

THE TROUBLE WITH EMAIL: SUSPECT EVERY NEGATIVE DECLARATION

*Frederic White**

IN 2004, after being a faculty member at the Cleveland-Marshall College of Law, Cleveland State University for over twenty-five years, I was selected to become the new dean at the Golden Gate University School of Law, located in downtown San Francisco, California near the financial district. At Cleveland-Marshall I had served for over five years as an Associate Dean, but my arrival at Golden Gate would mark my first experience as the chief academic officer of a law school.

As I my said my farewells to my family, friends and associates, I approached my new job with cautious optimism. What would be my most daunting task for a long-term Midwesterner making his way far west to the Bay Area?

Would it be dealing with a whole new faculty and the usual issues surrounding salaries, office space, promotion, tenure, and the occasionally curmudgeonly faculty clique? Would there be any culture shock associated with being the first African American dean at an ABA law school in California? Would it be trying to navigate through the sometimes-choppy waters of ABA or AALS politics? Or would it be dealing with the university's other colleges whose faculties—as is often the case—might view themselves as vastly overworked, grossly underpaid compared to their law school counterparts and, of course, undervalued?

How about dealing with the new breed of law students characterized by some academics as the “consumer generation” who are said to consider legal education a simple commodity, not as a higher calling? What about bullying alumni trying to get questionable candidates past the admissions office? Or the notoriously high Bay Area cost of living? Or maybe, just handling the challenge of dealing with the dreaded California bar examination?

Oddly enough, it turns out after a year and one half on the job that none of these challenges were daunting, unexpected or overwhelming. No, the real challenge was corralling that ubiquitous monster gradually taking over every computer in America. What is it? Of course, the thing that dare not speak its name is email.

Yes, email. You know it when you see it. It is all around us, in our offices, our homes, our planes, our buses and every where we travel, ever tightening its long reaching and terrible noose, twenty-four hours a day, three hundred sixty five days a year. Holidays are no exception.

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It is in our office computers, our Blackberries and our Palm Pilots. Thanks to advanced email technology, we can Bluetooth until we are blue in the face. Forgot your computer or your PDA? No problem. Use the “On Command” wireless keyboard found in most major hotels and email away on your hotel television—all night long. Email correspondence is a dilemma for all of us, but for a law school dean, the email onslaught is particularly troublesome because the universal expectation is that we are always available to everyone, whether they are students, staff, faculty, alumni, the university president or the press. There is no getting around it. What to do?

Of course, I could simply resign my deanship and go back to the faculty, but that’s not likely to happen—at least not voluntarily. I am, therefore, reconciled to the inescapable fact that I’m stuck with the electronic beast for all eternity. Sensing the futility of trying to escape from this predicament, for defensive purposes I’ve developed some simple rules for taking the sting of out the daily email jolt.

My attitude toward this all-encompassing electronic wonder is embodied in an acronym I developed for the SEND button, a term found on every email system in the world, whether it’s Microsoft, AOL, Hotmail, MSN, any of the rest of them. My short advice: Beware of the SEND button. Be very careful what you write. In other words, **Suspect Every Negative Declaration.**

I created the acronym several years ago when there was a particular acrimonious email exchange between two of my former colleagues at Cleveland-Marshall. Unfortunately, all the rest of us unsuspecting faculty members received copies of their exchange. Many years have passed and neither person remains at that institution. One is at another law school. One is out of law teaching altogether. As a result of that conversation I wrote a memorandum to my law faculty colleagues entitled, “The Trouble with Email.” I concluded my message with the acronym SEND. My modest conclusion: Don’t email what you can’t say face to face.

Since that time, and now that I’ve been a dean, I am forced to deal with email much more than I ever did as a regular faculty member. As a result, I have developed eight simple rules for email use.¹ They are survival tools that have helped me. Perhaps some of you already use them, or variations of them. Here they are:

Don’t respond to every email right away. There is a tendency among email users to (1)dash off requests, demands, etc. and (2)expect instant and detailed reactions. The often-angry response to one’s failure to answer any given email in a timely fashion sometimes reads like this: *“I emailed you over an hour ago! You have had the audacity not to respond to my inquiry instantly! Prepare for a*

1. When I drafted this small article, I started out with six simple rules. After looking at my draft, my friend and colleague, Athornia Steele, Professor of Law at Capital University School of Law, suggested a seventh one. So, the seventh rule, with some minor revisions on my part, is the result of his thoughtful comments. I came up with the eighth rule after thinking about some of the conversations Professor Steele and I have had over the years about mutual academic concerns. Thanks, Thorny. By the way, my apologies to Dean Steven R. Smith of California Western. This footnote is one over his limit for articles of this type.

text message!” Sometimes speedy responses are necessary, but we all must realize that even in this breakneck electronic age there are some issues that will cure themselves just as well with the passage of time as they will with an instantaneous reaction. Some things just need to simmer. Let them.

