

# How Good Is Your e-Mail Evidence?

## RPost<sup>®</sup> Registered E-mail<sup>®</sup> Gives You the Courtroom Edge<sup>®</sup>

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Today, e-mail is as second nature to most attorneys and law offices as sending a letter or fax. Hardly anyone ever thinks twice about sending, receiving or even thinking about the content they put into the average email message. Most even think a step further and really think that an e-mail is just like a conversation, *i.e.*, once it's over the conversation ceases to exist.

### GET A RECEIPT

However, as most attorneys will tell you, an e-mail is a discoverable document that is legal evidence — to be used at any trial and for any discoverable purpose. The thing that most of us seem to forget is that email, unlike our conversation, lives on in time and, if not kept in the proper perspective, the topic of the e-mail may be of such importance to a case or cause that it becomes critical to our proofs in a matter. As a practitioner of family law, I can attest to the fact that a case can be won or lost when challenges are made to the truth and veracity of the statements in an e-mail or e-mail's date stamp. Many a spouse has been faced with the explanation of the suspect e-mail in a court of law.

Attorneys should be aware that on a day-to-day basis, business, parties and other lawyers continue to execute e-mails without any protections and without a proper retention system of records to avert a tragic mistake.

Think for a moment of how one protects oneself from an original email that was misquoted; or one that was never read or received in the first place? Most say, "well I ask for a receipt." Not good enough — a receipt can be denied to the sender. What about actual challenges to the time and sending of the e-mail? The list goes on and on, but the answers seem to elude you. Just remember that with just a few simple mouse clicks, an original e-mail can be changed and represented by opposing counsel to be the original document. The protection of your evidence and legal document is more than just mildly critical to your trial and situation, and the recent court decisions on the matter have proven to be such that you **must** have a reliable e-business system to keep proper records of these e-mails. No excuses!

Enter RPost, which over-simplified is stated as a registered e-mail system for your firm. In actuality, RPost protects the sender with proof of their entire e-mail transaction by providing a registered receipt (which *is* legally valid evidence) that your registered email *was* sent; that it *was* received and when that took place. It also verifies the content of the e-mail message sent, ***including all the attachments!***

If you think that RPost could not be the standard that your next trial might just need, consider this: the Federal Government has tested, approved, and accredited RPost, and they use it in the arm of Congress known as the GAO (Government Accountability Office).

## HOLDS UP IN COURT

As for legal opinions, most have already stipulated that RPost Registered E-Mail service meets the federal and state laws with regard to evidentiary proof that the e-mail has been delivered. And the requirement that a document need be retained as originally created or sent and received will now be able to withstand any and all legal challenges with an RPost Registered Receipt e-mail.

So, you're probably wondering, how does RPost do all this and what can I get from it? Well RPost is a very simple and effective tool, which will provide its sender with a complete and legally valid series of evidence links, as to e-mail authorship, content, sending and receiving to any e-mail address and a time stamp from the atomic clock. You get a digital snapshot of the entire delivery transaction, including any and all attachments, that is protected, compressed and placed into a tamper-detectable Registered Receipt E-mail that you, the sender, get back via e-mail. The recipient of the e-mail need not have any special software on their machine to generate this item to the sender. Another very intelligent feature about RPost is that it *never* retains a copy of the original transaction, so RPost *is not* subject to discovery! Another noteworthy item is the fact that if you desire, you may send the registered e-mail without the recipient knowing that you sent it registered, thereby not raising the eyebrows of your clients or opposing counsel who may envision a distrust on your part, but at the same time giving you the proofs you may need should the occasion rear its ugly head.

On the computer of the e-mail sender, there is an automatically created folder called "receipts" that the sender can archive according to his or her preferences. This folder contains all the RPost registered receipts.

You can also send, additionally, the receipts to another e-mail address for either permanent storage or backup, so that if you terminate an employee, or they leave or they upgrade their computer system, you have the copies of the receipts that you need. Also, if needed, you may tag the e-mail with any type of identifiers, *i.e.*, ID number, client number, or a project number; these all allow for faster retrieval of the e-mail that you may want to recover. You also have the ability to forward the receipt to any individual who may dispute the delivery or content of the e-mail that was sent, thereby allowing the person complaining to authenticate the delivery or the content of the e-mail by forwarding the Registered Receipt e-mail to a special address that will verify and regenerate the original email and all attachments and then returns the original information by email to the complainant. You even have the ability to put the Registered Receipt e-mail on a CD and bring it into the courtroom to allow the judge to authenticate the delivery and content of any contested e-mail message.

## CONCLUSION

I have been using RPost for all my e-communications to both clients and attorneys and I find myself with more peace of mind about my e-mails or the copies of agreements that I frequently send out for approval.

In the final analysis I have come to learn that there are many products that come and go in the legal technology arena. Most are good, but then once in a while some are really a tremendous boost to law offices' productivity and peace of mind. If you do nothing in technology for this new year of '07 or if you can only make a few worthwhile purchases for the office, I highly recommend that you use RPost Registered E-Mail for all your most important e-mail communications. You will never be sorry and you will only have praise for this time saving and worry-saving element of your legal practice.

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