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Client Bulletin

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Problem: E-Mails to Lawyer May Not be Privileged Because Of Employer Policy

A New York judge recently ruled that a hospital's e-mail policy means messages sent by a physician to his lawyers are not protected by attorney-client privilege. The physician claimed he was fired in violation of his contract. The judge ruled that e-mail sent from a hospital computer could be disclosed in a lawsuit because the hospital's policy specified that employees had no personal property right in their messages and the hospital had the right to read and disclose e-mails. Many employers have similar policies stating that their email system belongs to the employer and employees have no privacy rights in the system.

Solution: Do not use the company computer to send private email or at minimum use a personally owned web based email account (AOL, Yahoo, Hotmail, etc.).

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