



RLI DESIGN PROFESSIONALS
Design Professionals Learning Event

Just One Look Isn't Enough

Taking a Second Look at Project Documentation

DPLE 131
September 21, 2016



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DIFFERENT WORKS



Source:

[Business Insider - Corporate Logo Changes](#)



Source:

[Business Insider - Corporate Logo Changes](#)

The logo for Google Ventures, featuring the word "Google" in a serif font above the word "ventures" in a sans-serif font. To the right of the text is a colorful, multi-looped icon resembling a stylized flower or a knot.

Google[™]
ventures

BEFORE



AFTER

Source:

[Business Insider - Corporate Logo Changes](#)

Course Description

Fewer project disputes are being tried because of complexity, time, client relationships, cost, and risk.

However, litigation continues to be a popular method of dispute resolution.

What you've written and documented, whether it's a "work-product" or "deliverable" or an electronic communication, is discoverable in the event of a claim.

Learning Objectives

Participants in this session will:

- Review examples of actual project documentation discovered through claims
- Learn through these examples the ramifications of poor documentation
- Consider areas where poor documentation is likely to occur
- Evaluate mechanisms for avoiding poor project documentation in your firm's files, both paper and electronic

Something to Think About

What
were your
contracted
services?

Did you
provide?
When?

How much
did you
charge?

Do you
have the
records to
prove it?



Real Life Examples

An email “sent confidentially” often isn’t!

From: [REDACTED]
Sent: Friday, November 05, 2010 7:02 PM
To: [REDACTED]
Subject: [REDACTED]
Importance: High

“What I do know is we have a dedicated PM trying to manage a project and make a profit who desperately needs assistance...this message is sent confidentially.”

-----Original Message-----
From: [REDACTED]
Sent: Thursday, November 05, 2010 7:02 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED]
Importance: High

I have verified with [REDACTED] and [REDACTED] that these items were in fact discussed 2 weeks ago in Las Vegas-however I am not sure whether they are doable. What I do know is we have a dedicated PM trying to manage a project and make a profit who desperately needs assistance at the same time. I have proposed next steps. This message is sent confidentially.

“Help! In looking at the future of this project, we are going to have severe budget over-run if [REDACTED] is going to be committed to the project full-time

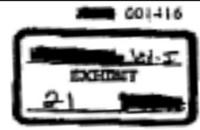
-----Original Message-----
From: [REDACTED]
Sent: Wednesday, November 04, 2010 10:00 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: [REDACTED]
Importance: High

Mike,
Help! In looking at the future of this project, we are going to have a severe budget over-run if [REDACTED] is going to be committed to the project full-time during the CD phase (thru [REDACTED]). As you know, I have scheduled him for approximately 60% of his time (and still would prefer less time since he is not producing any deliverables for us). You should know that [REDACTED] is 1/3 of our labor cost to date! I have two suggestions in how to divert some of the impact:

- Dallas/Justice Program needs to find additional work/assignments/marketing for [REDACTED], that he can do and charge to while living in Las Vegas.
- Reduce the multiplier for [REDACTED] from 1.7 to 0.5. It is my understanding that other on-site representatives [REDACTED] have had their multiplier reduced to this level. We are paying a double premium with the 1.7 multiplier and paying [REDACTED] living and working expenses in Las Vegas. This was discussed with [REDACTED] at a dinner meeting in Las Vegas on the 22nd of October. [REDACTED] indicated that this was a good idea - reducing our costs on paper and keeping the client happy by having [REDACTED] out there full time. Reducing the multiplier should be retroactive to the whole project.

In addition to reducing the amount that [REDACTED] draws down on the project, we are also linked the amount of trips that we taking to Las Vegas, by further combining meetings and not sending additional people where possible (me and [REDACTED]).
We have already stopped / limited the work on the project from the [REDACTED] office thru Jan budget over-run and the value engineering still on-going, the project will not begin the CD phase until Feb 2011. I would like to allow us to further extend our time away from the project until February!
In order to help our equity position, we have since double billed for two months during DD.
In order to get us out of further trouble, I need your help as the managing principal of our company.

