

# And if You're Really Hip, the Passing Years will Show: Technology and the Practice of Law

Hon. Sheri Bluebond, U.S. Bankruptcy Court (Los Angeles)  
Misty Perry Isaacson, Pagter and Perry Isaacson (Santa Ana)  
J. Scott Bovitz, Bovitz & Spitzer (Los Angeles)

Federal Bar Association

21st Annual Bankruptcy Ethics Symposium

Los Angeles

November 15, 2024 (v. 22)

## Tower of Power (1973)

<https://genius.com/Tower-of-power-what-is-hip-remastered-lyrics>

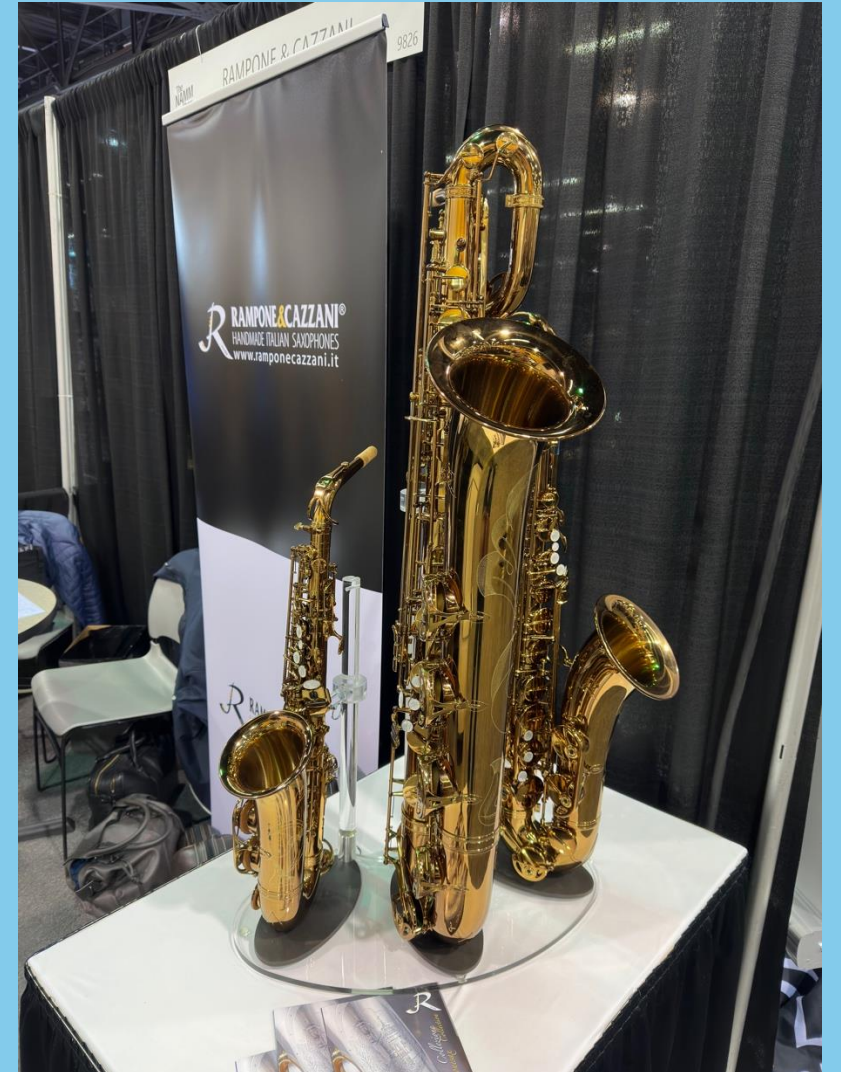
What is hip?

Tell me tell me, if you think ya know

What is hip?

And if you're really hip,

*the passing years will show*



# Hon. Sheri Bluebond

Bankruptcy Judge,  
Central District of California (2001-present)

Chief Bankruptcy Judge (2015-2018)

Chair, Court Technology (IT) Committee

Fellow, American College of Bankruptcy

Soprano, “Singers in Law” ([singersinlaw.com](http://singersinlaw.com))

Frequent speaker on bankruptcy topics

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# Misty Perry Isaacson



Misty Perry Isaacson is a Certified Bankruptcy Specialist with the State Bar of California. She has represented debtors, creditors, chapter 7 and 13 trustees, the United States Trustee, and parties to lawsuits in bankruptcy proceedings. She has appeared before many of the Central District bankruptcy judges and has also successfully briefed and argued matters before the Bankruptcy Appellate Panel, District Court, and the Ninth Circuit Court of Appeals. While attending Southwestern University School of Law, she served as a judicial extern for the Honorable Kathleen P. March, United States Bankruptcy Judge for the Central District of California. Ms. Perry Isaacson is the former Chair for the Ninth Circuit Lawyer Representatives Coordinating Committee and the former Co-Chair of the Central District of California Lawyer Representatives. She also serves as an advisor to the Insolvency Law Committee for the Business Law Section of the State Bar of California.

# J. Scott Bovitz, Bovitz & Spitzer

Board Certified -- Business Bankruptcy Law -- The American Board of Certification (former chair)

Certified Specialist -- Bankruptcy Law -- State Bar of California Board of Legal Specialization (former chair)

Rated "AV Preeminent" by Martindale-Hubbell

Southern California "Super Lawyer" in  
Bankruptcy & Creditor/Debtor Rights

Fellow, American College of Bankruptcy

Former Adjunct Professor: California Western School of Law; William S. Boyd School of Law, University of Nevada, Las Vegas; and Loyola Law School



# Duty of “technology competence”

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/Formal-Opinion-No-2023-208-WFH.pdf>

California recently amended rule 1.1 to incorporate a version of Comment [8] to ABA Model Rule 1.1, which is commonly referred to as a lawyer’s “duty of technology competence.” ... The duty of technology competence applies to multiple aspects of a lawyer’s practice, such as those involving electronic discovery, *social media, law practice management, virtual law offices, and remote practice*. The ABA Standing Committee on Ethics and Professional Responsibility declined to endorse strict rules relating to a lawyer’s duty of technology competence but adopted a “reasonable efforts standard” and “fact-specific approach” based on the ABA Cybersecurity Handbook [<https://www.americanbar.org/products/inv/book/421344986/>]. This committee agrees that this *reasonableness standard* applies to a lawyer’s duty of technology competence.

Technology nightmare -- 1980s

Your child is stuck under the “fun zone” and this is going to make you late for an in-person court appearance.

Where is the pay phone, anyway?







