

# **Attorney Mindfulness When Addressing Emails and Texts: ABA Formal Opinion Provides Ethical Guidance to Lawyers on Electronic Communications**

Article By:

Electronic Discovery at KL Gates

---

In their roles as advisors, advocates, counselors, negotiators, and client representatives, lawyers communicate extensively through electronic means, particularly email and increasingly text messages. However, the fact that use of these electronic communication tools is commonplace in legal practice doesn't mean that attorneys shouldn't exercise caution when crafting their communications. The American Bar Association ("ABA") Standing Committee on Ethics and Professional Responsibility published a formal opinion this month that advises lawyers to refrain generally from including their clients on emails and texts sent to opposing counsel.

ABA Formal Opinion 503 focuses on ABA Model Rule 4.2, often referred to as the "no-contact" rule. Under this model rule, a lawyer who is representing a client may not communicate about the subject of the representation with a represented person absent the consent of that person's lawyer unless the law or court order authorizes such as communication. Most states' codes of professional legal ethics draw heavily upon the ABA Model Rules, so many states have similar "no-contact" rules for lawyers.

The new formal opinion states that lawyers would not be deemed to violate ABA Model Rule 4.2 if they send a "reply all" response to a group email or text sent by an opposing counsel, even if that communication includes the opposing counsel's client. The opinion states that, "[a]bsent special circumstances, lawyers who copy their clients on emails or other forms of electronic communication to counsel representing another person in the matter impliedly consent to a 'reply all' response from the receiving counsel," the opinion said. "Accordingly, the reply all communication would not violate Model Rule 4.2."

As a practical matter, Formal Opinion 503 provides a number of options to lawyers who wish to avoid creating an implied presumption of consent to such "reply all" communications from opposing counsel to their clients. These options include:

- forwarding the electronic communication separately to the client without including opposing counsel as an addressee,
- informing receiving counsel expressly and in advance that including the client on the

electronic communication does not constitute a consent to a “reply all” response, or

- sending the communication through other means (such as a mailed hard copy letter) where different norms are in place regarding responding to all addressees.

The full text of ABA Formal Opinion 503 is available [here](#).

Copyright 2025 K & L Gates

---

National Law Review, Volume XII, Number 316

Source URL: <https://natlawreview.com/article/attorney-mindfulness-when-addressing-emails-and-texts-aba-formal-opinion-provides>