“In order to help our equity position, we have also double billed for 2 months during DD”

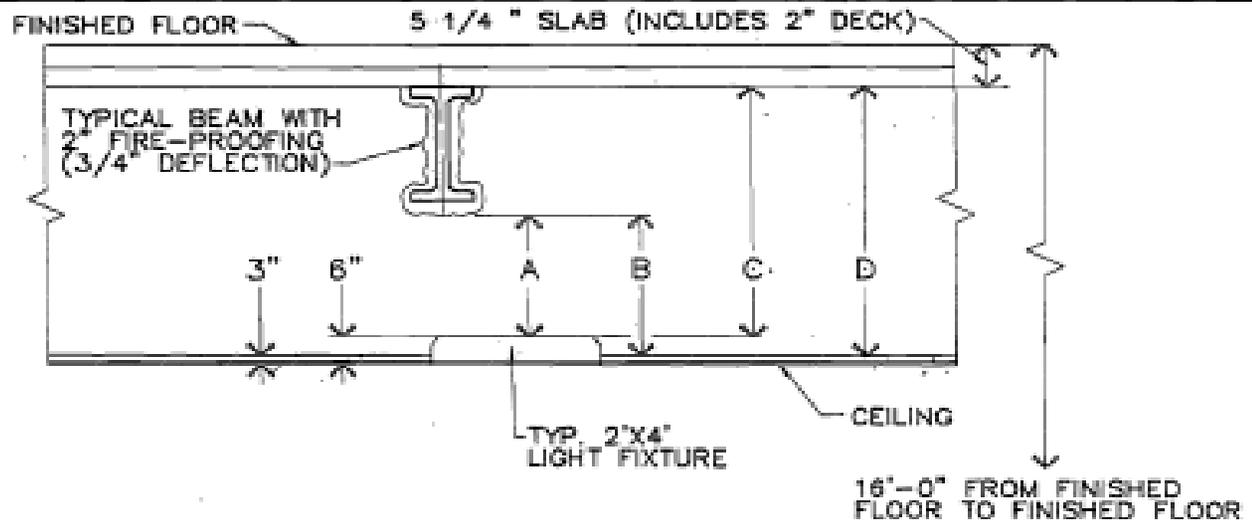


Going Above and Beyond...

CLEARANCE SCHEDULE LEVEL 2 TO 2A, 3 TO 4, 5 TO 5A

NOTES:

1. SEE STRUCTURAL DRAWINGS FOR BEAM AND JOIST SIZES.
2. REFER TO ARCHITECTURAL DRAWINGS FOR CEILING HEIGHTS AND FIRE-PROOFING REQUIRED ON STRUCTURE.



CEILING HEIGHT	8" BEAM		12" BEAM		14" BEAM		16" BEAM		18" BEAM		21" BEAM		24" BEAM		NO BEAM	
	A	B	A	B	A	B	A	B	A	B	A	B	A	B	C	D
8'-0"	82	88	78	84	76	82	74	80	72	78	69	75	66	72	90	96
8'-6"	76	82	72	78	70	76	68	74	66	72	63	69	60	66	84	90
9'-0"	70	76	66	72	64	70	62	68	60	66	57	63	54	60	78	84
9'-6"	64	70	60	66	58	64	56	62	54	60	51	57	48	54	72	78
10'-0"	58	64	54	60	52	58	50	56	48	54	45	51	42	48	66	72

Anyone know what happened to that pipe?



Yep, someone does!



Photo Pointers

Take good
photographs

Follow a plan

Provide
context &
perspective

Add details

Preview &
review

Organize &
store safely

Roof leak...what roof leak?



Correction Order:

“Contractor shall remove this sheet metal flashing and inspect the condition of the substrate for water damage and saturation.”

Contractor response:

The Contractor understands this direction to exceed industry standards and to exceed the requirements of the contract documents. The Contractor has every intention that the installation comply with Contract Documents as they refer to “Industry Standards.”

