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Marika: The Adventures of a Young Lawyer Like No Other!

Marika, A Click Away From Disaster – Email Management

It is the end of a very busy week and Marika is handling the last tasks she has to do before heading off for the weekend. Indeed, M^e Marianne Tremblay (hereinafter “M^e Tremblay”), a partner in the firm, had her participate in a major transaction involving two manufacturing companies from the Trois-Rivières region.

Marika was particularly flattered when M^e Tremblay asked for her help in this major file. She also saw it as an opportunity to add to her skills, given that she had not done much work in the area of business law. She therefore puts the finishing touches on the closing documents and sends them by email to the person she thinks is M^e Tremblay’s client. When she prints out the email, however, she notes that she inadvertently sent the closing documents to her cousin who has the same first name as the client. Marika doesn’t make a big deal out of it and decides to forward the email to the right person. She then leaves a voice message for her cousin Frédérique in which she asks her to ignore her most recent email and destroy it. Then she leaves for the weekend.

Unfortunately for Marika, she has overestimated Frédérique’s sense of discretion. Indeed, out of solidarity with her fellow women, Frédérique decides to send the closing documents to her best friend, an employee of M^e Tremblay’s client. The friend, who is worried about the future of her job, decides to gather a group of employees and their union representative at her house to organize a future emergency meeting with the owner of the company. There is even talk of contacting the media if the meeting does not produce the expected results.

On Monday, after a morning in court, Marika arrives at the office and notices a certain level of agitation. Her assistant informs her that, in some unknown way, a group of employees have learned that the company would be sold. M^e Tremblay, on the verge of fainting, struggles to salvage the situation. Her client is furious and fears that the hasty announcement of the sale will make certain key suppliers or employees of the company flee, resulting in the sale being aborted.

Marika begins to have doubts about the situation and locks herself in her office. With trembling hands, she dials her cousin's number. After a few seconds that seem like hours, Frédérique confirms her worst fears. Marika, with her back and head bent in shame, discreetly makes her way to M^e Tremblay's office to inform her of the situation.

In the meantime, M^e Tremblay has managed to calm down the client and a plan for managing the crisis has been summarily drawn up. In fact, M^e Tremblay is preparing to leave the office for Trois-Rivières to participate in structuring the plan. Marika, who is embarrassed, explains the origin of the leak to her boss. M^e Tremblay, who is angry, but doesn't have the time to berate Marika, leaves her office, slamming the door and leaving Marika alone and distressed.

A few days later, following a well-articulated communication plan, the two companies succeeded in working together to reassure the employees and suppliers.

Obviously, M^e Tremblay and M^e Pagé, the firm's senior lawyer, meet with Marika and decide, given her recent misadventures, that she requires more rigorous supervision and weekly meetings in order to avoid any further blunders.

What you should remember: It is estimated that in 2019, 293 billion emails were sent every day.¹ It is no wonder that emails, which are simple, fast, and efficient and can increase productivity if used wisely, have become an essential working tool for lawyers. It is also this simplicity, however, that increases the risk of making errors that may give rise to your professional liability. Here, then, are some tips to better manage the risks associated with the use of this communication method:

- ✓ First, make sure the client consents to the email communications and add a clause about it in your initial mandate;
- ✓ Clearly and succinctly describe the "Subject" of the email. If the email requires immediate attention, include the word "urgent" in the "Subject". This will increase the chances that the email will be read more quickly;
- ✓ Write your message before filling in the address field. This will reduce the risk of an incomplete email being sent if you inadvertently click on "Send";
- ✓ Add a note regarding the confidentiality of the information contained in the email;
- ✓ Properly review the content of the message and the recipient's address. This will allow you to detect any errors;
- ✓ Likewise, check the attachments before sending them. Send these documents in a non-editable format. Confidential messages must be encrypted or protected by a password (which must not be sent in the same email);
- ✓ Avoid the "Cc", "Bcc" or "Reply to all" functions. If the message concerns only certain recipients, there is no need to send it to everyone. Indeed, with the large quantity of emails we receive every day, save your colleagues the time of managing those that are useless;
- ✓ Make sure you have a system in place where you and your assistant can confirm that the message has been received and read;

¹ *Les chiffres 2019 de l'e-mail*, October 15, 2019, found at <https://www.arobase.org/actu/chiffres-email.htm>.

- ✓ When deadlines are tight, call your client to verify that the email has been received and that it will be handled promptly;
- ✓ Implement a policy for the use of professional electronic messaging within the firm. For example, such a policy could include the following:
 - A ban on using personal messaging for professional purposes and, vice versa, a ban on using professional messaging for personal purposes;
 - The length of passwords for emails as well as for the documents requiring protection;
 - The authorized software that can be used to protect email attachments;
 - The use of a confidentiality statement in emails;
 - Access to a secure network to read emails remotely;
 - A procedure in the event a confidential email is sent in error.
- ✓ If, despite all these precautions, you realize an error has been made, act quickly to warn all the people concerned before the situation escalates;
- ✓ Always keep emails that have been sent and received. There are simple ways to copy and save emails sent and received on the corporate server.

In conclusion, email is a communication tool that is well established in our daily practice. By adopting relatively simple measures, you will reduce the risk of being the subject of a malpractice claim or proceeding.