

MODERN MASTERPIECES OF EMAIL COMMUNICATIONS
Creative contemporary strategies for managing your inbox and curating effective digital communications.

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INTRODUCTION

As industry “apprentices,” we were taught the gold standard of customer service was never to let the sun go down before getting back to a client. But the sun has set on the “sundown rule.” In this decidedly postmodern era of legal practice, our patrons expect us to be available 24/7. Snail mail delivered by messenger or post has been replaced by electronic mail and messaging. Even on the rare occasion we receive conventional correspondence, it tends to arrive electronically (i.e., as an attachment).

Is your command of today’s technology making you feel about as current as *Whistler’s Mother*? Does the thought of your in-box prompt a response akin to Edvard Munch’s *The Scream*? Do not despair. You can learn how to navigate the current landscape and create a portrait of yourself as an iconic “young master” of electronic communications. Doing this is not only important to commercial viability, but also essential to honoring the ethical obligations of the profession. ABA Model Rule 1.4 provides, in part, that: *(a) A lawyer shall promptly inform the client of any decision or circumstance with respect to which the client's informed consent ...is required; reasonably consult with the client about the means by which the client's objectives are to be accomplished; keep the client reasonably informed about the status of the matter; and comply with reasonable requests for information.* To help you meet those commitments, particularly those measured by today’s standards of “prompt” and “reasonable,” I canvassed my portfolio of past writings on the subject and created a mosaic of accessible techniques to help you maximize your digital responsiveness—the key to artful client service—with a minimalist’s amount of effort.

BASIC TOOLS

SOUND OFF. Are you like Pavlov's Dogs -- upon hearing the *ding* or *ping* announcing a new email, you drop everything to read it? Honestly, how can you get anything done? Instead, *un-ring* the bell on your devices and approach email more like snail mail, reading it at intervals throughout the day. You will be able to pay better attention to other work and will find that many issues presented in an initial email resolve through subsequent responses, obviating the need for your involvement. Let those you work with and for, regularly, know about this practice, which will help them gauge your expected email response time. Do let them know they can call or text you if there is an emergency. To turn off email alerts, choose *File* when you are on your email home screen, then choose *Options*, then *Mail*, scrolling down to *Message Arrival*, where you can uncheck any and all distracting alerts.

TALK IT OUT. Trying to stay on top of your in-box when you are away from your desktop? It can be difficult to type a reply from your phone, even for those with highly skilled thumbs. There is a better way—just use the recording function on your smartphone to dictate a response. Simply hit your reply option (*Reply*, *Reply to All*, or *Forward*) at the bottom of the email and then the microphone at the bottom right corner of your screen and start talking. You may have to correct a word or two, but the accuracy will surprise you. You can respond faster, with less errors, *and* guard against sore thumbs. In fact, you may want to begin using it to dictate emails even when you *are* at your desk. Or, for those with later versions of Outlook, tap the microphone right on your desktop toolbar. Once you hit *Reply* and the body of your responding email pops up, choose *Dictate* (it is a blue microphone towards the right side of the toolbar), and you can compose your

email by speaking. The more you dictate, the more accurately your phone and computer can translate your words and the more efficient you will become.

BE A DICTATOR. When I started my career, the “veteran” lawyers used dictation to compose letters, pleadings, and other documents. They would record tapes which were then transcribed. Drafts went in a back and forth between lawyer and secretary, until a “final” was eventually declared. Because I started my career using a keyboard, I preferred to create my own documents, drafting directly on the computer. This cut out the "middleman" and allowed me to work faster. Today, technology combines the best of both worlds. Instead of typing an email, letter, or document, you can dictate directly into your phone or computer, creating a file ready for editing. Because we speak faster than we type, this naturally saves time. This is especially important when trying to conquer the ever-growing pile of emails. At a recent high stakes out-of-town mediation, I provided client and trial team an up to the minute report, by simply by speaking into my phone when the mediator took a quick break. All stakeholders received the relevant information (at the same time), allowing for prompt evaluation and settlement decision. Save yourself time (and your client money) by learning how to use the powerful technology that is already within reach.

