

# EFFECTIVE COMMUNICATION TO MINIMIZE RISK

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# Background

- Forms of professional communication
- Document and information control
- Issues associates with required disclosures

# Forms of Professional Communication

- Universal principals and words/phrases to avoid
- Written hard copy documents
- Telephone calls
- E-mails
- Text messages
- Social media

# Universal Principals and Words/Phrases to Avoid

- Understand responsibilities and limitations
- Avoid absolute statements
- Expression of facts v opinions
- Words/phrases to avoid: guarantee, certify, promise, the “best”, ensure, assure, “without comparison”, etc.
- Confidentiality



# Written Documents

- QA/QC procedures
- Senior level review

# Telephone Calls

- Not recorded
- Good for continuing feedback and input
- Use of conference calls
- Follow up written record of telephone call
- Follow up confirmation of key understandings/decisions



# Electronic Mail

- A significant and important form of professional communication
- Creates record that can still be recovered if deleted
- Often not subject to QA/QC and senior review
- Tone and intent can be implied

# Guidelines for Electronic Mail

- Make sure of audience (cc, and bcc) reply v. reply all
- Understand context clear on subject line
- Consider whether this is the best form of communication
- Senior review necessary?
- Immediate tendency to please the client
- Use proper grammar/punctuation to avoid confusion
- Read and review several times before sending
- Words/phrases to avoid

# Internal and Non-Client E-mails

- Do not use company e-mail for private conversations or anything unrelated to work
- Internal e-mails are discoverable
- No disparaging comments about clients, project participants, or staff of Transpo



# Examples in Litigation

**To:** \_\_\_\_\_  
**From:** \_\_\_\_\_  
**Sent:** Fri 4/5/2013 3:14:32 PM  
**Importance:** Normal  
**Subject:** RE: Introducing \_\_\_\_\_ - hoping you guys can help!

It'll be doing pretty much the same thing, \_\_\_\_\_; investments, but with a much larger and growing accounting firm. It's pretty exciting...thing is, I've orchestrated it so that our entire \_\_\_\_\_ team is being lifted out, which is why my current company is about to implode. \_\_\_\_\_ has been unhappy with the new management too, but because of his non-compete can't come along with us.

It's been kinda amazing...I feel like a stealth investment banker...without the hefty fee (or paycheck) LOL

How's family? & Puppy?



# Text Messaging

- Similar to e-mails; possible consequences
- Better used for non-project related communication (ie. status of meetings, locations, etc.)
- Autocorrect issues
- Review and re-read before sending
- Also potentially discoverable

# Social Media

- Recognize availability of material that is posted
- Maintain professionalism

# Document and Information Center

## 1) Project file

Written documents

E-mails

Record of telephone call re: phone conversations

Meeting minutes

Important text messages



# Document and Information Center continued

## 2) Retention policy

Current practice

To be finalized

Important to follow

# Required Disclosures

## 1) Subpoena process

Sample documents subpoena

Dealing with electronic media

Scope of requests can be broad

Lap tops, cell phones, tablets, etc.

Cannot delete/destroy when served subpoena or become aware of possible claim.

# Required Disclosures continued

## 2) Public disclosures to public agency clients

Can sometimes extend to Transpo

E-mails, documents, and other communications with client





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