



## Newsletters

### The Lawyers' Lawyer Newsletter - Recent Developments in Risk Management - March 2012

March 12, 2012

- [Duty to Report Lawyer Misconduct—Duty to Supervise—Responsibilities of Members of Law Firm Management Committees](#)
- [Duty of Competence—Duty to Advise Clients of Risks of Loss of Confidentiality and Privilege From Use of Employer Provided Technology or From Posting on Public Spaces on the Internet](#)
- [E-mails—Use of Employer Provided Addresses and Technology—\(Loss of\) Attorney-Client Privilege](#)

#### **Duty to Report Lawyer Misconduct—Duty to Supervise—Responsibilities of Members of Law Firm Management Committees**

*Board of Overseers of the Bar v. David E. Warren et al.* 2011 ME 124, (Me. Dec. 8, 2011)

Risk Management Issues: At what point after discovering serious wrongdoing by a lawyer within a firm does the duty to report the attorney to disciplinary or other appropriate authorities arise? What other steps are advisable for the law firm to take when such wrongdoing is discovered? What is the proper scope of supervisory responsibility either to prevent or to respond to wrongdoing when discovered?

#### **Duty of Competence—Duty to Advise Clients of Risks of Loss of Confidentiality and Privilege From Use of Employer Provided Technology or From Posting on Public Spaces on the Internet**

*American Bar Association Formal Opinion 11-459/Lenz v. Universal Music Corp.* 2010 WL 4789099 (N.D. Cal. 2010)

Risk Management Issue: What are the nature and scope of the duty to educate clients about the risks of waiving the attorney client privilege when using employer provided technology, and about the appropriate safeguards to protect confidentiality and the privilege.

#### **E-mails—Use of Employer Provided Addresses and Technology—(Loss of) Attorney-Client Privilege**

*American Bar Association Formal Opinion 11-460* (Aug. 4, 2011)

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Risk Management Issues: What are the ethical obligations of a lawyer who, while representing an employer sued by an employee, discovers potentially privileged e-mail communications between the employee and her attorney stored in the employee's workplace computer? What are the limits on a lawyer's use of information as to which the adversary is likely to claim attorney-client privilege that would be unknown to the lawyer except for its location on its client's server?

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