

FRIEDMAN & FEIGER

ATTORNEYS AT LAW

E-mails, like Diamonds, are Forever



Email is as much a part of our daily lives as food, air and water. Today, we can't live without email. We email our friends, our family, and our colleagues at work. We email for fun, for school, and for business. We send friendly emails, social emails, and important business messages. The emails come fast and furious. We read them fast and we respond even faster. We love email because it is a casual, informal way of communication. We are able to send information to others at the touch of a button, quickly and easily, and be kept up-to-date no matter where in the world we are. Unfortunately, even though most people know how email works most people forget that anything they say in an email, "...can and will be used against THEM in a court of law."

Frequently, people don't think about the full effect of the contents of an email they are writing when they write it. Nor do they think about what impression it will leave on a jury if it shows up on a big screen in a courtroom somewhere down the road. Before you push SEND you should remember that **the "E" in email stands for evidence.**

In order to prevail in a lawsuit a party must meet the burden of proof that proves his or her case, and emails (and texts) have become one of the most important types of evidence used in litigation. Emails are credible. In the courtroom, the information they contain is significant because they appear to be spontaneous, authentic, and reveal the truth as expressed by the author at the time they were written. Today, every party comes to court with volumes of emails sent to them by the other party.

NOW HEAR THIS: Erasing or deleting an email doesn't mean that it's gone. In fact, messages that are deleted from your INBOX still exist in backup folders on remote servers for years, and can be retrieved by a computer forensic examiner--not to mention being saved by the person you sent it to.

Even if you delete your unwanted messages from your INBOX, and move them to the TRASH, check off the messages to be deleted, and hit the "Delete Forever" button, do not assume that those emails are destroyed. They're NOT! Your emails still exist.

For example, when you hit the "DELETE" button on your email, the email is rendered invisible to you, but still exists on the host server until it is overwritten. And, it can sit on that server, in a searchable retrievable format, or on backups for weeks, months, or even years.

Most email service providers don't publicize information like: (a) how often backups are done; (b) what's included in those backups; (c) how long the backups are kept; or, (d) how often previous backups are expunged from the system--if ever.

Emails remain on servers, unbeknown to the user, or on backup tapes that were created during the normal course of business. Email hosting companies routinely turn over information on their servers in response to valid subpoenas and to authorities with warrants. The government mandates that ISP's keep digital records for specified periods of time.

The impossibility of being certain of a deletion means you must presume that any email you compose and send will remain accessible to third parties. And, when you send an email to a third party--that third party can save the email, archive and retrieve it, even though you deleted it and thought it was gone. After all--E-mails, like Diamonds, are Forever....

Sincerely,

Larry Friedman can be reached at (972) 788-1400 or email him at lfriedman@flawoffice.com

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In The Spotlight



Marcos G. Ronquillo



Marcos G. Ronquillo joined the firm in November 2014 and practices in the areas of business and corporate law, commercial and civil litigation, and international trade law. He is also currently running for Dallas Mayor.

Mr. Ronquillo has over thirty years of trial experience representing governmental agencies, such as the Dallas Independent School District and the Federal Deposit Insurance Corporation. He also

represents Fortune 500 companies in high-profile controversies where public policy and social concerns collide in the courtroom.

Mr. Ronquillo is the former President of the Dallas Mexican American Bar Association and former Chairman of the Dallas Hispanic Chamber of Commerce. He is the former National Chairman of the University of Notre Dame Hispanic Alumni Association. He was honored in 2011 by *Hispanic Business Magazine* as one of the “100 Most Influential Hispanics” in the United States and by *Latino Leaders Magazine* with its prestigious “Maestro Award for Leadership.” He also won the Outstanding Lawyer of the Year Award from the Texas Mexican Bar Association.

Mr. Ronquillo has also been awarded the national Spirit of Excellence Award by the American Bar Association, National Commission on Minority Leaders. He has been recognized nationally as an outstanding lawyer by the American Immigration Lawyers Association, the *Dallas Business Journal*, Ernst & Young Texas Diversity Council and *Texas Lawyer* magazine. He has also been honored by *Texas Monthly* and was named a Texas “Super Lawyer” certified by Thomson Reuters from 2003 to 2012. *Super*

Lawyers named him one of the top 100 lawyers in the Dallas/Fort Worth area. He is a past recipient of the State Bar of Texas Presidents’ Special Citation Award and was named to the 2013 list of the Best Lawyers in America.

Mr. Ronquillo received his law degree as a Dean Kramer scholar from the George Washington University National Law Center in Washington D.C. and his B.A. at the University of Notre Dame with a Holy Cross scholarship.

He currently serves on the Board of Advisors of the George Washington University Law School, the United States/Mexico Bi-National Chamber of Commerce, and the Smithsonian National Latino Center Advisory Board. He has also served on numerous civic and charitable boards and commissions including the Dallas Museum of Art, Dallas Area Rapid Transit Authority (DART), Children’s Medical Center and JP Morgan Chase to name a few.



Marcos Ronquillo can be reached at (972) 788-1400 or email him at mronquillo@fflawoffice.com

Jose L. Gonzalez



Jose L. Gonzalez also joined the firm in November 2014 and practices in the area of commercial civil litigation.

Mr. Gonzalez is recognized for his vast experience as a commercial litigator and trial attorney representing public governmental entities at the federal, state, and municipal levels. He also represents private sector clients including Fortune 500 companies in federal and state courts.

