with or convey displeasure with the recipient. The most important e-mail rule as a professional is to never, under any circumstances, send an e-mail while you are still angry. Allow yourself to cool down before you start drafting. Moreover, avoid e-mail altogether in these circumstances if possible.

A barrage of e-mails back and forth between two people who have different views on an issue can be unproductive and damaging to the relationship. Call up the person or visit her office to have the discussion. You will likely be more considerate of one another's views when you are face-to-face and the conversation will be more positive and productive as a result.

## **2. Never use e-mail for important information if you know your recipient would prefer a phone call or in-person discussion.**

The core rule of effective communication is to consider the needs of your audience. Your message

is meaningless if it does not reach the recipient. If you have a friend who is on Facebook but does not check it very often, you are not going to use Facebook to ask her if she wants to see a movie tonight. The same applies to e-mail. You may be used to people who check their e-mail constantly—on the bus, at Starbucks, during a meal, in the bathroom, etc. However, in your career, you will encounter people who do not use e-mail at all or use it but do not check it daily. Or, you may encounter people who do check their e-mail frequently but do not know how to organize their e-mails well and, therefore, may miss your important message. Yet another possibility is that your recipient views e-mail-reliant “youngsters” negatively. You will never connect professionally or personally with these folks if you constantly rely on e-mail as your main mode of communication. As a result, you will miss important career-advancement opportunities.

So, if you know your recipient's communication preferences, follow them religiously. And, if you do not yet know the recipient's preferences, investigate them. Ask the person directly. Or, ask her secretary. Or, ask a more seasoned attorney in the office.

## **3. Never rely solely on e-mail for urgent matters. For urgent matters, always call in addition to sending an e-mail.**

If you have an urgent matter, it is your duty to make sure that your message is heard within whatever time frame is applicable. Do not rely solely on e-mail, even if the recipient prefers e-mail. The recipient may be busy working on something and may not check her e-mail for a while. The recipient may be at lunch without her BlackBerry. The recipient's e-mail system may be down. Always follow the e-mail with a phone call. In fact, for urgent matters, if you have not been able to reach the recipient, it is usually best to talk to her secretary or someone else in the office who can either help you with the urgent matter or knows how to reach someone who can. Again, your duty

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<sup>1</sup> For an overview of the law on attorney-client privilege and its exceptions, see 2 Witkin, *California Evidence* §§ 98–168 (4th ed. 2000).

<sup>2</sup> For thorough coverage of when an inadvertently disclosed document can be admitted into evidence despite its otherwise-privileged nature, see John T. Hundley, *Waiver of Evidentiary Privilege by Inadvertent Disclosure—State Law*, 51 A.L.R. 5th 603 (1997) and John T. Hundley, *Waiver of Evidentiary Privilege by Inadvertent Disclosure—Federal Law*, 159 A.L.R. Fed. 153 (2000).

“Before you compose your e-mail, think about all the different players and how they might react if they are excluded.”

in this situation is not just to attempt to contact the person; your duty is to successfully contact the person.

### To, Cc, and Your E-Mail Address

In a professional e-mail, everything requires thought, starting with your e-mail address. If you are sending an e-mail within your office, you will not need to give this any thought. Your employer will have provided an acceptable e-mail address. However, if you are sending an e-mail from your personal account, you should think about the message that your e-mail address sends. And, yes, even your e-mail address sends a message. Please, do not send your resume to a prospective employer using your partyonron@aol.com e-mail account. You do have alternatives. Set up a new personal account that includes only your name or some part thereof. Or, use your law school account.

As a lawyer, you must learn to view the To, Cc, and Bcc lines as critical components of your e-mail. Imagine what would happen if you sent a confidential attorney-client privileged e-mail to opposing counsel at mdelaney@opposingcounsel.com, instead of to the client at mdelaney@company.com. The automatic complete functions of e-mail systems like Outlook can be deadly to your career. Double-check the To, Cc, and Bcc lines carefully. Get into the practice of double-checking these lines before you hit Send.