# Mitigation

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Technology nightmare -- 2010s

# Collection lawyer scam (still active)

[https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics Hotliner-Internet Scams-Jan 11.pdf](https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics%20Hotliner-Internet%20Scams-Jan%2011.pdf) (January 2011)

Lawyer receives what appears to be a legitimate solicitation email from a prospective client, often but not always based in another country or state.

# Like this one from Indonesia

**Subject:** Dear Mr. Bovitz,

**Date:** August 14, 2023 at 5:48 AM

**To:** bovitz bovitz@bovitz-spitzer.com

DA

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We would like to retain your firm for legal representation, please if you are interested I will forward you the adverse party information for your conflict check.

Regards,

[https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics\\_Hotliner-Internet\\_Scams-Jan\\_11.pdf](https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics_Hotliner-Internet_Scams-Jan_11.pdf) (January 2011)

After checking the legitimacy of the company on the Internet, the lawyer responds and relationship terms are “negotiated” between the lawyer and the prospective client, including a written fee agreement, sometimes providing for a substantial advance fee deposit.

[https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics\\_Hotliner-Internet\\_Scams-Jan\\_11.pdf](https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics_Hotliner-Internet_Scams-Jan_11.pdf) (January 2011)

Lawyer receives an email from the new client ... debtor [will] pay up;

Lawyer quickly receives what seems to be a valid domestic cashier's check from a reputable bank as a settlement payment, which is then deposited in the lawyer's client trust account;

Client requests an immediate wire distribution of the settlement funds to a foreign account ...

Lawyer retains the fee and wires the balance to a foreign bank account.

It is then discovered that the cashier's check is fraudulent ... The lawyer's *client trust account is overdrawn by the amount of the counterfeit cashier's check* ...

# Mitigation



# Wait for the debtor's funds to clear ...

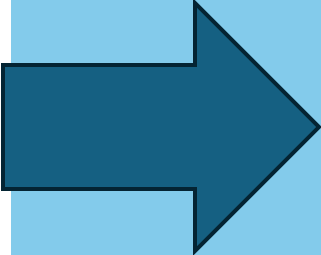
[https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics Hotliner-Internet Scams-Jan 11.pdf](https://www.calbar.ca.gov/Portals/0/documents/ethics/Publications/EthicsHotliner/Ethics%20Hotliner-Internet%20Scams-Jan%2011.pdf)

Third party funds, particularly those to be deposited in the client trust account, should not be accepted until the lawyer is satisfied that the client is legitimate, the process of engagement is complete and the lawyer has been retained. Assuming the foregoing criteria are met, all funds deposited into the trust account should be held until the bank confirms that payment of such funds has been honored by the payor bank. Banks often accommodate good customers by making deposited funds available before receiving such confirmation from the payor bank. *This is considered by the bank to be a provisional settlement, which may be revoked by the bank and is not the same as the funds having cleared (which may take weeks depending on the nature and location of the originating bank).*



# Technology nightmares -- 2024

# QR code misdirection



# QR code stickies (parking fraud)

<https://www.khou.com/article/news/verify/scams-verify/fake-qr-code-parking-meter-scams/536-3d7437f3-ef57-401a-89f9-19c2d1292f97>

(September 25, 2024)

Many cities are trying to make it easier for people to pay for parking by placing Quick Response (QR) codes that people scan with their cell phone camera on meters. The cities or parking companies they contract with use these QR codes to point people to websites or apps where they can digitally pay to park. ... ***Scammers have been known to put fake QR code stickers*** on parking meters and/or parking signage, a spokesperson for ParkMobile said.

These fake QR codes typically direct people to fraudulent websites where they are prompted to enter their credit card information to pay for parking. Once the scammer gets ahold of this information, they can use it to make further unauthorized purchases ...

And don't forget the parking ticket  
(since you did not pay the parking fee)



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**\$10** EACH ADDITIONAL **½** HOUR (OR FRACTION THEREOF)

**\$27 DAILY MAXIMUM**

**LOST TICKET PAYS \$27 DAILY MAXIMUM**

Thank you for your cooperation.

# FinCen (QR code fraud)

<https://www.fincen.gov/boi>

Many companies are required to report information to FinCEN about the individuals who ultimately own or control them. FinCEN began accepting reports on January 1, 2024. ... FinCEN has learned of fraudulent attempts to solicit information from individuals and entities who may be subject to reporting requirements under the Corporate Transparency Act. ... ***Correspondence that asks the recipient to click on a URL or to scan a QR code.*** Those e-mails or letters are fraudulent. Do not click any suspicious links or attachments or scan any QR codes in emails, on websites, or in any unsolicited mailings. Correspondence that references a “Form 4022,” or an “Important Compliance Notice.” This correspondence is fraudulent. FinCEN does not have a “Form 4022.” ... Correspondence or other documents referencing a “US Business Regulations Dept.” This correspondence is fraudulent; there is no government entity by this name.



# Mitigation (be aware)

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***Scammers hide harmful links in QR codes to steal your information,***  
<https://consumer.ftc.gov/consumer-alerts/2023/12/scammers-hide-harmful-links-qr-codes-steal-your-information> (December 6, 2023)

[C]rafty scammers might send you a QR code by text message or email and make up a reason for you to scan it...

- they lie and say they couldn't deliver your package ...
- they pretend like there's a problem with your account and you need to confirm your information
- they lie, saying they noticed suspicious activity on your account, and you need to change your password

These are all lies they tell you to create a sense of urgency. They want you to scan the QR code and open the URL without thinking about it. ***A scammer's QR code could take you to a spoofed site*** that looks real but isn't. And if you log in to the spoofed site, the scammers could steal any information you enter. Or the QR code could install malware that steals your information before you realize it.

# Has your partner borrowed partnership money to bail out a romantic partner?

<https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2023/02/romance-scammers-favorite-lies-exposed> (February 9, 2023)

In 2022, nearly 70,000 people reported a romance scam, and reported losses hit a staggering \$1.3 billion.

The median reported loss: \$4,400.