PROOF POSITIVE. My 1L Research and Writing Professor (Nils Olson, University of Buffalo) gave me a professional hack that I use most every day. To test the strength of your writing, read it out loud. Technology has now improved on that time-tested tip – have your computer read it aloud to you. Both in Outlook (on the toolbar) and Word (under the *Review* menu) there is a *Read Aloud* function, allowing you to hear your written words and more easily identify areas in need of revision. Having the computer read is even more effective than reading it yourself, because the eye will often “correct” mistakes, preventing the detection of errors—especially those that do not get flagged from spellcheck. Lately, I have been using this function to edit motions I am reviewing for others. I plug my headphones into my laptop and listen to the draft. In addition to picking up misstatements and awkward phrases, it also flags repetitiveness—something that we want to avoid with overworked judges and their clerks.

HOLD ON. If you are like most lawyers, you routinely put in hours on weekends and breaks. Chances are, much of that off-hour time is spent sending or returning emails. But do you really have to hit send on a Saturday, Sunday, or worse yet, a holiday? Next time, if your correspondence is not time-sensitive, consider drafting the email and sending it during regular business hours instead. It shows respect for the recipient's down time and sets boundaries for yours. How do you schedule the delivery of your email? When you are done composing and your email is ready for prime time, hit *Options* at the top of toolbar and *Delay Delivery* from the drop down. There you can schedule the arrival of your email. This small work around allows you to get your thoughts out while they are fresh and have the recipient receive them when they are more likely ready and able to respond.

THE SKINNY. How many junk emails do you get each day from retailers, social media outlets, industry affinity groups and charities? How many do you actually read? Instead of wasting time deleting each one each day, right click on the email and block the sender. Or if you “singed up” for the communication (usually to get a discount), go to the bottom of the email and follow

directions to unsubscribe from future emails. Taking a few seconds to manage this unwanted email will ultimately save you time so you can respond to the emails that need your attention.

TECHNIQUES AND COMPOSITION

IDENTIFYING YOUR SUBJECT. How many times have you lost or overlooked a message because the subject line was either too generic (e.g. re: Smith v. Jones) or did not reflect the purpose of the email (e.g. re: love your blog; message: love your blog and tomorrow's deposition is canceled)? Do your part to stop the insanity. The reline of each email should accurately reflect its contents. If the subject changes when you reply, update it before you hit send. This takes a little extra time, but far less than having to search through and reread your old emails searching for a mis-titled message. My formula for a reline that promotes efficiency and will be easy to search for in the future: Last name of the subject case (venue)/plaintiff's counsel – purpose of the email.

Ex. 1: Smith (NY)/Shepard Jones – Expert Retention Approval; RESPONSE REQUESTED by 2/28/25.

Ex. 2: Greenwald (EDNY)/Richard Bennett – Deposition Moved to March 4

SAY WHAT YOU MEAN TO SAY (PREFERABLY IN ONE EMAIL). We have all been spectators, copied on a string of one-line emails going back and forth between two colleagues, tempting one to scream: "Hey you two, just pick up the phone!" How to avoid being the perpetrator of such irritation? Anticipate the questions that will likely arise in response to the email you're sending and answer them upfront. This will save you from being cross-examined by the recipient and your colleagues the annoyance of witnessing a seemingly endless cyber volley.

TLDR (TOO LONG DIDN'T READ). Yes, this is a thing. Hopefully you have never prompted this response with something you have written. But chances are, we have ALL tempted someone to stop reading with long-winded and circuitous writing. I did not know the "TLDR" shorthand until recently, but I am very familiar with the feeling I get when I receive something that makes my eyes water before I even start reading. There is a sensitive balance between providing complete information and furnishing so much that the receiver won't bother to wade through to the end—because they do not have the time or the endurance. Be mindful that your readers, like you, are receiving messages from a multitude of sources and an overloaded message can actually create stress. So, before you hit send on any email longer than three sentences, take a look at it from the perspective of your audience's limited time and edit out everything that is superfluous. My rule of thumb: if the central message is unchanged by a proposed deletion -- drop that line. Blaise Pascal is often credited with the following apology about his failure to properly edit: "Excuse the long letter, I didn't have time to write a short one." If this disclaimer should accompany your submission, take the extra time to tighten it up. Resolve to keep your emails to the point. Your emails will be more effective -- and more appreciated.