Don’t copy everybody. Emails take on their own individual lives and never seem to disappear completely. Do not be fooled by the “Trash” bin. My tech people tell me that the act of emptying “Trash” is a cruel charade calculated by hackers just to hoodwink us simple non-tech folk. The truth is that “Trash” simply becomes “Super Trash,” always recoverable—usually by someone who will try to use it against you. Thus, when you compose your emails make sure that (1)you are only writing to those persons from whom you seek feedback, or from whom you seek help to reach some kind of conclusion, and (2)you are aware that your email will likely be forwarded to someone outside the loop you have created.

Don’t send excessive emails. I have some current and former colleagues who have been known to send me as many as fifteen emails in one business day, often on a late Friday afternoon. Some of these colleagues have had offices located close to mine or right next door. Take note. You don’t have to send out separate emails just because you’re dealing with separate issues. Some messages actually can contain subparts. Further, sometimes—you guessed it—picking up the phone or, better yet, walking down the hallway, poking your head in the door and simply asking the question directly, is time well spent. Besides, nobody ever got carpal tunnel from walking.

Don’t use sharp language. Remember my acronym! Tossing off stinging missives to your colleagues such as “I believe your comments to be the result of fuzzy thinking,” or “I am shocked and dismayed by your obviously biased decision” is not the stuff of compromise. In addition, avoid the use of bold lettering, exclamation points and underlining. Reasonable people will get your point. Sharply worded messages will likely alienate the recipient. Further, make no mistake that these sternly worded messages will surely get forwarded to persons who, as a result, might begin to view you in an unfavorable light. Hold your tongue. You may find that your present silence could come in handy when you are ready to jockey for position to secure a favorable faculty vote for one of your pet future projects.

Don’t send overlong emails. Remember, as a dean you have not been charged with re-writing *War and Peace*. The best emails are those that give succinct answers to, hopefully, concise inquiries. I often reply to many email inquiries with a simple, “Yes,” “No,” or “Agreed.” It saves a lot of time. I confess, however, that sometimes a colleague will question what a “no” response really means. Go figure.

Remember, everything is potentially discoverable. If you are concerned that what you are writing might be inaccurate, damaging or just plain dumb, it is probably not a good idea to put it in an email message. It could come back and bite you—badly. In these litigious times, many a corporate fat cat has been brought to his knees by the smoking gun found in the casually forwarded email document. Be careful what you write.

Just because you can send an email doesn't mean you have to. Not everything good to you is necessarily good for you. For example, when I'm working at my desk, I like to keep a few written quotes within easy view. One of them, self-created, reads in part: "Say what you mean. Mean what you say." I believe in those words, but I also know that you do not have to instantaneously speak your mind, especially in response to an email message. Just because you can respond with impeccable and irrefutable wit and wisdom, or the authority of the decanal chair—illusory at best—does not mean you should. Remember, what is said in jest in oral conversations does not necessarily come across as a joke in an email exchange. Before you respond to an email you should ask: Why am I responding? Will my answer add to the conversation? Will my response add to or subtract from the issues? Do I need to de-escalate the discussion? If so, how might I do that?

One last thing. Sometimes you need to call a friend before you answer an email. Over the years most of us have developed friendships within the academy. I know I have. Sometimes a simple call to a neutral third party will lead you down the right path. And if you do get counsel from a friendly neutral, you will have less worry that the email message you finally send will be misunderstood.

So now you have them—my eight simple email rules. Somehow I suspect that none of my eight rules are particularly surprising, novel or complex. In fact, they are mostly written embodiments of plain old common sense. Nevertheless, I try to remember them always. Perhaps you will use them. They work for me.