You should also devote some thought to your choice of recipients. E-mails are easily forwarded. Your e-mail to Jane Doe, the vice president of Company B, attaching proposed employment policies might be forwarded to Joe Schmoie, the human resources director of Company B and your main day-to-day contact person at the company. Joe Schmoie might have a number of reactions to his exclusion from your original e-mail. Maybe he knows the vice president needs to see these policies first, and, therefore, does not feel slighted. However, maybe he thinks you should have had him glance over the policies before you sent them to the vice president. Or, maybe he thinks you did not respect him enough to include him on an e-mail that obviously affects his sphere of control at the

company. Before you compose your e-mail, think about all the different players and how they might react if they are excluded. If there is no reason to exclude someone who might be interested in the content of your e-mail, you should consider including them as a Cc or Bcc recipient.

You should also think about whether to use Cc or Bcc for your recipients. The benefits of using Cc are: (1) all recipients know who you copied in; and (2) they can include those individuals using reply to all. However, with respect to the first benefit, sometimes you do not want your other recipients to know you copied the person at issue. Another problem with using Cc is that it discloses the e-mail address of the person at issue to all other recipients. Recipients often want their e-mail addresses kept confidential. The only way to keep the identities and e-mail addresses of all recipients confidential is to use the Bcc field instead of the Cc field. If, for example, you are sending an e-mail to all of your clients with some general information about a new case that was just decided, you would want to use the Bcc field so that the identities and e-mail addresses of your clients are protected.

Although Bcc protects the identities and e-mail addresses of your recipients, it is not always the best choice. If you use Bcc, the recipients will not be able to include the person at issue in their replies. The person at issue will not see the replies unless you forward them to her. Moreover, the choice of Bcc can have political ramifications. In some circumstances, the main recipient may feel insulted that you have secretly copied someone else. They may view your use of Bcc as passive-aggressive or even dishonest. If, for example, you are sending an e-mail to the human resources director of Company B offering some constructive criticism about the new employment policies he drafted and you Bcc rather than Cc the vice president of Company B, the human resources director might be upset if he later learns that you secretly included the vice president on the e-mail. It may seem like you are trying to undermine him. Moreover, the vice president may notice your lack of good judgment even if the human resources director never finds out.

You also need to think carefully about the recipients of your replies to someone else's e-mail. You should not automatically use Reply to All. Think about who should receive your reply. Delete recipients who do not need to know your reply or should not know your reply. And add recipients who may not have been on the original e-mail but may be interested in your reply.

In sum, who you include as recipients and your use of the To, Cc, and Bcc fields has important political ramifications in the business world. Think about your choices carefully. And when in doubt, ask someone you trust in the office for advice.

### The Subject Line and Flags

Sometimes the only part of your e-mail that a recipient will read will be your subject line. But that is OK. In fact, it can be a good thing. One of the purposes of the subject line is to enable the recipient to assess whether and when to read the e-mail. A good subject line conveys enough information about the content of the e-mail to enable the recipient to know where in her list of priorities it falls.

In order for a subject line to do its job, it needs to include more than a case name. A case name does not convey the content of the e-mail. Instead, the subject line needs to convey the specific subject matter of the e-mail. For example, instead of writing "Re Doe v. Schmoe," you could write "Re Research on Respondeat Superior for Doe v. Schmoe." But you could do even better. The recipient now knows this is about respondeat superior. But are you writing just to update the recipient or do you have a question? This could make a difference in how your recipient prioritizes the e-mail. If it is a summary of your research, she'll probably table it for a while. If, however, it is a question you need answered to keep going on the research project, she may put it higher on her priority list. So, an even better subject line would be, "Question re Research on Respondeat Superior for Doe v. Schmoe."

Now, a word about flags. The Urgent flag is a tempting evil. If you use a good, specific, clear subject line, you do not need to use flags at all.

