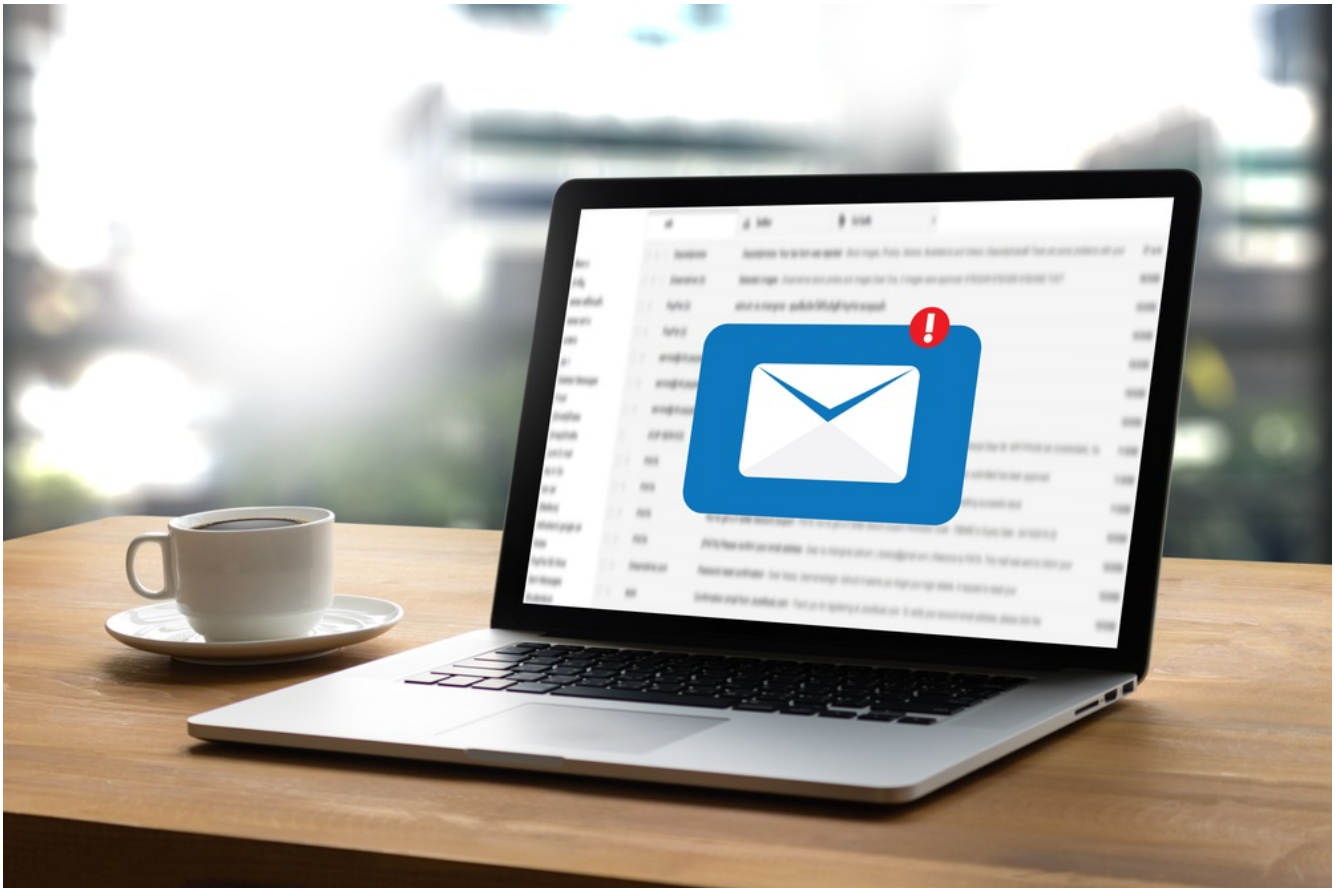


Legal Battle Ends in Disqualification of Counsel for Using Privileged Emails



In a California appeals court ruling on Tuesday, counsel's knowing use of the opposing side's privileged documents, however obtained, is grounds for disqualification. The decision was made in a dispute among co-owners of Cannaco Research Corp., an established cannabis company in the state.

The named defendants include board member Ann Lawrence Athey and her husband, Joel Athey. Ms. Lawrence moved to disqualify Spencer Hosie and Hosie Rice LLP, the counsel of plaintiff Shauneen Militello, in November 2021 because Militello had improperly downloaded confidential communications between Lawrence and her husband from Lawrence's CRC email account.

The spousal communication privilege protected the emails between Lawrence and her husband, and they were moved from Microsoft to Google Workspace by Militello. The emails were then given to her attorneys, who used them to obtain a receivership for CRC in a parallel proceeding.

The three-judge panel held that Lawrence reasonably expected these emails to remain confidential and that her interest in confidentiality outweighed the attorney's interest in representing Militello. The court also noted that any other representation of Militello by Hosie Rice LLP after being provided with these emails undermined the public's trust in the fair administration of justice and the integrity of the bar.

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Presiding Justice Dennis M. Perluss wrote the opinion, joined by Associate Justices John L. Segal and Gail Ruderman Feuer. Hosie Rice LLP represented Militello, while Zweiback, Fiset & Zalduendo LLP represented Lawrence. Cohen Williams Williams LLP represents Cannaco Research Corp. The court awarded Lawrence undisclosed costs.

This decision serves as a reminder of attorneys' ethical obligations to their clients and the legal system. Even though Militello had already been removed from her position at Cannaco Research Corp., this ruling will help protect the confidentiality of privileged information moving forward, preserving public trust in the justice system. In addition, it protects the California Bar's integrity and encourages attorneys to act ethically in their representation. This decision is an important reminder for lawyers about protecting confidential information and exercising appropriate discretion in representing clients.