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Keeping Email Confidential

by [Leslie K. Dellon](#)

“This email is confidential. If you are not the intended recipient ...” E-mail notices. You’ve seen them. Many of you use them. But is such a notice necessary? Probably not. There does not seem to be any legal authority requiring their use. If your email is misdirected, such a notice may be evidence that you considered the information to be confidential. But if your notice is at the end of the email, you are unlikely to be given this presumption, since the email recipient would not know of your intent until s/he had finished reading. If the notice is included on every email, regardless of subject matter, then this could be evidence that you did not really expect confidential treatment of your email.

Usually, a lawyer who sends an unencrypted email would not be violating the obligation to maintain his/her client’s confidences any more than talking on the telephone or sending a fax. These and other forms of communications are all vulnerable to interception to some degree. See DC Bar Legal Ethics Committee Opinion 281. However, a violation could occur if the circumstances warrant restricting access. For example, if you need-

ed to communicate with an H-1B worker who was changing employers, you generally should not be sending an email to his current work email address. If a matter is particularly sensitive, you should consider [encrypting](#) the email.

Does your email application select an email address for you when you type the first few letters of a name? Turn that feature **off**. If you have to manually select an email address, you are less likely to send that email to the wrong recipient.

Do not send a business email to an address that cannot be identified as belonging to the proper recipient. For example, if your client “Jill Henson” at XYZ Co. uses jillygirl222@yahoo.com, your address book should display her email as Jill Henson XYZ Co. (jillygirl222@yahoo.com).

Communications through smartphones and laptops require special care because of the [increased risk of interception, theft](#) or even [warrantless search when traveling internationally](#). You should have a plan to protect your communications in a worst-case scenario.

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Release of Immigration Documents by Prior Attorney

by [Andrea Wisner](#)

*Need
More
Help?*
Talk to Reid

My client's former attorney won't give me a document I need to properly represent my client, to prove 245(i), AC21 or other qualification. Help?

An attorney generally cannot withhold a client's document because the client owes a fee or because the other client in the dual representation will not agree, if the document may affect the client's legal interests.

1. Generally, an attorney filing an immigration petition represents the petitioner and the beneficiary. Both are likely to view the attorney as his attorney. See generally [ABA Model Rule 1.7\(b\)](#) (permitting multiple representation) and [Dual Representation in Immigration Practice](#) (6/7/2005, B. A. Hake).
2. An attorney must not take any action to harm his client in matters related to the representation. See [ABA Model Rule 1.8\(b\)](#).
3. An attorney must take any necessary actions to minimize harm to the client's legal interests in matters related to the representation upon termination, including turning over related documents. See [ABA Model Rule 1.16\(d\)](#).
4. An attorney has continuing duties to a former client. See [ABA Model Rule 1.9](#), NY [DR 5-108\(A\)](#). This includes not continuing to represent one party to

a dual representation to the detriment of the other by refusing to release documents.

5. An attorney may not force one party to a dual representation to agree to be a subordinate client. See generally [ILW.COM - immigration news: Advance Conflict Waivers Are Unethical In Immigration Practice – Debunking Mehta's "Golden Mean"](#), B. A. Hake, October 2, 2007.
6. "Attorney liens," permissible in some states, often are not allowed if the withholding of the document will adversely affect the client's legal interests.

Review the ethics rules regarding document withholding/release for the other attorney's state of admission, so that you will be in a position to inform that attorney of his ethical obligations; then suggest that he check with his state ethics board. Note that most ethics boards are not familiar with the complexities of immigration law and must be properly and fully educated with correct and complete facts, in order to obtain an ethics opinion which will be relevant in a subsequent legal or ethics action.

Check out the [Ethics](#) section of InfoNet, the AILA Message Center [Ethics & Best Practices](#) forum, or contact an AILA [Mentor](#) or [Reid Trautz](#), AILA's practice advisor, if you need more assistance.

In addition to the numerous sources of guidance on ethics and professionalism issues available on [AILA InfoNet](#), AILA provides you with access to a live expert to discuss your questions and practice issues: [Reid Trautz](#). He has provided advice to members on a range of practice issues, such as improving workflow and business processes, starting a law practice, marketing and client development, law office technology, fees and billing, selecting malpractice insurance, and maintaining trustworthy trust accounts. To arrange a telephone session or in-person meeting, please call 202-507-7647 or email rtrautz@aila.org. This service is free to all AILA members. Caveat: Reid does his best, but on some days it may take up to 24 hours for Reid to respond to your request.

Need a Mentor? Find One Fast Using AILA's Mentor Directory

The AILA Mentor Program is a network of experienced practitioners who have agreed to answer questions and aid other members in specific areas of law. The program is designed for brief "how to" advice on practical aspects of day-to-day practice, office procedures, and ethical dilemmas.

Find a mentor from one of the 20 areas, including [Ethics and Professional Responsibility](#) and [Consumer Protection and Authorized Representation](#)! This is a free service to AILA members.