5 E-MAIL ESSENTIALS. What DO I include? Following is my formula for drafting an effective client email; one that will garner a timely response. 1. **PURPOSE:** start each correspondence by stating why you are writing. 2. **FACTS:** include any information necessary to evaluate your message. 3. **ACTION:** describe what, if anything, needs to be done, including all viable alternatives. 4. **RECOMMEND:** state what you would do and why. 5. **REQUEST:** ask for a decision and be sure to advise of any applicable deadlines.

A LITTLE COLOR

GREAT DAY! REPORT TO FOLLOW. A colleague recently reminded me of a basic communication tenet that is often overlooked: timing. One of his talented partners had a fantastic day at trial and wanted to give the client a thorough rendition of the proceedings. The quest to be detailed, coupled with a six-hour time difference, led to the update going out almost 24 hours later. In the meantime, my colleague received multiple client calls asking what happened – creating a great deal of stress for those on both sides of those conversations. The takeaways: for a message to benefit the receiver, it must be timely AND the results are more important than specifics. I suggested either a text or an email with the following message as a good alternative to silence: *Great day; detailed report to follow.*

WATCH OUT BELOW. One nice thing about email is the ability to forward a message, re-conveying it to interested parties with little or no effort. But when forwarding to a client or more senior colleague, resist the urge to forward accompanied only by the tag *see below*. Surely the recipient can read for themselves, but it can be irritating, especially to someone with an active inbox, to have to scroll down and plough through yet another email. Instead, present a brief summary and refer to the original (*see below for more details*). Better yet, if an action is warranted, include a recommendation - turning the message into an opportunity to add value.

BEWARE OF AUTOFILL! You rush to get an important email out to a client or co-counsel. You quickly fill in the "to" line. Luckily, autofill saves time by "filling in" after hitting one or two letters of the intended recipient's address. You hit send and are recovering from the rush of activity, when a colleague (one of the email recipients) calls, exclaiming: "You accidentally sent the email to _____ (the last person in the world you wanted to get that email)!" **DON'T LET THIS HAPPEN TO YOU!** No matter the rush, ensure your emails are addressed to your intended recipients.

REPLY TO ALL - CAUTIONARY TALE. One of the smartest people I know fell into the trap. She got an email from a partner, containing an ill-advised idea presented by a client. Without thinking, she hit reply to all with a witty quip about the stupidity of both idea and client. A few moments later, the partner came into her office saying, "I just got your email and (pregnant pause) so did the client." Yikes! Just like autofill, replying to all is easily done but the potential damage isn't easily undone. Before you hit reply to all, make sure you know exactly who is getting your reply. Recalling an email can work, but only under certain circumstances.

EDIT TO THE RESCUE. Another recent, hair-raising example of technology traps and ways to escape. At the end of a long day, at the end of a long week, at the end of a long month of negotiations, I was driving on the Long Island Expressway with my significant other and did the unthinkable. As we continued our negotiations into a summer Friday evening, I mistakenly sent the text message meant for my client to my opponent. Luckily, I spotted it quickly and saw that he had not yet read the message. I chose the fastest route to repair: click on the message and hit edit. This allows you to delete any portion of the text you do not want the unintended recipient to see, hit a check mark and the faux pas is fixed. **PHEW!**

CONCLUSION

Too many lawyers get left behind by technology, when just a small amount of curiosity and effort can carry them forward and ahead. While I do not pretend to have exhausted this inexhaustible subject, if you can put into place even one or two of the tips provided in this paper, you will have a better command of your in-box and your practice. Although the subject has been framed with references to art, it will be difficult for any of us to truly master this ever-changing medium. What may be instructive is the example of Leonardo Di Vinci, arguably the greatest artist and thinker of all time. While he had suitable reverence for the tried-and-true methods of creating art in his time, he was always thinking ahead and embracing new ways of approaching his life's work—making him a maverick and a master, at the same time.