# Rotimi Oladimeji, romance scammer

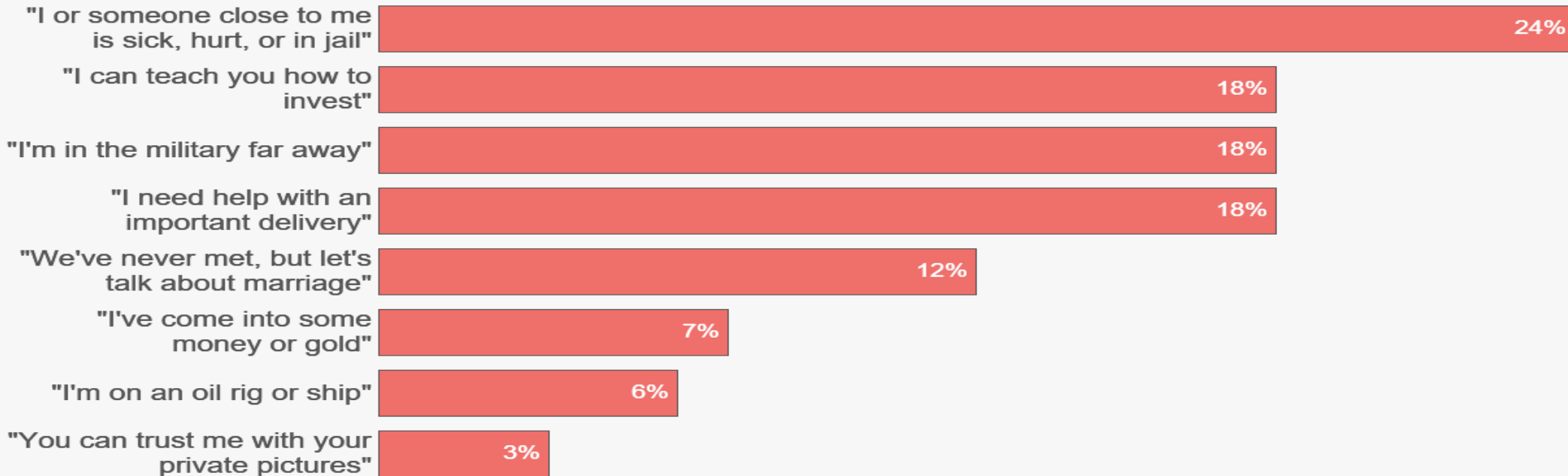
U.S. Attorney's Office, Eastern District of Missouri,  
<https://www.justice.gov/usao-edmo/pr/romance-scammer-who-helped-steal-nearly-12-million-missouri-woman-sentenced-3-years> (December 19, 2023)

Rotimi Oladimeji, 38, of Texas, assisted other scammers in Nigeria and the United States [to] prey on the victim, who thought she was in an online romance with a veterinarian and animal behaviorist ... After a scammer spotted the victim on an online dating site, Oladimeji and his co-conspirators began an online relationship with her. They made plans to meet with her but never followed through... In October of 2019, Oladimeji claimed the veterinarian was going to Dubai, then said he wouldn't be allowed to leave [Dubai] unless she sent money. They continued to make request after request of the victim for four and five-figure sums ... Oladimeji had the victim send cash and cashier's checks via FedEx to the Texas home of his co-defendant, Olumide Akrinmade, now 38, of Richardson, Texas. ... In all, the victim lost nearly \$1.17 million.

# 70,000 people -- romance scammed

<https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2023/02/romance-scammers-favorite-lies-exposed> (February 9, 2023)

## Romance Scammers: Their Favorite Lies by the Numbers



Figures are based on 8,070 2022 romance scam reports that indicated a dollar loss and included a narrative of at least 2,000 characters in length. Lies were identified using keyword analysis of the narratives.

Mitigation  
(education,  
and  
“love hurts”)



# Impersonation scams

Federal Trade Commission, *Consumer Protection Data Spotlight*,  
<https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2024/04/impersonation-scams-not-what-they-used-be>  
(April 1, 2024)

Scams that *impersonate well-known businesses and government agencies* are consistently among the top frauds reported to the FTC's Consumer Sentinel Network.

In 2023, data from the FTC alone show more than 330,000 reports of business impersonation scams and nearly 160,000 reports of government impersonation scams. That amounts to nearly half the frauds reported directly to the agency.

Combined, reported losses to these impersonation scams topped \$1.1 billion for the year ...

Federal Trade Commission, *Consumer Protection Data Spotlight*,  
<https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2024/04/impersonation-scams-not-what-they-used-be>  
(April 1, 2024)

The message might say it's from Amazon, alerting you that someone's ordered a big-ticket item using your account. ... Up next are scams that ***look like routine email notices*** that an account you never opened is ***about to auto-renew*** to the tune of hundreds of dollars. ... A message about a giveaway, discount, or free money may seem to come from a company you know ... Sometimes the so-called offer is about government money you can supposedly claim. ... Scammers pretending to be government agents say your identity has been used to commit a serious crime - often, they claim, money laundering or drug smuggling. They then offer to help you fix the supposed problem, which always involves them telling you to move money or ***put it on gift cards***. ... Messages pretending to be from the U.S. Postal Service, UPS, or FedEx say there's a problem with a delivery. ***They include a link to a website that looks real - but isn't.***

