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Communication: Key to Avoiding Claims

The quality of communication between you and your client is perhaps the single greatest determinant in whether your project will result in a claim. In fact, a study of more than 17,000 closed claims published by insurer XL Design Professional showed that communication failures were a contributing factor in 27% of all claims.



Today, when projects are scarce, profit margins are thin and client expectations are high, frequent communication is more important than ever. Fortunately, you can anticipate and avoid many potential project upsets by correcting the factors that lead to miscommunication between design professionals, their clients and other members of the design and construction team. The need for effective communication starts before the beginning of the project.

Communicate Early

Never overestimate a client's knowledge of the design services you intend to provide on his or her proposed project. Indeed, don't assume even a sophisticated client understands the full scope of professional services

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Communication Key

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provided by an architect, a civil engineer, a structural engineer and so on. It is your responsibility during the earliest stages of bidding and negotiations to explain to your client exactly what services you will perform and – equally important – what services you will *not* perform on the project for the negotiated fee.

Likewise, make it clear during the earliest stages of negotiations that no design firm has ever executed a perfect set of plans or ever completed a project without error or omission. Similarly, there are no foolproof materials or systems, despite any guarantees or warranties given by equipment manufacturers. Clear communication can assure your clients have the information and expectations they need to understand your responsibilities and liabilities regarding your scope of services.

Clients, especially those new to the design and construction process, often get upset when you add items to your specifications after the initial design and budget is accepted. They may perceive additions as a sign of incompetence or even an unscrupulous attempt to increase your fees and profits. Make it clear up front that your estimates and specifications are based on your opinion of probable cost and subject to modification once the project commences. *Your client needs to be educated to expect reasonable changes and budget revisions as a normal part of the design and construction process.*

Communicate Often

All important design and construction issues need to be communicated clearly before you accept and begin a new project. From the earliest conceptual stage, through the refinement of your work scope, through the negotiation of your contract, through the development of your final design and into construction, make sure you communicate every step of the way.

Also make sure this communication is two-way. Have your client clearly explain his or her desires, needs and expectations. Discuss

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The Go/No Go... going, going, gone?

By Leslie Kusek, Marketing Consultant
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Way back in January 2005, I wrote an article entitled, “We’re getting killed out there!” It talked about how we have placed ourselves at the mercy of clients that have reduced us to commodities. Times were plentiful, and we were unconsciously bidding on work, not giving thought to our firm’s strategic direction or focus.

“We are being viewed as commodities because we are presenting ourselves as commodities. The client calls, and wants a bid. We sharpen our pencils, drive our staff through a fire drill to prepare a quote, and email or fax it minutes before the deadline with the hope that ours will be the lowest price among the three or six or twelve other bids.”

How have things changed? Today the clients don’t even have to call! We are out there chasing anything and everything, again without strategic intent.

Even as the eternal optimist, I understand we are in a period of severe contraction. But that doesn’t give us permission to abandon strategy!

I see two camps of firms. One has circled the wagons, taken time to understand the market as it exists and how they can leverage their core competencies to win work. The other is operating in full “quote & hope” mode. Who do you think will end up more successful?

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Communication Key

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the client's ability to handle a few surprises in budget and schedule. Set up a formal communication channel between you and designated client representatives so that any errors, omissions, delays, changes and other problems and surprises are conveyed quickly and dealt with swiftly and constructively with the intent to fix the problem rather than fix the blame.

Similarly, make sure communication channels are open with the contractor, subconsultants and other parties important to the project. In fact, it's a good idea to invite all parties to a pre-construction meeting to review plans and procedures as well as clarify roles, expectations, communication channels and methods of reaching problem resolution. It is really quite amazing how much a little open communication can do to get a project off to a smooth start or help get it back on track if a problem occurs.

Put It in the Contract



Every important decision made by you and your client during negotiations needs to be documented in a written professional

services contract. Discussing your areas of responsibility and limits of your liabilities is not enough. Even a hearty handshake won't do. Formalize your agreement in a written and signed contract.

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Properly Protect Your Manufactured Home

By Doris Livingston

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Manufactured homes offer great bargains for many consumers due to a much lower price as compared to site-built homes. Manufactured homes, however, can often pose higher chances of loss from a variety of perils, such as fire and windstorm. This is where safety and sound loss control practices come into play. The following are some fire loss control tips to consider for your manufactured home.

- Don't overload electrical outlets. Manufactured home fires are caused by problems in the electrical system twice as frequently as in site-built homes.
- Make sure you have an adequate number of smoke alarms and regularly check the batteries. You should have a smoke detector in each part of the home in where people sleep.
- Contact a licensed technician to inspect your furnace at least once a year. The blower and filters should also be regularly cleaned to prevent overheating.
- Make sure that your wiring and appliances are maintained in good working order. Faulty wiring is one of the leading causes of manufactured home fires.
- If you have a natural gas or liquid propane line coming into your home, make sure you know where the shutoff valve is and how to use it.
- Verify that your lot is clearly marked since the fire department will need to be able to see the numbers on your home in case a fire or other emergency occurs.

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**PROFESSIONAL CONCEPTS
INSURANCE AGENCY**

Communication Key

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Work with your legal representation to draft a solid contract specifically written to reflect your practice and your role on the particular project. You can start with recommended contract language provided by your industry associations. As your professional liability specialist, we can provide additional resources and assistance in helping you draft a fair and equitable contract.

