Privacy of Privileged Communications on Personal, Password-Protected E-mail Accounts

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By now, nearly all companies have adopted policies governing the use of company computers by their employees. The advice most often given when developing these policies is to make sure that they are thorough, well crafted, and widely distributed so that the company is protected against, among other things, any suggestion that they improperly reviewed an employee's communications. While this advice is undeniably sound, questions still exist regarding whether even the most comprehensive policy can permit a company to review e-mails between employees and their counsel on private, password-protected e-mail accounts. However, in several other states, including New York, such a policy might permit employers to monitor e-mails on private accounts, even e-mails between the employee and counsel.