However, if you just cannot resist the urge, then at least think carefully before you flag your e-mail as urgent. The fable "The Boy Who Cried Wolf," comes to mind.<sup>3</sup> Only use the Urgent flag when the consequences of the recipient failing to immediately respond to the e-mail are dire. And, as advised earlier, in the "When Not to Use E-mail" section of this article, you should always follow up an urgent e-mail with a phone call. Consider the following examples:

**Example 1:** You are conducting research on a case. Your supervisor told you to complete the project in two weeks, but there is no pending action in the case that is awaiting the results of your research. On day 10, you are stuck and need your supervisor to answer a question before you can proceed. You feel the e-mail is urgent because you only have four more days left before the project is due and you know your supervisor is leaving for vacation tomorrow. This is not an urgent e-mail. Because your supervisor is leaving on vacation tomorrow, it would be a good idea to follow up your e-mail with a phone call so that your supervisor knows to look for the e-mail. However, this does not warrant an Urgent flag. The results of your supervisor's failure to respond to the e-mail may have negative consequences for you because you will miss your deadline, but the client's case will not be affected if your project is a few days late.

**Example 2:** You are drafting a motion to dismiss that needs to be filed tomorrow. If you miss the deadline, your client will lose its chance to have the case dismissed before trial. You have an important question about the motion. Now it is appropriate to use the Urgent flag because your supervisor's failure to respond to your e-mail may directly impact your client. But, remember to follow up with a phone call.

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<sup>3</sup> In Aesop's fable, "The Boy Who Cried Wolf," a shepherd boy calls out "wolf" repeatedly only to laugh when his neighbors come to help. Finally, a real wolf comes and no one responds to his cries. Heather Forest, *The Boy Who Cried Wolf* (Story Library 2000), available online at <[www.storyarts.org/library/aesops/stories/boy.html](http://www.storyarts.org/library/aesops/stories/boy.html)>.

“A good subject line conveys enough information about the content of the e-mail to enable the recipient to know where in her list of priorities it falls.”

“When including an attachment, double-check the attachment icon on the e-mail before you hit Send.”

### The Salutation, Closing, and Signature

The salutation in your e-mail sets the tone for whatever follows. It deserves close attention. “Hi, Joe,” “Hello,” or just “Joe,” do not convey professionalism. “Dear Mr. \_\_\_\_\_” should be your default greeting. Last names are always safest. Only if you are confident that either office culture or prior contacts with the recipient make it safe to use “Hi, Joe,” should you deviate from the “Dear Mr. \_\_\_\_\_” model.

Consider what designation to use before the last name. “Mrs.” is not politically correct these days, even for married women. Instead, use “Ms.” And, if you are unsure of the gender from the name, ask someone who will know whether the recipient is a “Mr.” or a “Ms.” Finally, be sure to use “Dr.” if the recipient is an M.D. or Ph.D.

Just as you close a letter, you should close an e-mail. Use something standard like “Regards,” “Best,” or “Sincerely.”

Last, but not least, consider your signature. For external e-mails, i.e., e-mails that are reaching recipients outside of your office, include your title and contact information. And, for heaven’s sake, delete any cutesy quotes, smiley faces, factoids, and the like from your signature line. They will portray you as naive and unprofessional. They may even offend the recipient.

### Drafting an E-Mail with Attachments

If the purpose of your e-mail is merely to provide an attachment, it does not need to say much. However, it should say more than “See Attachment” and should certainly not be blank. Describe what the attachment is and indicate the action that is required by the recipient. For example, write “Attached for your review are my notes from my May 6 meeting with Mr. Jones regarding whether to file a motion for summary judgment. Please contact me after you have had a chance to review the notes so that we can discuss our next steps. The deadline for filing the motion is May 25.” Or, if the attachment is just for the recipient’s information, you could at least indicate the subject matter of the attachment and preview any follow-up: “Attached

for your information is a letter I just sent to opposing counsel requesting a stipulation to continue the trial date in the Joe v. Schmoe case. I will let you know her response.”