Visit *myAILA* to search the [complete list of mentors](#).

Five New Web Services You Can Use For Your Practice

By [Reid Trautz](#), Director,
AILA Practice & Professionalism Center

Despite the anemic economy, technology companies continue to develop and offer amazing new tools that can save us time and money. Here are five new services that caught my attention to help busy lawyers with marketing, communications, and document preparation:

[Addictomatic.com](#)

Aggregates information from new media websites and services on any topics based on your search queries. To start, search your name and see what comes up!



[Google Voice](#)

Another free and helpful service from Google that can work in just about any small law firm. The service includes a permanent phone number, voicemail transcriptions, free long-distance calling, and a plethora of other tools to help run your life's communications.

[Freeware for All](#)

Check out this great site for free information and utilities to help you solve many of your computer problems.

[221 Windows Keyboard Shortcuts](#)

Create documents faster by using these time-saving keyboard shortcuts.

[Free OCR for Documents](#)

This free on-line service converts those un-editable PDFs into editable ones in about 2 seconds. No registration needed! Not 100% perfect, but good in a pinch. Also try www.ocrterminal.com.

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AILA's Immigration Practice Toolbox (CD-ROM)

Save time and take the repetitiveness out of everyday law office tasks with [AILA's Immigration Practice Toolbox CD-ROM](#).

AILA's Practice Toolbox CD-ROM will help you run your practice more efficiently with its comprehensive collection of sample documents that cover day-to-day administrative tasks. This resource includes both tips and procedures for organizing and managing your office AND the information, procedures, and necessary forms needed to be in immigration practice.

Each sample on [The Practice Toolbox CD-ROM](#) is preceded by a cover sheet explaining when and how it should be used. The CD-ROM includes samples of documents covering

- office/case management
- client management
- marketing/advocacy
- ethical considerations
- consular processing
- employment-based immigration
- national interest waivers
- H-1B, Portability, AC21
- Family-based Immigration
- CSPA
- VAWA
- Naturalization
- Removal Defense



Visit our online bookstore to order your copy of AILA's indispensable [Immigration Practice Toolbox CD-ROM](#) or call 1-800-928-2839.

My New Immigration Sub-Specialty: BIOMETRICS!

Commentary by [Philip J. Kleiner](#)

For over 25 years I was a real “immigration lawyer.” I actually handled real cases with real legal issues involved, such as H-1B’s, labor certifications, and immigrant visa cases. These cases made me draw on legal knowledge, research and analysis—real brain stuff!

Now I’ve become a “biometrics lawyer,” catering to important clients who seem to have the knack of never being in town when they’re scheduled for their biometrics appointments, or telling me that some important event, such as a kid’s softball game, will interfere with their green card application. Knowing well that missing one of these appointments can result in a denial notice, escalate into a motion to reopen or motion to reconsider, or even a major appeal, I’ve really got to be on my

toes. Now I’ve got myself and my skilled staff spending hours to try to get a biometrics rescheduled.

To make it even worse, the clients who practically spilled blood to go through the green card process are all of a sudden deciding to be transferred abroad “tomorrow” and need reentry permits “tonight.” What an easy process that used to be: File today and leave tomorrow; CIS will mail it to me and then I FedEx® it to them abroad. Now I’ve got to worry about biometrics again!

The uneven timing of biometrics requests has also resulted in problems. Sometimes the appointments arrive before I even get the receipt, and without consulting me the client has misestimated that he’ll be back

from his quick overseas trip in time. Other times I must advise the client to forgo an important trip to wait for biometrics—and of course those are the times the notice doesn’t arrive for months!

My extra biometrics duties have made immigration practice a bit less lucrative, as it’s difficult to explain to the client an extra attorney’s charge for biometrics. So, I’ve decided to write a treatise on biometrics and make enough money from royalties to retire.

Have an idea for the next issue?
Submit your idea or article (350 words or less) to
leslie@hammondimmigration.com
by December 15.

Useful Management and Ethics Links

Practice tips and sources of information on how to handle the unique challenges of an immigration law practice are just a “click” away:

[AILA Podcast Library](#)

[Practice Management Library](#)

[AILA Ethics & Best Practices Message Forum](#)

[AILA Law Office Management Message Forum](#)

[AILA Marketing Your Law Practice Message Forum](#)

[Resources for Starting a Law Practice](#)

AILA’s Practice and Professionalism Center

We hope that you have enjoyed the first issue of *Immigration Practice News* brought to you by AILA’s Ethics & Practice Management Committee. Much more is available 24/7 at the [Practice and Professionalism Center](#). You can find information to help you develop your practice, improve firm management, identify and address ethics issues or find pro bono opportunities. For example, the [Practice Management portal](#) includes resources for managing work flow, obtaining new clients, improving client service and much more. The Center reflects our goals as practitioners: to provide competent, quality services to our clients, to act ethically with respect to our clients and the tribunal, and to do well while doing good.