Did the Contractor Follow Requirements?

Specification Section 05100.1.4.C

- C. **Shop Drawings:** Contractor shall submit shop drawings showing anchor bolt layout, details of members and connections, and erection plans for the execution of the work showing the marking and position of each member. Prior to the preparation of detailed fabrication drawings, the Contractor shall prepare, submit and obtain acceptance of coordinated erection drawings. These drawings shall show all structural steel members, joists and embedments in concrete walls, complete with all horizontal and vertical dimensions.

Documenting Failure to Follow Specifications

Dear Alex,

The City suggested in today's meeting, the Contractor should submit erection drawings with all coordination and dimension questions "bubbled" at this time. ■■■ Builders stated that contrary to Specification Section 05100, their normal practice is to complete the erection drawings at the conclusion of preparation of Shop Drawings.

It is our position that our review of the erection drawings is the most effective way for the design team to review and resolve any dimensioning and coordination issues that the contractor may have before shop drawings are submitted. We are concerned that if the Contractor proceeds with shop drawings without our review and approval and the City concurs with this procedure, the City may be subject to a claim for delay or additional costs. Our review of shop drawings will be hampered without the context of an approved erection drawing.

We believe the procedures outlined in Section 05100 are required and should be followed. If you have any questions, please give me call.

Sincerely,

But sometimes internal documentation hurts!

Like this handwritten note:

"Based on the answer provided, _____ dropped the ball and shows lack of experience on such items as this. We do not follow through in a timely manner for changes!"

In summary, no additional cost should be estimated for the ductwork (additional data, _____ as not received from _____ vendor data, drawings, and calculations.

Steve/Log,

*Based on the answer provided,
dropped the ball and shows lack
of experience on such items as this.
We do not follow through in a timely manner
for changes.*

Documenting Key Milestones

TEMPORARY CERTIFICATE OF OCCUPANCY

E NUMBER: OCC2005-01234

DATE ISSUED:

MAX. OCCUPANCY

SITE ADDRESS

50181000

MAP: 058.2

ZONING: CDD#9

PROPOSED USE: Residential

USBC 2003 THIRTY DAY TEMPORARY C.O. ISSUED PENDING FINAL APPROVAL FROM PLANNING AND DEVELOPMENT. TEMP C.O. EXPIRES MARCH 4, 2005.

OWNER:

PROPOSED OCCUPANT: NA

PARCEL NO:

BLOCK: 04

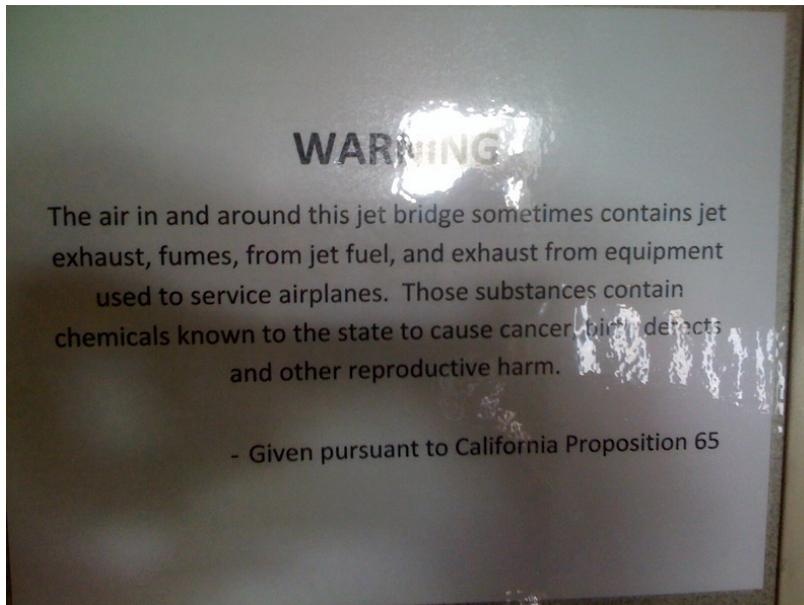
TRACT: ?