# Three things

## 3 Things Scammers Say

1

Scammers tell you to  
**move your money to  
protect it**

2

Scammers say you have to  
**get cash and drop it off**

3

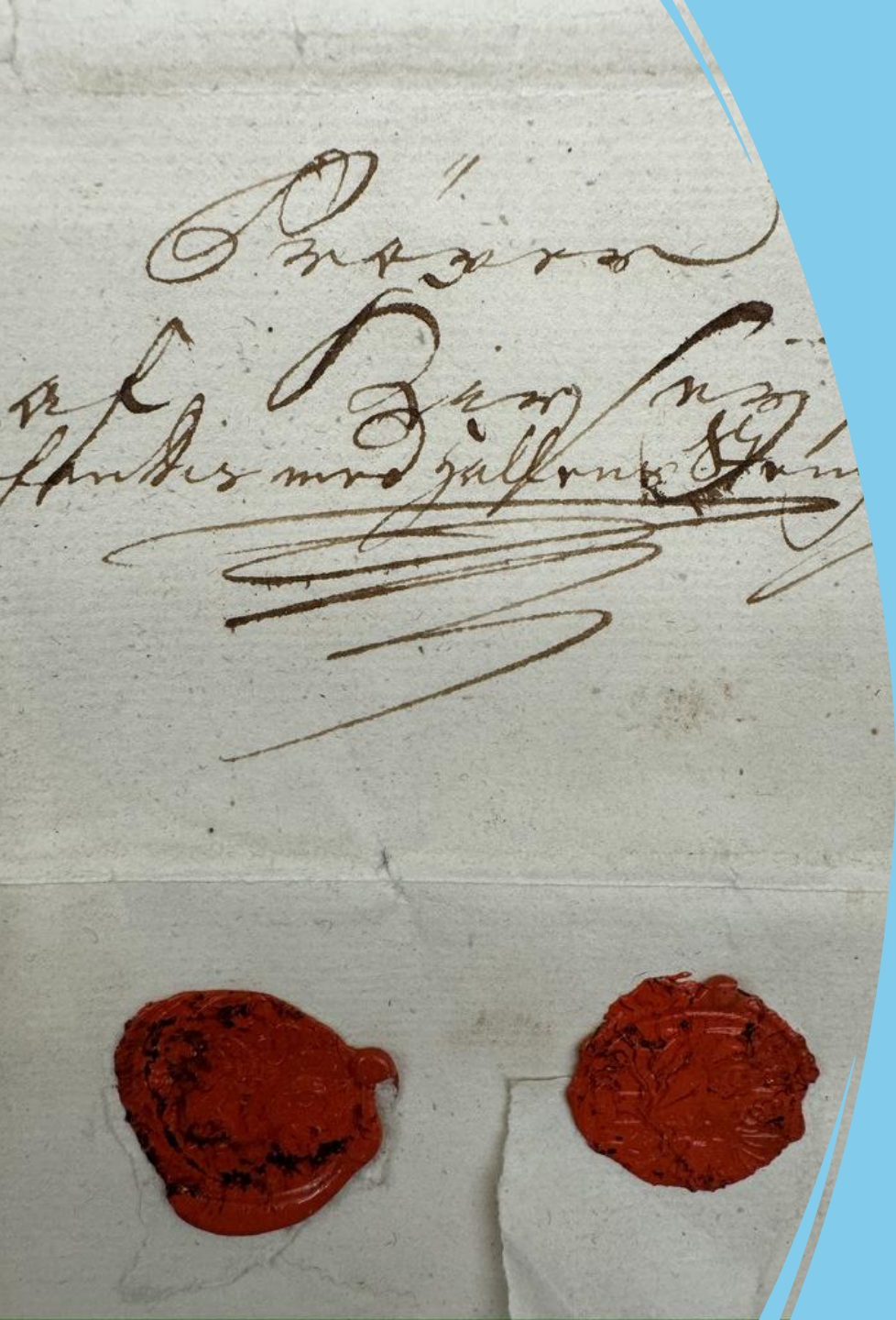
Scammers tell you to  
**buy gold and give it to  
a courier**



**Don't do it.  
It's a scam.**



<https://consumer.ftc.gov/features/how-avoid-imposter-scams>



# Mitigation

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Do you have office procedures regarding unsolicited electronic communications?



# Rules for your team to avoid e-scams

<https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2024/04/impersonation-scams-not-what-they-used-be> (April 1, 2024)

Never click on links or respond to unexpected messages. If you think a story might be legit, contact the company or agency using a phone number or website you know is real. ***Don't use the information in the message.***

Don't believe anyone who says you need to buy gift cards, use a Bitcoin ATM, or move money to protect it or fix a problem. Real businesses and government agencies will never do that – and anyone who asks is a scammer.

Scammers want to rush you, so, again: stop and check it out. Before you do anything else, talk with someone you trust. Anyone who's rushing you into paying or giving information is almost certainly a scammer.

Google Ads  
(click fraud)



Dee DePass, *Minnesota bankruptcy law firm files for bankruptcy after losing fight with another bankruptcy firm*,  
<https://www.startribune.com/lifeback-bankruptcy-law-firm-chapter-11-protection-hoglund/600362980?refresh=true> (May 1, 2024)

St. Cloud-based LifeBack Law Firm, which has eight Minnesota offices, filed for protection from creditors Saturday in U.S. Bankruptcy Court in Minnesota. The petition notes LifeBack owes \$290,000 to Hoglund, Chwialkowski & Mrozik ... In January 2019, Hoglund first sued LifeBack ... alleging false advertising, unfair enrichment, contract interference and deceptive trade practices. Hoglund mainly contended that LifeBack, formerly Kain & Scott, had engaged in a costly scheme of “click fraud.” *Hoglund accused Scott of “excessively” clicking on trigger words on the internet in an effort to force Hoglund’s paid advertisements to appear again and again on the screen ... to make the law firm quickly spend through its entire Google advertising budget and render its advertisements ineffective.*

# Mobile lawyer nightmares

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# In July, Delta lost attorney Isaac Rothschild's luggage

Amanda Andrews, *Days after system outage, Delta air travelers still stuck in long lines – this time for their bags*, <https://www.gpb.org/news/2024/07/22/days-after-system-outage-delta-air-travelers-still-stuck-in-long-lines-time-for> (July 22, 2024)

Travelers with Delta Air Lines are still dealing with the fallout of a problematic system update Friday that caused flight cancellations nationwide. Delta passengers waited in line at Hartsfield-Jackson international Airport to file claims to get their luggage back.

*A flawed software update from cybersecurity company CrowdStrike* that affected Windows-based IT systems nationwide led to Delta having difficulty staffing the airline's flights. "Upward of half of Delta's IT systems worldwide are Windows based," a statement from Delta said Monday. "One of Delta's most critical systems – which ensures all flights have a full crew in the right place at the right time – is deeply complex and is requiring the most time and manual support to synchronize.

Mitigation  
(extra  
clothes in  
your carry  
on)



# Maybe Blitz the Delta lounge

<https://www.mensjournal.com/news/delta-passengers-revenge-delayed-flights> (July 26, 2024)

A pair of inconvenienced Delta passengers took matters into their own hands after their flights were delayed for days ... shared their ordeal on TikTok. "POV: Delta doesn't compensate for thousands of dollars lost from delaying our flights for days so *we gonna get it back in the Sky Club*," content creator Kyle Philippi captioned the minute-long video, adding a succinct: "This will set them back!" In the video, which was appropriately set to AC/DC's "Thunderstruck," Philippi and his traveling companion could be seen taking the Delta lounge for all that it was worth—piling up plates upon plates of food from the buffet, including appetizers, ribs, wings, popcorn, cookies, and so on. ... People quickly rallied around the stranded travelers ... *"This is the level of petty we strive for."*

