

# E-DISCOVERY

## Update

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

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July 30, 2008

### Letter from a Document Reviewer: “You Don’t Know Me That Well, But....”

Dear Corporate Employee:

I have a dilemma. I’m an associate at the law firm that represents your company in a lawsuit. I’ve been reviewing documents for some weeks now to determine what needs to be produced to the other side as part of discovery. The e-mail that is in front of me contains information that is relevant to the lawsuit, but it also contains information that I know you would not want the outside world to see. I like you and don’t want to embarrass you, but the e-mail has to be produced.

Most of your e-mails have been directly on point and just talk about business, but this one talks about the contract that’s at issue in the lawsuit (completely relevant), but then goes on to discuss how much you hate your boss, mentions last night’s drinking binge and how you almost had a fling with your new colleague. I’m sorry, I hate to mark this responsive, but I have to. Please don’t hate me. I have an ethical obligation to do so.

Okay, so now what? There are things you can do to prevent me from having to produce such a document.

**Tip 1:** Use common sense. Remember, your work computer and e-mail account is not private.

**Tip 2:** Don’t write anything unless you’re okay with it being a headline in the *Wall Street Journal* or having it made an exhibit to a court proceeding.

**Tip 3:** Don’t continue e-mail threads. Unless it’s absolutely necessary, please start a new e-mail for each communication.

**Tip 4:** Don’t write about personal matters at work.

**Tip 5:** Don’t attach your financial or personal papers to work e-mail.

**Tip 6:** Don’t forward “those jokes” or “those pictures.”

**Tip 7:** Don’t write when you’re upset; your judgment is most likely impaired. It’s amazing how a bad choice of words can come back to haunt you.

**Tip 8:** Follow your company’s document retention policy. If you can, delete e-mails you don’t need to keep for work or litigation reasons on the day you receive them.

**Tip 9:** If you must keep personal stuff on your work system, folder it and mark it as such. Perhaps it will not be needed if litigation comes.

Sincerely,

Your Friendly Document Reviewer

*Feel free to contact any of our attorneys listed below regarding these developments.*

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