SAMPLE
LOT: 01

Only in California



Only in California



“The air in and around this jet bridge sometimes contains jet engine exhaust, fumes from jet fuel, and exhaust from equipment used to service airplanes. Those substances contain chemicals known to the state to cause cancer, birth defects, and other reproductive harm.

-Given pursuant to California Proposition 65

Image Source: <http://home.earthlink.net/~jetairpollution/index.html>

California Proposition 65 Source: <http://www.oehha.ca.gov/prop65.html>

And...Only in California

Within all other states, the EarthStone is installed upright when used in combination with Geogrid fabric.

However, only in California (As in Europe), the EarthStone is installed upside down (inverted) when installed in combination with Geogrid fabric.

There are warnings for everything....

....but did it have to say “upside down?” ...

...that’s too easy...



Where Should You Look?

Where Can You Find It?

Plans & Specs

- Unclear expectations
- Ambiguous words like “typical” or “purpose”

Delivery Systems

- Fast-track
- Separate consultant engaged
- Design-build
- Developers acting as own General Contractor

RFIs & Submittals

- Inadequate reviews
- Approval of non-conformance

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Performance Criteria

Prescriptive criteria

Undermines price competition and choice

Invites contractor substitutions

Unequal substitution favors contractor

Your
Performance Criteria

If the substitution fails, what does it come back to?



**Staying Out of Trouble
Best Practice? Avoid It**

If you think it's a bad idea...

In Section 4.5, Steps 1 and 2 describe efforts to confirm screening results. The steps described will not confirm the screening results because the borings are too far away (100') from the current location. It would be better...

Say so...in writing...

Preserving Project Records



What Documents?

Correspondence



Contracts, Schedules



Meeting Minutes



Submittals



Packages



Photos



Drawings, Permits, Reports, Studies



RFQs, RFIs



Keep in Mind...

Document problems, the options to resolve them, discussions of the pros and cons, and the client's decision

Document changes introduced by others, and the process by which the change was accepted

Not everyone on the project team is going to be around forever—you can't prove something if it's not in writing

Scope creep generally pleases your client, but increases your risk—so anticipate it!

General Rules

Keep in Mind...

Budget to include time and money for quality control activities

Conduct a formal code review of designs

Develop design checklists that address coordination and calculations

Don't allow time and money pressures keep you from quality performance

Design Phase

Keep in Mind...

Staff construction phase services with experienced personnel

Respond to submittals and RFIs in a timely manner

Balance inexperienced staff with experienced principals

If the Client, Contractor, or Other Design Professionals have inexperienced people...document to protect yourself!

Construction Phase

Keep in Mind...

Understand everything is discoverable in litigation

Protect every claim communication as privileged and follow your attorney's advice

Maintain separate files for the project and the claim

Remember that everything in the project file— paper or electronic— may be discoverable

