



E-Mail Scams Hit Lawyers Too

We have all heard about e-mail scams sent from somewhere in Africa, asking for help in collecting a few million dollars. But the latest version is much more sophisticated and can create real exposure for the lawyer.

The scam goes something like this:

A prospective new client with an ostensibly reputable business out of the city contacts the attorney by e-mail and asks the attorney to represent that business in collection of a debt or judgment, which on its face seems valid. The attorney responds by e-mail. A letter on fraudulent letterhead confirms the retention, the client promises to sign a retainer agreement and send a check, and the new client then communicates by telephone. However, prior to taking action on behalf of the client, the client notifies the attorney of a settlement of the claim, and wants you to assist in transfer of the funds. A fraudulent cashier's check is then sent to the attorney for deposit into the attorney's business or IOLTA account. The client then instructs the attorney to wire-transfer the funds to the client's account, except for funds to pay the attorney's fee. Once the fraudulent nature of the check has been discovered, the funds have already been charged against the attorney's account.



This very scam was perpetrated on an attorney friend of mine. Fortunately, my friend was notified by the bank of the fraudulent check after deposit, but before the wire transfer was sent. If another day had elapsed, even though the cashier's check was not good, it may have been cashed against other funds held in his account. Unwinding the damage could prove costly and difficult, especially if it involved an IOLTA account.

The lesson to be learned is that e-mail scams are becoming more sophisticated. With the current proliferation of marketing by website and computer networks, attorneys are relying on communication with prospective new clients through e-mail, telephone and fax. The initial face-to-face meeting with every new client may no longer be the norm, and it eventually may go the way of the typewriter.

Lessons to be learned:

1. Beware of any new client that contacts you initially by e-mail.
2. Confirm all client retentions with signed retainer agreements.



MCLE TASK FORCE SEEKS MEMBER INPUT

The Supreme Court has asked the State Bar of Arizona to make recommendations regarding possible changes to Mandatory Continuing Legal Education requirements and programs, which are generally set forth in Supreme Court Rule 45. To that end, President Alan Bayham formed a Task Force to examine the issues, and has named Board Governor Tom Crowe to chair it.

These are matters on which most everyone has an opinion, and your input is solicited. The Task Force's only limitation is that the Court is disinclined to eliminate MCLE altogether, but otherwise wants our suggestions. In turn, the Task Force wants broad input from those who are most directly affected by the rule, the members of the Bar, as well as from non-lawyers and others affected by MCLE.

The areas to be examined are legion. Subjects may include: the number of hours required by members of the Bar; whether the number of required hours should vary under certain circumstances; what credits should or should not be carried forward; whether one should be accorded MCLE credit for certain kinds of activities not now recognized; whether a "free track" should be offered by the Bar for certain topics of generalized interest and particular importance; whether the Bar or another entity should "certify" particular programs; whether any supervision is required of "in-house" or "third-party" programs; and whether fees, penalties and deadlines should be revised. The list goes on; this is simply an arbitrary identification of possible topics.

Please do not kill the messenger! The Task Force knows that some kind of MCLE requirement is here to stay. Beyond that, our job is to make it better, which, of course, is the challenge. Whatever we come up with will, by its very nature, be subject to criticism and further debate. This is a subject on which opinions are strongly held. So, this is your chance to wade in and submit your comments to MCLETaskForce2011@azbar.org at your convenience.

And be nice!

3. Do not assist in wire transfers, especially for new clients.
4. Offers to pay more than a reasonable attorney fee are usually fraudulent.

Pat Giallanza, in the State Bar's Communications Department, confirmed that the Bar has received increased notification of these scams, but to her knowledge no Arizona attorney has thus far lost funds. It is my impression that as their sophistication increases, the criminals behind these schemes eventually will devise better ways to get your money.

The old adage holds true: If it sounds too good to be true, it probably is.