



# Tips for Sending Privileged Emails

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- 1 STOP** – Should you send this email at all? Should you discuss by phone or in person instead?
- 2 Who** are you sending the email to?
  - Are they within the **control group**?
  - Generally, include **need-to-know** people only
  - Consider including **outside counsel**
- 3** What is the **purpose/substance** of the email?
  - If not **predominantly legal advice** > likely discoverable
  - **Business advice** and **facts** are **discoverable**
- 4** Will recipients know they are receiving legal advice? How?
  - If not > email may be discoverable
- 5** Are you keeping the communication **confidential**?
  - Avoid including third parties
  - Use “Privileged/Confidential” stamps judiciously
  - Consider encouraging recipients not to forward
- 6** Are attachments independently privileged?  
If not, they may be discoverable
- 7** Always avoid inflammatory language (“disaster,” “scandal,” “huge problem”)
- 8** Consider your **subject line** carefully
  - Avoid including overly detailed or potentially privileged information in the subject line
  - If you don’t like the subject line of an email you’re responding to, change it
- 9 Forward** emails, rather than BCC’ing, to avoid “reply all” risk