

“DISCOVERING” THE INFORMATION AGE

We live in an age of information. Beginning with the invention of the telegraph, the information age now features communication via mobile transmitters. These handheld transmitters resemble those from the 1970's Star Trek episodes, touted then as “the future” of communication.

That future is now. One can embrace the new technology, as many have, by using wireless laptops, GPS locators, and smartphones, or shun the new technology, opting to stick with calculators, desktop calendars, logbooks, and land lines. In all likelihood, the latter options will leave your company in the dust, and your profits with it. Not only is this new technology time saving in the office and on the job site, it has also become a key tool in the management of construction litigation.

The truth is that litigation has become an integral and, some will say, unfortunate part of the construction process. Litigation among the construction managers, contractors, designers, suppliers, and/or project owner, often arises out of disputes over payments, extras, and delays. However, the technology available to project executives, team leaders, project managers, field workers, and attorneys can certainly ease the burdens of the litigation process, and have a positive effect on your balance sheet.

It cannot be stressed enough that the documents generated during the course of a project are essential. In fact, your project documents must be maintained and stored for at least six to ten years for a number of reasons. Not only are your project documents important for your own purposes, but in the likely event that your company is involved in litigation, these documents are crucial pieces of evidence in support of your claim or defense to another's claim.

Any large project will have a multitude of designers, architects, engineers, contractors, sub-contractors, materialmen, and suppliers on the job site. As such, the paper generated by these entities and individuals is voluminous, and the thought of storing all the paper can be daunting. However, these many thousands of documents may contain evidence crucial to supporting your position in the litigation or vis-à-vis a governmental authority (i.e. the IRS). Accordingly, your own lawyers, as well as the attorneys representing the other parties, will undoubtedly review your documents during the course of the litigation. This review is known as “discovery” and is required during most, if not all, types of litigation.

What is the best method of storing these documents? Technology is now on your side. Many law firms are learning the value of using computer technology to facilitate the discovery process. Now, contractors can jump start the litigation process by digitally storing their documents during the course of the job.

During litigation, most document productions are now “shared” among the parties via a DVD-Rom. A DVD-Rom can store approximately 7 gigabytes of information, which generally will consist of over 100,000 pages of discovery material.

Interestingly, with the advent of more advanced software and scanning technology, users can scan thousands of pages and then convert the images to “searchable” documents with the help of optical character recognition or “OCR” technology. Once the documents are transmitted through the OCR process, the user can then conduct a search using keywords to bring up specific documents.

Utilizing this technology, contractors can reference their voluminous databank to locate the required information during the project quickly and accurately. Likewise, this same process is frequently used by attorneys to locate critical documents in the course of litigation. For instance, if a key issue in the case involves an incident that occurred in November 2007, the user can call up all documents generated that month. Then, conducting additional searches, the user may limit the documents to those originating with the owner. Not surprisingly, this process can save hours of document review by the attorneys. This, in turn, saves your company money.

There are many advantages to storing documents electronically. The most obvious is that storing information on DVDs eliminates the need to store hard copies in file cabinets, and also obviates the fees associated with offsite storage. Second, attorney’s fees will be decreased because the attorneys and support staff can work more efficiently. Most important, the discovery stage of the litigation will be streamlined, thereby making the litigation process more efficient, with the hope of getting to a settlement (and your payment) faster.

PRACTICAL POINTER - Many new copiers have networking and scanning capability. A company might consider employing an individual, or using a temp employee on a weekly basis, to scan all project documents as they are generated and received by your staff. Scanning 100,000 documents at the end of the job may seem impossible, but if the scanning process is kept up all along, the task may not be so insurmountable. After scanning the documents into your network, simply “burn” the documents on to a DVD and label it for easy storage.

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