# Seek damages from CrowdStrike

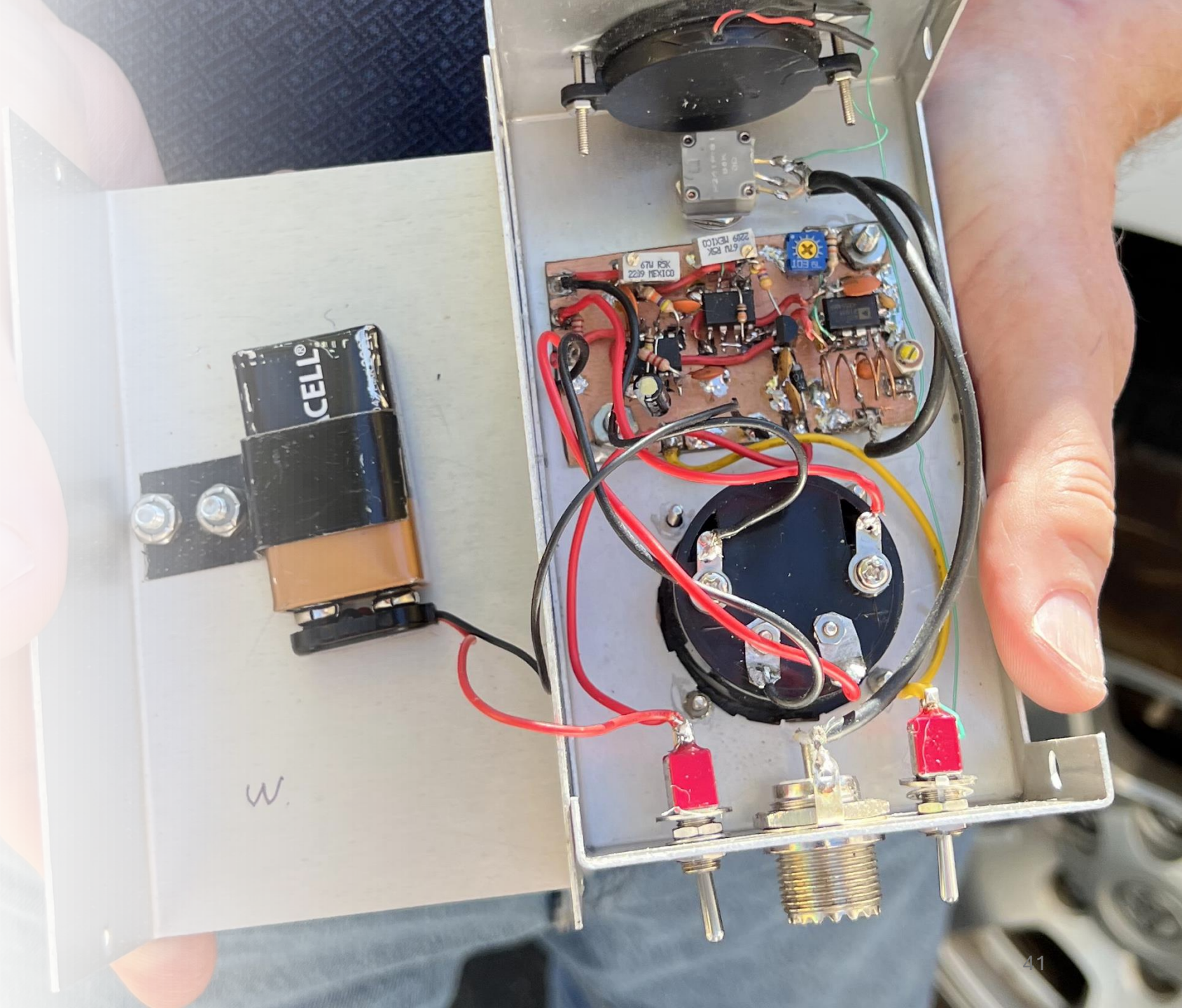
Jones, Scarcella, *Merken*, *Shareholders file initial CrowdStrike Lawsuit*,  
The Daily Docket (August 1, 2024)

A group of shareholders have filed what appears to be the first lawsuit against **CrowdStrike** after an update in the cybersecurity company's software crashed computers globally earlier this month ... **CrowdStrike's** faulty update to its security software caused major outages to computers powered by Microsoft's Windows operating system, disrupting internet services across the globe and affecting a broad swathe of industries including airlines, banking and healthcare.

In a **proposed class action** filed in the Austin, Texas federal court, shareholders said they learned that CrowdStrike's assurances about its technology were materially false and misleading after the computing crash.



Cell phones  
and more



# You just gave up your land line telephone, then Verizon crashes

<https://www.cnn.com/2024/09/30/tech/verizon-outage/index.html>

(September 30, 2024)

Verizon has confirmed that its cell service is back online following a massive outage affecting some of its mobile phone customers.

“Verizon engineers have fully restored today’s network disruption that impacted some customers. Service has returned to normal levels,” Verizon said in a statement on Monday. ***“If you are still having issues, we recommend restarting your device.”*** We know how much people rely on Verizon and apologize for any inconvenience. We appreciate your patience.” The outage appeared to start happening around 11 am ET, with roughly 100,000 reports from customers on DownDetector, a site that tracks complaints about service outages.

<https://www.cnn.com/2024/09/30/tech/verizon-outage/index.html>  
(September 30, 2024)

Although relatively infrequent, cell service disruptions have caused some widespread headaches this year. In February AT&T's network went down for 11 hours, preventing many of its customers across the United States from placing calls, texting or accessing the internet. AT&T said an initial review of the outage found it may have been caused by a technical error introduced by an update to its network. The network went down again for a few hours in June and August.

A telecommunications expert told CNN last month that network outages are typically caused by a combination of three issues: ***overloaded networks in major cities, software updates that have gone haywire and various technical problems.***



# Mitigation (trustee Jeff Golden keeps two cell phones on separate carriers)

Handsome image from <https://www.go2.law/jeffrey-i-golden/>

# Your associate moves to Barstow

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/Formal-Opinion-No-2023-208-WFH.pdf>

Remote practice does not alter a lawyer's ethical duties under the California Rules of Professional Conduct and the State Bar Act. Managerial lawyers must implement reasonable measures, policies, and practices to ensure continued compliance with these rules in a remote working environment, with a particular focus on the *duties of confidentiality, technology competence, communication, and supervision.*

# Mitigation (confidentiality)



# Law firm's duty (confidentiality)

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/Formal-Opinion-No-2023-208-WFH.pdf>

Law Firm needs to ensure that the technology it uses to facilitate remote practice is consistent with applicable ethical obligations, including the duty of confidentiality. ... *Law Firm may use third-party cloud providers to store or backup confidential client files or other technology solution vendors to facilitate remote practice.*

In doing so, Law Firm's managerial and supervisory lawyers must engage in reasonable efforts to ensure that these vendors' conduct is compatible with the lawyers' ethical obligations.

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/Formal-Opinion-No-2023-208-WFH.pdf>

When working from home, lawyers must implement reasonable measures to safeguard confidential client information, particularly if other household members share or have access to a home computer, laptop, or printer.

