

HALF-DAY SEMINAR

Legal Ethics of Email

Protect Your Reputation and Control Risk

ST. LOUIS, MISSOURI — JUNE 19, 2019

Faculty

Nicholas P. Meriage — *Pitzer Snodgrass, P.C.*

Robert T. Plunkert — *Pitzer Snodgrass, P.C.*

Continuing Education

MO CLE - 3.6 ethics

IL CLE - 3.0 ethics

See inside for details!

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SEMINAR OUTLINE

I. ATTORNEY DUTIES, STATUTES AND CASE LAW REGARDING EMAIL

8:45 - 9:15, *Robert T. Plunkert*

- A. Must an Attorney Maintain an Active Email Account?
- B. Duty of Confidentiality
- C. Duty to Warn Client of Potential Breach of Confidentiality
- D. Reasonable Expectation of Privacy
- E. Electronic Communications Privacy Act (ECPA) and *United States v. Warshak*

II. SENDING EMAILS TO CLIENTS, OPPOSING COUNSEL, THE COURT AND THIRD PARTIES

9:15 - 10:15, *Nicholas P. Meriage*

- A. Password Protection
- B. Client Newsletters and Mass Emails
- C. Addressing the Message:
Autofilling, CC, BCC, Reply All
- D. "Delay Send" Option
- E. Subject Line, Attachments and Screenshots
- F. Enforceability of Legal Disclaimers
(In-Text Waiver Language)
- G. Access to Emails of Former Firm Associates/Partners
(PA Opinion 2013-4)
- H. Client Contact via Employer-Sponsored Email
- I. Sharing Practice Tips via Email Listservs
- J. Email Discovery -
Is it Protected under 4th Amendment?
- K. Risks in Using Your Smartphone to Text and Email Clients

III. INADVERTENT DISCLOSURE

10:30 - 11:00, *Robert T. Plunkert*

- A. Does Inadvertent Disclosure Constitute a Waiver?
- B. Metadata:
What, Where, and What to do to Prevent or Retract Accidental Disclosure
- C. What Constitutes "Prompt Notification"?
- D. Other Inadvertent Disclosure Risks

IV. DATA SECURITY AND CLOUD STORAGE - DOES THE EMAIL YOU DELETE REALLY DISAPPEAR?

11:00 - 11:30, *Nicholas P. Meriage*

- A. How Long do Emails Stay on Provider Servers?
- B. Are They Encrypted? Who has Access to Them?
- C. Are They Discoverable?
- D. Using Services That Default to Storing Emails and Other Data in the Cloud
- E. How to Retain Emails Important to the Case

V. CREATION AND TERMINATION OF ATTORNEY-CLIENT RELATIONSHIP

11:30 - 12:00, *Robert T. Plunkert*

- A. When is Attorney-Client Relationship Created?
- B. Responding to Internet/Website Inquiries
- C. How Much Information Should You Request and Provide?

*If needed, the above agenda may be changed to best accommodate all of our attendees.

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NICHOLAS P. MERIAGE is an attorney at Pitzer Snodgrass, P.C., in St. Louis, Missouri. His civil litigation practice is mainly comprised of professional liability, products liability, and premises liability defense. Mr. Meriage represents product manufacturers, property owners, design professionals, real estate professionals, and medical professionals in Missouri and Illinois. He earned his B.S. degree in business administration from the University of Missouri-Columbia. Mr. Meriage received his J.D. degree from the University of Missouri-Columbia School of Law, where he was awarded the Allen H. Parker Memorial Scholarship; the MU Grant; the JB Reynolds Student Award in insurance law; and CALI awards in insurance law, land use controls, and agricultural law. He also received a certificate in dispute resolution, and he utilizes the tools developed in obtaining the certificate to negotiate complicated problems for his clients, including successful settlements at mediation. Mr. Meriage is a member of the Lawyers Association of St. Louis, Missouri Organization of Defense Lawyers, and the Bar Association of Metropolitan St. Louis; and a board member of Missouri Captive Insurance Association.

ROBERT T. PLUNKERT is a principal with the law firm of Pitzer Snodgrass, P.C. His practice areas include personal injury, civil rights, employment law, premises liability, product liability and professional liability. Mr. Plunkert attended Boston College, where he received his undergraduate degree in psychology and history with a minor in philosophy. He received his J.D. degree from Saint Louis University School of Law with double concentrations in civil and criminal litigation skills. Mr. Plunkert was the recipient of the Saint Louis University Legal Services Award. He is a member of The Missouri Bar and the Illinois State Bar Association, and the Lawyers Association of St. Louis. In 2018, Mr. Plunkert was awarded the David J. Dixon Appellate Advocacy Award by The Missouri Bar/Missouri Bar Foundation. The award acknowledges outstanding appellate advocacy work performed by young lawyers who are members of The Missouri Bar.

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SEMINAR TIME 8:45 am — 12:00 pm

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SEMINAR OVERVIEW

Everyday Tips, Risks and Best Practices

Email is the everyday reality of our personal and professional lives, and its use brings new ethical questions, pitfalls and challenges. Are you protecting yourself and your clients to the greatest extent? Are you storing emails properly? What can and can't you say in an email and why? What unwanted data can be included in a screenshot? Let our experienced attorney faculty bring you up to speed on protecting confidentiality and guarding privacy in email. *Register today!*

BENEFITS OF ATTENDING

- Clarify attorney duties and get the latest case law on lawyer use of email.
- Prevent inadvertent disclosure via email attachments.
- Get simple, practical guidance and tools for ethical compliance in your everyday use of email.

WHO SHOULD ATTEND

This **basic-to-intermediate level** seminar is designed for attorneys looking to protect their ethical reputation and minimize risks with email. It will also benefit paralegals.

CREDIT INFORMATION

The specific continuing education credit(s) listed are for attending the live seminar. For detailed credit information, please contact us at 866-240-1890 or visit us at nbi-sems.com.

MO CLE - 3.6 - NBI, Inc. is an accredited sponsor with Missouri Minimum Continuing Legal Education. This program qualifies for 3.60 hours of CLE credit, which includes 3.60 hour of ethics, professionalism or malpractice prevention credit.

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