If you are asked to sign a client-written contract, ensure it is thoroughly reviewed by your attorney. Again, we can provide advice as well, particularly regarding the insurability of the client's contract language. Any liability you agree to take on contractually for which you would not otherwise be responsible can be uninsurable.

Communicate During the Project

Too often, once the professional service contracts are signed, communications diminish. Parties do not take the time to sit down and correspond on a regular basis over the life of the project.

To keep lines of communication open and encourage frequent feedback, schedule regular meetings (preferably face-to-face) with all key parties to the construction project. On large jobs, consider weekly project review sessions with representatives of the contractor, the client and the other design consultants involved. Smaller projects may not require such frequent formal meetings involving all parties, but regular communication is crucial nonetheless. These sessions can pinpoint design and construction problems before they become serious. They also foster solutions satisfactory to all involved parties.



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Is Your Job Affecting Your Driving?

(taken in part from AOL.autos)

Recently, Quality Planning Corp. and Insure.com released their list of the top most crash-prone professions. Per year, every 1000 of these professionals average...

1. **Doctors**
109 accidents and 44 speeding tickets, landing them at the top of the list.
2. **Lawyers**
106 accidents and 37 speeding tickets.
3. **Architects**
105 accidents and 72 speeding tickets.
4. **Real estate brokers**
102 accidents and 39 speeding tickets.
5. **Enlisted military personnel**
99 accidents and 78 speeding tickets.
6. **Social workers**
98 accidents and 33 speeding tickets.
7. **Manual laborer**
96 accidents and 77 speeding tickets.
8. **Analysts**
95 accidents and 40 speeding tickets.
9. **Engineers**
94 accidents and 51 speeding tickets.
10. **Consultants**
94 accidents and 50 speeding tickets.

Do you find your profession on the list? While some insurance policies will ask for your profession when they write your policy, it's unlikely you'll be penalized. However, you may want to take a few extra steps to leave your job at the office!

The complete article can be found at <http://autos.aol.com/article/car-accidents-by-occupation>.

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Communication Key

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Also plan weekly internal conferences among all key members of your staff working on the project. Have staff convey their progress since the previous meeting. List problems that need resolution and make requests for whatever information is necessary to solve them. Progress reports with action items serve as effective diaries of the project that can be reviewed after project completion – or when a project dispute arises.

Clients will find progress reports to be valuable as well. Reporting regularly to your clients on the progress of their projects can avoid surprises and form a bond of trust that will keep you working together, even when adversity strikes. Nothing demonstrates a professional approach as effectively as well-planned and timely transmissions of clear and honest information.

Confirm It in Writing

Even when verbal communications are frequent, memory failure and misunderstandings can cost huge sums of money and precious time when disputes or litigation result. No one remembers all the details of telephone calls, group teleconferences or face-to-face conversations. It is important to record in writing all important information and decisions that concern or influence a project.

Memorialize meetings and telephone conversations with clients, subconsultants and contractors. Require that all discussions involving design decisions are documented by brief memoranda. Have clients formally approve such memoranda as accurate and complete. These memoranda and logs are particularly useful in the event of a dispute or claim. They

Email and Other Electronic Communications

It is amazing how email, text messaging, and other electronic communications have taken the place of a phone call, an express-mail package or a face-to-face meeting. While such technology has certainly been a boon for productivity, it can also be a bust when it comes to formalized communication. Emails and text messages are easily forgotten, deleted, misfiled or ignored. We often assume someone has received an electronic message, but it may go unopened or otherwise be lost.



It's a good idea to formalize your company electronic communications policy. It should address not only email and text messages, but also extranets, e-conferences, teleconferencing, Webinars, news groups, bulletin boards and any other electronic media being used. Make sure all employees are aware of and adhere to the policy.

Keep electronic correspondence regarding each project filed in an orderly manner within your computer network. Back up all critical emails and documents in printed hard copy or on separate electronic media such as external drives, CDs, or remote servers. Use the "return receipt" email function to confirm your message has been received and opened. Follow up quickly when your electronic messages appear to be ignored, misdirected or lost.

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**PROFESSIONAL CONCEPTS
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are invaluable if there is a change in the project team and a new member needs to be brought up to speed with the current state of affairs.

It is a good idea to have all of your firm's written correspondence regarding projects or plans reviewed by a senior member of your firm – a project manager, department head or principal – before it is sent out to the client, contractor or other external parties. An internal review provides a crosscheck to discover misstatements and avoid misunderstandings. For sensitive correspondence, a legal review by your attorney should be required as well.

Communication is the Key

It seems so obvious: clear communication is a vital key to a successful project void of disputes and claims. Yet at the root of litigation between design professionals, their clients and other parties to the design and construction process are misunderstandings based on the failure to communicate.

Effective communications should be a core competency of any design firm that strives to understand and meet the needs of its clients. A program of regular communication helps ensure the client understands the true scope and extent of your services. With expectations properly communicated, documented and verified, project upsets can be addressed quickly, calmly and effectively with minimal negative impact on time, costs, reputations and relationships.

The preceding article is provided for informational purposes only. Before taking any action that could have legal or other important consequences, speak with a qualified professional who can provide guidance that considers your own unique circumstances.

HR That Works™ is a risk management tool designed to help you to avoid defending employee claims. Key products that come with HR That Works™ include:

- Personnel Forms
- Employment Law Compliance
- HR Audit
- Lawsuit Free
- Employee Handbook
- Employee Knowledge Survey



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