Reasonable security measures might include creating separate accounts for household members, implementing two-factor authentication, strong passwords, and automatic logging off when the computer becomes inactive, and ...

*... disabling the listening capability of smart speakers, virtual assistants, or other listening-enabled devices unless needed to assist with legal services.*



# How do we stop Siri from listening to everything?

Oliver Buxton, *Is my phone listening to me? Yes, here's why and how to stop it*, <https://us.norton.com/blog/how-to/is-my-phone-listening-to-me> (September 9, 2024)

If you have a smartphone, it's most likely listening to you. Virtual assistants like Siri and Google Assistant work by waiting for a wake word and then answering your question, which means they're active in the background. ...

Voice assistants are a type of technology that can be activated with voice commands. They're *always passively listening* in the background (unless disabled) and come to life when they hear their wake word. ...

*Third-party apps can request microphone access* when you install them. If that access is granted, they can record audio for features like video recording and voice messaging.

Your computer  
may fail –  
but your data  
must survive

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# 3-2-1 rule

<https://www.techtarget.com/searchdatabackup/feature/The-7-critical-backup-strategy-best-practices-to-keep-data-safe> (July 5, 2024)

The 3-2-1 rule of backup states that *organizations should keep three complete copies of their data*, two of which are local but on different types of media, with *at least one copy stored off site*.

An organization using the techniques described above should back up to a local on-premises backup storage system, copy that data to another on-premises backup storage system and then replicate that data to another location.

... it is acceptable for organizations to consider a copy of *data on cloud storage to be that second media* type even though admittedly both copies are fundamentally on hard disk drives.

Bovitz uses a large capacity OWC SSD drive for primary backups, plus small solid-state auxiliary drives at office and home

PACER also holds Bovitz' pleadings. But is that enough, Judge Bluebond?

Bovitz' client receives a copy of every pleading and letter (email). The retention letter asks for the client to "save this stuff in case of disaster."

Backup  
(keep the  
coffee away  
from the  
drive)

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# Ransomware

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# Los Angeles County Superior Court (July)

Summer Lin and Hannah Fry, *Devastating ransomware attack shuts down L.A. County courts*, <https://www.latimes.com/california/story/2024-07-22/la-county-court-ransomware> (July 22, 2024)

The Los Angeles County Superior Court, the biggest trial court in the country, remained closed Monday as it sought to *recover from a ransomware attack on its computer systems*, officials said.

# Ransomware tip – offline backup

Summer Lin and Hannah Fry, *Devastating ransomware attack shuts down L.A. County courts*, <https://www.latimes.com/california/story/2024-07-22/la-county-court-ransomware> (July 22, 2024)

Typically, *ransomware infects computers after someone clicks on a malicious link in an email or visits a website that contains the malware. ...*

“Ransomware is so frustrating to cybersecurity professionals because it’s the most preventable type of attack,” said H. Bryan Cunningham, executive director of the UC Irvine Cybersecurity Policy and Research Institute. “All you really have to do to *insulate yourself from a successful ransomware attack is have a fully encrypted, frequent backup of your data where the backup is not connected to the internet when you do it*,” Cunningham said, noting that these backups can be done on a separate hard drive or a cloud service.



# ABA Cybersecurity Handbook, 3d Ed.

<https://www.americanbar.org/products/inv/book/421344986/>

Jill Rhodes, Robert S Litt, and Paul S Rosenzweig,  
***The ABA Cybersecurity Handbook: A Resource for Attorneys, Law Firms, and Business Professionals***, Third Edition (2022)

With the growing volume and sophistication of cyberattacks, it is important to ensure you are protected. The new third edition published by the ABA Cybersecurity Legal Task Force addresses the current overarching threat, describes how the technology works, outlines key legal requirements and ethical issues, and highlights special considerations for lawyers and practitioners of all types.

# Ransomware -- recent example

<https://www.arrl.org/news/arrl-systems-service-disruption>

On or around May 12, 2024, ARRL [American Radio Relay League] was the victim of a sophisticated network attack by a malicious international cyber group. ARRL immediately involved the FBI and engaged with third party experts to investigate. This serious incident was extensive and categorized by the FBI as “unique,” ***compromising network devices, servers, cloud-based systems, and PCs.***

ARRL management quickly established an incident response team. This has led to an extensive effort to contain and remediate the networks, restore servers, and staff are beginning the testing of applications and interfaces to ensure proper operation.

<https://www.arrl.org/news/arrl-it-security-incident-report-to-members>  
(August 22, 2024)

Sometime in early May 2024, ARRL's systems network was compromised by threat actors (TAs) ***using information they had purchased on the dark web***. The TAs accessed headquarters on-site systems and most cloud-based systems.

They used a wide variety of payloads affecting everything from desktops and laptops to Windows-based and Linux-based servers. Despite the wide variety of target configurations, the TAs seemed to have a payload that would host and ***execute encryption or deletion of network-based IT assets***, as well as launch demands for a ransom payment, for every system.

<https://www.arrl.org/news/arrl-it-security-incident-report-to-members>  
(August 22, 2024)

This serious incident was an act of organized crime. ...

The ransom demands by the TAs, in exchange for access to their decryption tools, were exorbitant. It was clear they didn't know, and didn't care, that they had attacked a small 501(c)(3) organization with limited resources. ...

After days of tense negotiation and brinkmanship, ***ARRL agreed to pay a \$1 million ransom. That payment, along with the cost of restoration, has been largely covered by our insurance policy.***

[https://www.arrrl.org/news/arrrl-systems-service-disruption](https://www.arrl.org/news/arrrl-systems-service-disruption)

The system we use for accounting was hit hard by the cyber-attack. Currently, the system is fully operational and the ARRL Foundation books are in place. ...

Once we are certain that the books tie to the audited 2023 financials, we will move to load the 2024 transactions, which are in digital and paper formats. That will take some time, but we will have all the data current in time for the 2025 Annual Meeting and the annual audit.

<https://www.arrl.org/news/arrl-systems-service-disruption>

There was an effort last year to move all of our backups into the cloud. That was completed mid-2023. There was a routine discipline of backups that went through mid-May 2024 when the cyber attack occurred. *Unfortunately, the entire cloud infrastructure was penetrated, and all of the environments were deleted. Not encrypted. This caused us to revert to other backups that had been made and stored in other places. ...*

Today, ARRL is using a proprietary system to backup systems and data locally and to the cloud. We are also *continuing to use air gapped, off-site backups in specific areas and are expanding that for disaster recovery purposes.*

The new IT environment is currently being rolled out, so the assertion that there is something wrong or staff are incompetent is not factual.

