

## STOP CC'ING YOUR CLIENTS ON EMAILS

Yes, I am yelling.

Why on earth do lawyers decide to CC their clients on emails? It is stupid.

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I usually copy interested individuals if the client is a company with the person in the "To" line being the designated point of contact.

Alex Salmu, Michigan

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Also, what if as opposing attorney you get an email from your counterpart where your counterpart has copied his/her client?

Do you also cc the counterparty's client?

I believe the ABA rules on professional ethics say No, but I know people who routinely do so.

Amol K. Pachnanda, New York

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On what Amol said ... I know an attorney who was admonished (private reprimand, sealed, but on record for 8 years) by our Board of Bar Overseers for INADVERTENTLY hitting "reply all" during some contentious negotiations over a intra-family dispute between the lawyers.

Don't do it!

Peter Clark, Massachusetts

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I cannot stand that. I will forward the email to my client. I will not CC them, or BCC them, as I do not want the client to inadvertently reply to the other side.

I am dealing with two attorneys that will CC client. One also CCs other staff. I did not notice client on one and attorney took issue with client getting the email. Attorney tune changed when I pointed out that they caused the problem and suggested that by including client it appeared that yt. Other attorney complained that I do not reply all because they rely on staff to deal with some emails. She expects me to notice that her client is on the email and remove the person.

Phil A. Taylor, Massachusetts

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I think you've answered your own question.

I am vigilant in checking whether OC has copied his or her client when I respond to ensure that I am not inadvertently communicating with a represented party. After I send an email to OC, I forward it to my client and simply write "your BCC." My staff knows to do this too.

Deborah Matthews, Virginia

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UGH. I hate when they include staff then expect ME to know their office structure. I had one OC chastise me for emailing OC directly and NOT including her paralegal. Now I was a paralegal once myself so I understand their importance. But YOU are the attorney, YOU are responsible for the case not the paralegal.

What I hate is when clients email their ex and CC me. When the ex is represented. I tell them not to do it. They say "but I want you to see what is going on." Then FORWARD the damn thing don't put me in an ethical bind because you can't be arsed to use the forward function. Of course, then they forward it with a twelve paragraph "explanation" of the whole exchange because apparently, I can't read it myself.

Elizabeth Pugliese, Maryland

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I used to do the same, but even this method has its risks. I had a partner reply all to an attached email I had forwarded to him, rather than reply to my forwarding email, so his reply went to me and to opposing counsel.

Luckily, it was just something along the lines of "well said."

It is a little more complicated, but now I go to my original sent email, hit "reply," then replace the original recipient with the client. That way even if the client (or my luddite partner) hits "reply all" it only comes back to me. In the alternative, sometimes I send OC a PDF letter and then send the PDF to the client rather than forwarding the email. Again, no way to inadvertently copy OC that way.

Kevin Grierson, Virginia

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just had the same conversation yesterday with a young lawyer yesterday! ..its a dangerous way to do business and a simple thing to do to avoid catastrophe!

kc branch, California

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I don't get it either. I've had so many instances where opposing counsel does this and then their client "responds all" with inflammatory and/or confidential information. This is what "forward" is for, people.

Ryan Young, Virginia

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I'm with you. There was a time I cc'd clients on emails to opposing counsel. One "reply all" from a client was enough for me to stop that practice. If I send an email to opposing counsel, I will forward it to my client with an "FYI" notation.

Scott I. Barer, California

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I think that whether or not to "cc" - and when - depends a lot on the nature of your practice.

My practice was heavily oriented toward transactional residential real estate and probate and estate administration. On the real estate side, "ccing" everyone involved in the transaction - OC, seller's and buyer's brokers, bank loan officer, bank attorney, title co atty and title co, but excepting opposite party (OC could always forward to his/her client) - assured that everyone in the loop had the same info at the same time, and it cut down on the phone traffic - ie, requests for status reports - significantly. Especially important in an area of practice that had become pretty much flat fee and every minute counted!

The bad part about "ccing" on the real estate side is that some clients saw it as another "chat group", and rather than accepting it as a way of keeping informed, used it as a platform to initiate their own conversations with any and all involved in the transaction, thus defeating the purpose of "ccing" in the first place.

On the probate and estate administration side, "ccing" beneficiaries and legatees was a good way of keeping everyone in the loop and advised as to the status and progress of the estate. My executor / administrator / trustee clients overwhelmingly supported this practice, as it diverted a lot of phone traffic - and sometimes static - away from them.

In deciding whether or not to "cc" and when, the key word - always - is discretion. "Cc" when and where appropriate and helpful, and avoid it whenever and wherever it would be neither. And never "cc" in those instances where client confidences would be compromised or breached.

Rod Klafehn, New York

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What about bcc?

If you send an email to opposing counsel, just to her, and she hits "reply all" in responding to you, does her reply go to your bcc recipient? Does it expose the name of your bcc recipient if you then, in responding to her reply, hit reply all?

Roger Rosen, California

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The problem doing that is when the client then responds to all and sends what should be privileged material to opposing counsel, etc.

Frank Kautz, Massachusetts

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Rod's Basic Rule of Bcc: Don't. If your message contains material that needs to be "bccd", it's probably because it contains confidences of one sort or another - in which case, e-mail directly to recipient only. Ie, info that cannot be shared with everyone shouldn't be shared with anyone but the client directly.

But even confidences aren't involved, sometimes you shouldn't "cc". E.g., if status is affected / influenced because somebody is being a jerk, while not a confidence (jerks usually operate pretty overtly), nonetheless, that should be transmitted directly to client only and not "ccd" to everyone in the loop (chances are that they've already figured out who's being a jerk anyway).

Rod Klafehn

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Many years ago, I adopted a policy of forwarding communications to clients, if they need to see them. I used to forward everything, but some communications are not productive for a client to see, so I try to be selective in some cases.

Darrell G. Stewart, Texas