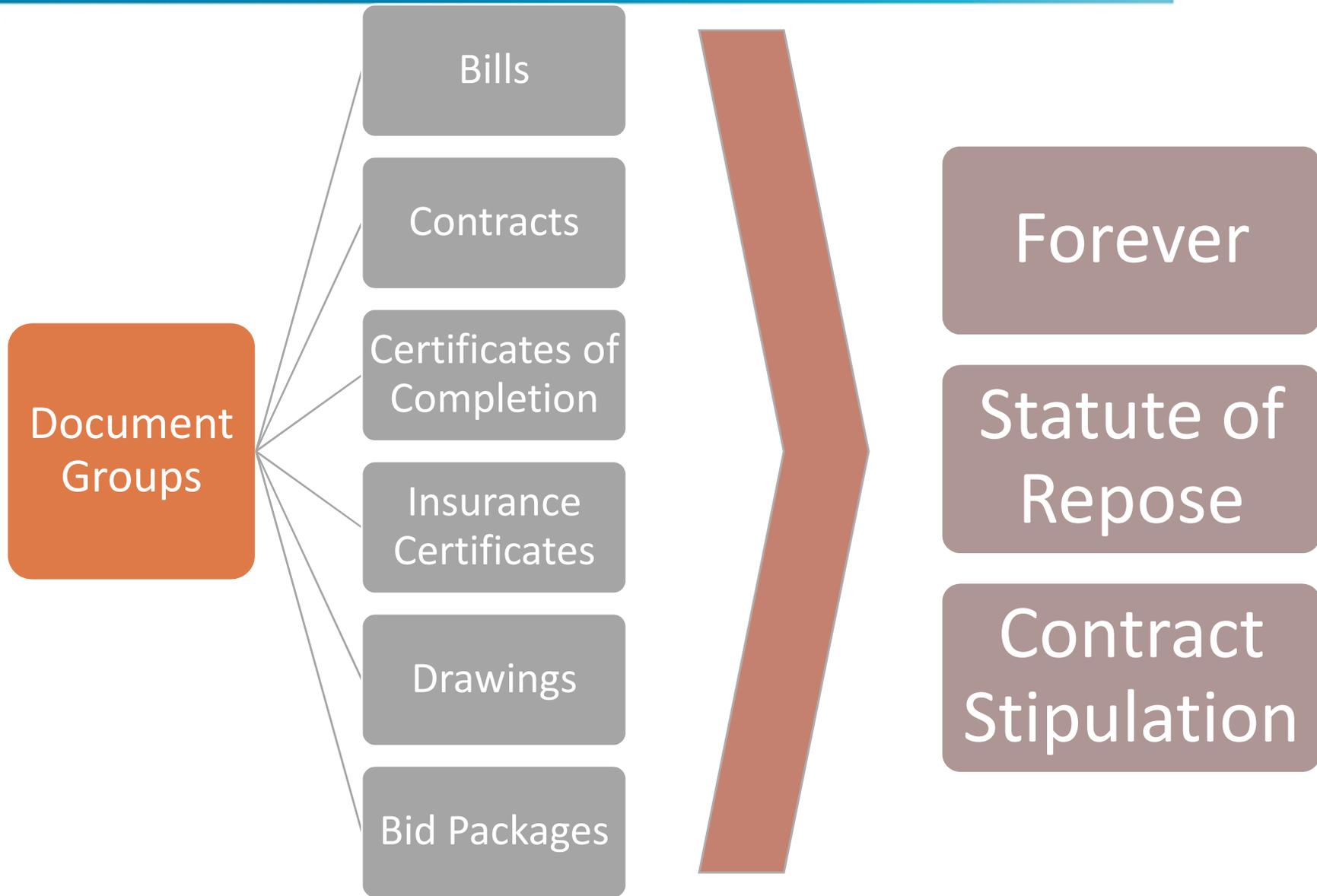
Litigation Guidelines

Question

How long does your firm currently maintain project records?

- For the period required by the applicable contract
- Until the end of the applicable statute of repose period
- For one year beyond the statute of repose period
- For two years beyond the statute of repose period
- What's a statute of repose?
- Forever
- For some other prescribed period of time

Retention Best Practices



Spoliation

The intentional or negligent
withholding, hiding, altering, or destroying
of evidence relevant to a legal proceeding

IT'S ILLEGAL!



Note of Special Thanks To...

Richard Davies – Powell Trachtman, King of Prussia, PA

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Terry Scanlon – Skellenger Bender, Seattle, WA

David Ericksen – Severson & Werson, San Francisco, CA

Jean Weil – Well & Drage, Laguna Hills, CA

Bruce Furukawa – Long & Levit, San Francisco, CA

Sam Vulcano – Sugarman Law Firm, Syracuse, NY

Scott Sirich – Plunkett Cooney, Bloomfield Hills, MI

Harry Makris – Milber Makris, Woodbury, NY

Thank you for your time!

QUESTIONS??

This concludes The American Institute of Architects
Continuing Education Systems Program

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