# Mitigation

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# A few glimmers of hope

Team education (don't download, don't click, don't engage a threat actor)

Insurance (cyber insurance)

Backup (three copies, 3-2-1) and then “*air gap*” (*offline*) at least one set of files – and the cloud might not be enough

Honest communication with the client, the court, and third parties

Even if you pay the ransom, your records might still be messed up (like ARRL) -- or the attack may leave a hook in your software for a second bite

Paper copies might be helpful, but the cost of storage, maintenance, and records destruction must be considered

PACER is a blessing, but what if it goes down, too?



# Zoom.gov blues



# Judge Bluebond's Zoom.gov tips (and a few Zoom-horror stories)

<https://www.cacb.uscourts.gov/judges/honorable-sheri-bluebond>

Test the video and audio capabilities of your computer or mobile device in advance of the hearing (i.e., at least one day in advance). You can do this by clicking on the ZoomGov meeting link posting for the hearing and/or check your video and audio using the ZoomGov app.

If you intend to speak at the hearing, please find a quiet place from which to participate.

***If you are connecting to the hearing using a wireless device, you should situate yourself in a location with a strong wireless signal.***

<https://www.cacb.uscourts.gov/judges/honorable-sheri-bluebond>

Unless and until it is your turn to speak, please mute your audio to minimize background noise. (If connected to ZoomGov audio by telephone, you can mute or unmute your connection by pressing \*6 on your phone.)

When you first speak—and each time you speak after someone else has spoken—please say your name. This may seem awkward but is essential to making a good court record. ***The only part of the hearing being recorded is the audio.*** If a transcript is requested, it is sometimes difficult for the transcriber to know who is speaking.

<https://www.cacb.uscourts.gov/judges/honorable-sheri-bluebond>

If you are participating by video, try to ***avoid having a window or bright background*** behind you. (You may, as a result, appear on video as a shadow.) If you cannot avoid the bright background, try using a desk lamp or other light source to brighten your face.

If available, a ***headset-microphone often provides better sound quality*** for listening and speaking.

***[Bovitz: I use an AKG Lyra external microphone and headphones to reduce echo.]***

Participants and members of the public should at all times remember that although conducted remotely, these hearings are official court proceedings, and individuals should act accordingly.

<https://www.cacb.uscourts.gov/judges/honorable-sheri-bluebond>

If video is enabled, please *wear attire consistent with the decorum of court proceedings.*

ZoomGov permits the use of virtual backgrounds to safeguard your privacy. If you choose to use a virtual background, please *avoid backgrounds that are offensive or distracting.*

*[Hon. Bluebond: How about photos of the Lawyer and movie stars, politicians, and baseball players?]*

ZoomGov video participants are permitted to specify a display name. If using video, please specify your complete name to assist the Court in creating a record of the proceedings.

# Improper attire in a jury pool

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Guilty shirts available at  
[https://www.teepublic.com/  
t-shirts/guilty](https://www.teepublic.com/t-shirts/guilty)



# Courtroom of the future (Central District of California)

<https://www.cacb.uscourts.gov/courtroom-technology>

It is the Court's mission to bridge the gap between legal and technological worlds by incorporating the most comprehensive audio/visual systems into courtrooms while educating legal practitioners on how to effectively integrate these tools into courtroom practices. Understanding the importance of efficiency and accessibility using technology in the courtroom empowers legal professionals with the knowledge and tools to streamline their processes, improve productivity, and ultimately argue for justice most effectively. ... Most courtrooms have the ***capability to present content via computer/laptop and a document camera***, if required. If presenting via laptop or other personal device, attorneys are required to bring their own adapters.



## PRESENTATION INPUT



### ① LECTERN



### ② COUNSEL/AUXILIARY TABLE



### ③ WITNESS



### ④ GENERAL COURTROOM TECHNOLOGY



Remote witnesses/attorneys

Display of electronic exhibits  
(in courtroom, or on Zoom with  
second “exhibits computer”)

Numbering electronic exhibits

Impeachment exhibits  
(unique password for each)

Video exhibits

Preservation of electronic  
exhibits for a continued trial

Archiving electronic exhibits for  
appeal(s) -- Judge Bluebond is on  
that committee, too

# Artificial intelligence -- what is it?

Misty Perry Isaacson, *Harnessing Artificial Intelligence in Your Practice*, <https://riversidecountybar.com/Documents/Magazine-2024/Riverside-Lawyer-Magazine-volume-74-8-September-2024.pdf> (September 2024)

But what is AI? *AI is a term that is used to describe computer systems that perform tasks*, which would normally require human intelligence, such as visual perception, speech recognition, decision-making, and language translation.

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For example, ask your iPhone (Siri) to search your photo database for images of the northern lights.



Misty Perry Isaacson, *Harnessing Artificial Intelligence in Your Practice*, <https://riversidecountybar.com/Documents/Magazine-2024/Riverside-Lawyer-Magazine-volume-74-8-September-2024.pdf> (September 2024)

## [DOCUMENT REVIEW]

AI tools can handle a variety of **documents**, from financial statements and tax returns to loan agreements and correspondence. *By extracting relevant data points and presenting them in a coherent format. ...*

I recently utilized *Lexis+AI's NLP function* as an experiment for a bankruptcy panel I was moderating. To evaluate the AI program, I uploaded Purdue Pharma, LP's chapter 11 plan into Lexis+AI's system to see if it would be able to provide me with a summary of the plan. I was shocked at how quickly Lexis+AI was able to review the document...

Misty Perry Isaacson, *Harnessing Artificial Intelligence in Your Practice*, <https://riversidecountybar.com/Documents/Magazine-2024/Riverside-Lawyer-Magazine-volume-74-8-September-2024.pdf> (September 2024)

## [DRAFTING DOCUMENTS]

AI-driven platforms can assist in *drafting legal documents*, such as correspondence, memos, and pleadings.

Most recently, I used *ChatGPT 3.5* to assist me in *drafting a general deposition outline*. I was surprised to see that ChatGPT was able to create a detailed deposition outline suggesting questions based on my request. Although I needed to adapt the outline to my specific facts, ChatGPT was able to suggest questions that I had not originally thought about asking the deponent.

# California State Bar on AI

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf>

Generative AI is a tool that has wide-ranging application for the practice of law and administrative functions of the legal practice for all licensees, regardless of firm size, and all practice areas.