When including an attachment, double-check the attachment icon on the e-mail before you hit Send. You may notice that you neglected to include the attachment. And, open the attachment and review it before you send the e-mail. You may find that you have included the wrong attachment or that the formatting does not look right.

Another important consideration in sending an attachment is to make sure that if the attachment is confidential, you have indicated its confidentiality on the document. In the header, indicate “Attorney-Client Privileged Information.” You may also want to use the header to indicate that the document is a draft and the date of the draft, e.g., “Draft June 6, 2009.” This will avoid confusion as you generate subsequent drafts. Without a dated draft header, it is easy to confuse an earlier draft for a later draft. Confusion about which printout is the latest draft could delay the revision process. If your supervisor mistakenly looks at the wrong draft and spends three hours making edits that seem to her frustratingly familiar, she will not be much happier when she realizes she was looking at the wrong draft.

You also should consider the form in which you are sending the attachment. You need to make sure your recipient will be able to open the attachment. If this is the first time you have sent a document to the recipient, check with her about what programs she has on her computer. It may be tempting to skip this step and just send multiple copies of the attachment using every possible word-processing program. However, the recipient may not want her e-mail space consumed with unnecessary copies of the attachment. Also, think about whether you want the recipient to be able to edit the document. Putting a document in PDF precludes the recipient from making edits. Often, this is how you want to send a document. However, other times the reason for sending the document is to receive feedback on it. In those cases, you would want to use Microsoft®

Word or Corel® WordPerfect® so that the recipient can make changes to the document.

### Drafting a Substantive E-Mail

If you are not merely sending an attachment, but have content to convey in the body of the e-mail, you should usually draft the text in a word-processing program before putting it in the e-mail. A word-processing program will allow you to spell-check the text. Moreover, nothing is more frustrating than spending 20 minutes drafting an e-mail and then losing it all when your connection goes bad. Drafting the text in a word-processing program with an auto-save feature and saving the text periodically will avoid such disasters.

Treat the text of an e-mail like a brief you would submit in court. Write in a concise, to-the-point style. Carefully proofread for punctuation, spelling, and grammar. If the text is more than a paragraph long, print it out and carefully proofread it before sending it. Be sure that you have not treated punctuation casually or used informal language. The tone of the e-mail should be as professional as a court document.

The format for text in e-mails is usually single spaced with an extra line between each paragraph.

Finally, be sure to include a statement regarding attorney-client privilege if it is applicable. Most law firms have a standard attorney-client privilege statement that goes on all outgoing e-mails. If your office does not have a generic statement, however, you will need to create your own.

### Summary

Of all the challenges you will face in your career as a lawyer, following good e-mail etiquette is easy. And, yet, it will carry significant benefits including easing your relationships with your colleagues and clients, advancing your reputation in the legal community, avoiding conflicts, increasing the efficiency of your office, and ensuring that your e-mails will be read and understood.

### Additional Resources

Anne Enquist & Laurel Oates, *You've Sent Mail: Ten Tips to Take with You to Practice*, 15 Perspectives: Teaching Legal Res. & Writing 127 (2007).

Gil Feder & Sabrina Franconeri, *E-Mail Etiquette Matters*, N.Y.L.J., June 2008, at 24.

Lisa H. Healy & Julie A. Baker, *Casual Writing Has No Place in Business E-Mails*, Mich. L. Wkly., Dec. 15, 2008.

Douglas S. Malan, *The Emerging Etiquette of E-Mailing: Lawyers Say It's Important to Know When to Hit Send*, Conn. L. Trib., Nov. 5, 2007, at 18.

Sharon D. Nelson & John W. Simek, *Commentary: The Dumb Things Lawyers Do with E-Mail*, Va. L. Wkly., June 30, 2007.

Katheryn Hayes Tucker, *GCS to Employees: Think Before You Send*, Fulton County Daily Rep., Oct. 31, 2007, at 4.

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