

## Memorandum 2007-38

**Statute of Limitations for Legal Malpractice: Comments of Rodney Pinks**

---

In 2003, the Commission was conducting a study of problems with the statute of limitations for legal malpractice (Code Civ. Proc. § 340.6).

On March 26, 2003, the staff received the following email commenting on the then pending reform proposal:

Date: March 26, 2003  
To: bgaal@clrc.ca.gov  
From: Pinks, Rodney <RPinks@AHJTW.com>  
Subject: statute of limitation for legal malpractice

As an estate planning lawyer, I fully support the proposal to enact a statute of limitation or statute of repose for errors and omissions regarding estate planning matters. The present unlimited statute of limitations is too great a risk of exposure, particularly in view of substantial changes in the tax and substantive law and family circumstances that may occur after completion of the estate planning matter and may affect estate planning documents.

That email was reproduced as a public comment. See CLRC Memorandum 2003-14, Exhibit p. 53.

On October 8, 2007, the staff received an email from Rodney Pinks indicating that he had never sent the March 26, 2003, email:

I did not write that. In fact, I am not an estate planning lawyer, as stated in the comments. The email address is from Armstrong Hirsch Jackoway Tyerman & Wertheimer, and I was employed by that firm on that date - as a Secretary!

I do not know who sent this email, and I do not appreciate my name being used without knowledge or permission.

I realize that this activity was 4 years ago, but it bothers me to discover it.

It is possible to send an email that appears to have been sent by another. The simplest way is to use an unattended computer. A person may also have the ability to send email from more than one account from a single computer. In that case, an email may be accidentally sent from the wrong account. It's also true

---

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

that sophisticated methods can be used to fraudulently misidentify the source of an email.

Typically, when the staff receives an email comment on a study, the staff will send an acknowledging reply, thanking the person for the comment and indicating what will be done with it. That should expose problems of the type described by Mr. Pinks. However, it may not work in all cases, and appears not to have worked in this case.

In any event, this memorandum is intended to document the objection raised by Mr. Pinks and to place it in the record.

Respectfully submitted,

Brian Hebert  
Executive Secretary