Like any technology, ***generative AI must be used in a manner that conforms to a Lawyer's professional responsibility obligations***, including those set forth in the Rules of Professional Conduct and the State Bar Act.

# AI and lawyer fees

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf>

A lawyer may use generative AI to more efficiently create work product and may charge for actual time spent (e.g., crafting or refining generative AI inputs and prompts, or reviewing and editing generative AI outputs). A lawyer must not charge hourly fees for the time saved by using generative AI.

Costs associated with generative AI may be charged to the clients in compliance with applicable law.

A fee agreement should explain the basis for all fees and costs, including those associated with the use of generative AI.

# Artificial intelligence, A Guide for Judicial Officers (draft, Aug. 2024)

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Hon. Sheri Bluebond,  
author/editor





# AI may not give accurate answers

## *Artificial intelligence, A Guide for Judicial Officers (draft)*

Public AI chatbots do not provide answers from authoritative databases. They generate new text using an algorithm based on the prompts they receive and the data they have been trained upon.

This means the output which AI chatbots generate is what the model predicts to be the most likely combination of words (based on the documents and data that it holds as source information). It is not necessarily the most accurate answer.

... the information provided may be *inaccurate, incomplete, misleading, out-of-date or biased*.

# AI remembers everything

## *Artificial intelligence, A Guide for Judicial Officers (draft)*

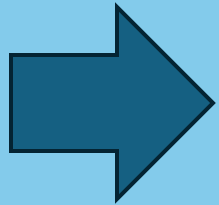
The current publicly available AI chatbots *remember every question that you ask them as well as any other information* you put into them. That information is then *available to be used to respond to queries from other users*. As a result, anything you type into it could become publicly known. ...

Lexis and Westlaw are creating or have already developed AI tools designed to enhance privacy by protecting user-entered information and limiting the chatbot's data sources to those provided by the vendor. However, until these tools are available, you should assume that any *AI tool could potentially make public any information you enter*.

# AI and Confidentiality

<https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf>

A lawyer must not input any confidential information of the client into any generative AI solution that lacks adequate confidentiality and security protections. A lawyer must anonymize client information and avoid entering details that can be used to identify the client.



**Email to Bovitz on October 15, 2024**

AI can draft complete lawsuits and answers - and not just two pagers. Think robust facts, multiple claims, and complexity you would give to a five-year associate. One of our **AI-drafted lawsuits was even recently filed in federal court**. Imagine getting completed pleadings in two minutes. AI.Law's efficiency means major savings for both plaintiffs' lawyers and insurance defense counsel alike. **Learn how it works.** [from] [www.ai.law](http://www.ai.law) Corp.

# Lawyers are still responsible for their positions in court (Rule 11)

## *Artificial intelligence, A Guide for Judicial Officers (draft)*

Information provided by AI tools may be inaccurate, incomplete, misleading or out of date. Even if it purports to represent current U.S. or Ninth Circuit law, it may not do so.

AI tools may:

*make up fictitious cases, citations or quotes, or refer to legislation, articles or legal texts that do not exist ...*

... Attorneys are responsible for the material they put before the court and have a professional obligation to ensure that it is accurate and appropriate.

Misty Perry Isaacson, *Harnessing Artificial Intelligence in Your Practice*, <https://riversidecountybar.com/Documents/Magazine-2024/Riverside-Lawyer-Magazine-volume-74-8-September-2024.pdf> (September 2024)

... three U.S. Bankruptcy Judges that have *standing orders regarding the use of AI* in matters before them. Sarah Hall and Judge Janice Loyd from the Western District of Oklahoma... [and] Judge Stacey G. C. Jernigan from the Northern District of Texas requires that if any portion of a pleading or other paper filed on the court's docket has been drafted utilizing generative AI, all attorneys and pro se litigants filing such pleadings or other papers must *verify that any language that was generated was checked for accuracy*, using print reporters, traditional legal databases, or other reliable means.

# ChatGPT and the Mata debacle

Mata v. Avianca, Inc., 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023)

In researching and drafting court submissions, good lawyers appropriately obtain assistance from junior lawyers, law students, contract lawyers, legal encyclopedias and databases such as Westlaw and LexisNexis. Technological advances are commonplace and there is nothing inherently improper about using a reliable artificial intelligence tool for assistance. But existing rules impose a gatekeeping role on attorneys to ensure the accuracy of their filings.

Rule 11, Fed. R. Civ. P.

Peter LoDuca, Steven A. Schwartz and the law firm of Levidow, Levidow & Oberman P.C. ... abandoned their responsibilities when they ***submitted non-existent judicial opinions with fake quotes and citations created by the artificial intelligence tool ChatGPT, then continued to stand by the fake opinions after judicial orders called their existence into question.***

Mata v. Avianca, Inc., 678 F. Supp. 3d 443, 456, 460 (S.D.N.Y. 2023)

Mr. Schwartz has endeavored to explain why he turned to ChatGPT for legal research. The Levidow Firm primarily practices in New York state courts. ... It ***uses a legal research service called Fastcase and does not maintain Westlaw or LexisNexis*** accounts. ...

Mr. Schwartz testified that he began by querying ChatGPT for broad legal guidance and then narrowed his questions to cases that supported the argument that the federal bankruptcy stay tolled the limitations period for a claim under the Montreal Convention. ...

The filing of papers “without taking the necessary care in their preparation” is an “abuse of the judicial system” that is subject to Rule 11 sanction.

Mata v. Avianca, Inc., 678 F. Supp. 3d 443, 449 (S.D.N.Y. 2023)

For reasons explained and considering the conduct of each individual Respondent separately, the Court finds ***bad faith on the part of the individual Respondents based upon acts of conscious avoidance and false and misleading statements to the Court.*** ... Sanctions will therefore be imposed on the individual Respondents.

Rule 11(c)(1) also provides that “[a]bsent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its ... associate, or employee.” Because the Court finds no exceptional circumstances, sanctions will be jointly imposed on the Levidow Firm. The sanctions are “limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated.” Rule 11(c)(4).





Judge Bluebond:

I am an attorney.

What should I do when I realize that I made a mistake?

# The job of the lawyer has not changed

Bovitz, *The Lawyer's Toolkit: A 30-Year Retrospective*, ABI Journal, June 2011

A lawyer helps the client identify options and make the best choices under difficult circumstances.

The transactional lawyer's job is to find and clearly document practical solutions for the client.

The litigator's job is to present the client's position in the best light, be a master of civil procedure and evidence, and identify the time to press for a fair settlement or battle.

A lawyer's key assets are intelligence, education, experience, thoughtful analysis and a good attitude.

# Final thoughts