Mr. Gonzalez’s extensive legal career includes serving as an aide for a U.S. Congressman, a briefing clerk with the U.S. Department of Justice in Washington D.C. and an Assistant Regional Attorney with the U.S. Department of Health Education & Welfare. He also served as a Senior Counsel with the FDIC and the Resolution Trust Corporation, Professional Liability

Section/Dallas Division litigating claims for failed banks placed in receivership.

He received his law degree from Georgetown University Law Center and earned his B.A. in English and Philosophy and received academic recognition while on the Dean’s List at the University of Notre Dame.

Mr. Gonzalez is admitted to practice law before the U.S. Supreme Court, the U.S. Courts of Appeals for the 5th and 11th Circuits, U.S. District Courts for the Northern, Southern, and Eastern Districts of Texas, and the Supreme Court of Texas.

He is a member of the Dallas Bar Association, the Dallas Hispanic Bar Association, Fifth Circuit Bar, and the State Bar of Texas (Business Law, Labor, Employment, and Litigation sections.)

Jose Gonzalez can be reached at (972) 788-1400 or email him at jgonzalez@fflawoffice.com

Make Designating a Guardian your New Year’s Resolution By Melissa Kingston

People have lots of reasons for not having their affairs in order – intimidated by the process, too expensive, belief that they have plenty of time, etc. Here are some simple truths:

- 1. Basic estate planning is neither time consuming nor difficult to understand for most people.
- 2. Basic estate planning is not expensive, particularly compared to the costs of not having what you need in place when you need it.
- 3. Sincerely believing that you have plenty of time to take care of these issues in the future is nothing more than a gamble.



I often tell clients that a will is the estate planning document you need the least because it deals with your possessions after you are gone. What about protecting yourself while you are alive? If you become unable to care for yourself and/or unable to make decisions for yourself, your family needs the immediate ability to make decisions for you in order to protect you and your estate. A basic estate planning package includes the following essential items:

- 1. A durable power of attorney (allowing your designee to make financial decisions for you),
- 2. A medical power of attorney (allowing your designee to make medical decisions for you),
- 3. A health care directive (allowing your designee to follow your wishes regarding whether artificial means should be employed to keep you alive when there is little or no chance of recovery),
- 4. Designations of guardianship for your person and your estate (designating someone to serve as your guardian should you need one) and; yes,
- 5. A will (distributing your assets at the time of your death).

Scenario: You have a serious car accident on the way to work one day. You sustain serious injuries that leave you unable to care for yourself or make decisions for yourself. You have no estate planning documents; yet, your signature is required to access bank accounts, pay bills, file insurance claims, apply for government disability benefits, etc.

Without these basic estate planning documents, your family will have no choice but to petition a court to appoint a guardian over you and your estate so that your family has the legal authority to begin making decisions you would ordinarily make – to deposit your paycheck, to pay the mortgage, to apply for benefits you are entitled to receive, to move you to the right nursing care or rehabilitation facility, etc. The formal guardianship process through the court system is neither cheap nor easy – it can take months, cause strife within the family, and cost tens of thousands of dollars. Your powers of attorney may well make the guardianship process unnecessary, and even if they do not, your designation of guardian can reduce the strife, time, and expense your family will be required to expend to take care of you.



At Friedman & Feiger, LLP, we can help you make sure that you have the estate planning tools you need, and if you need more sophisticated estate and tax planning, we are ready and able to help you with those needs as well. Make 2015 the year you address these matters.

Melissa Kingston can be reached at (972) 788-1400 or e-mail her at mkingston@flawoffice.com

Disclaimer—The information in this newsletter is for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem. Use of and access to Friedman & Feiger, LLP’s website or any of the e-mail links contained within the site do not create an attorney-client relationship between Friedman & Feiger, LLP and the user.



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Upcoming Events

Friedman & Feiger Calendar

January 29-31, 2015 Friedman & Feiger supports the Forney High School Theater Department's production of "Pajama Game".

February 4, 2015 Friedman & Feiger and Texas Capital Bank present a Puerto Rico Tax Incentives Panel, "A New, Efficient Way Of Doing Business and Maximizing Profits" Westin Galleria Hotel, 13340 Dallas Parkway, 2 pm—5 pm. RSVP: clegrand@fflawoffice.com.

February 22, 2015 Friedman & Feiger sponsors Wheel To Survive presented by the Be The Difference Foundation.

February 26, 2015 Larry Friedman speaks on "Cyber Security or Witness Protection?" at the Texas Lawyer In-House Counsel Summit, CityPlace Conference Center, 2711 North Haskell Avenue, 9:30 am—10:15 am.

February 27, 2015 Janelle and Larry Friedman are honored by the National Kidney Foundation.

March 5, 2015 Janelle Friedman and Yvette Feiger host an Essential Energy reception for women business leaders, with nationally-renowned speaker Kim Garrett, Arlington Hall at Lee Park, 3333 Turtle Creek Blvd., 6 pm—8 pm. RSVP: clegrand@fflawoffice.com.

April 15, 2015 Janelle Friedman and Yvette Feiger host an Essential Energy reception for women business leaders, with nationally-renowned speaker Taya Kyle, Arlington Hall at Lee Park, 3333 Turtle Creek Blvd., 6 pm—8 pm. RSVP: clegrand@fflawoffice.com

Contact for Info: jfriedman@fflawoffice.com

