

Legal Bits

a publication
for the business-
minded

Electronic Edition

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Think Before you Click (Part 2)

by Randal Acker



(For "Part 1" please see <http://ackerlaw.com/blog>. The blog was written the day after completing a 3 day jury trial, the culmination of a 2 year lawsuit. At trial, I was able to use email correspondence to successfully defend against a breach of contract action.)

While loose lips may sink ships, careless clicks may lose lawsuits. Emails and electronic communication, if used correctly, can also be used to avoid lawsuits altogether or significantly enhance your position.

Before electronic communication, documenting understandings usually required a formal exchange of letters or otherwise obtaining a signature on a written document. In such cases, most folks were cautious and had the foresight to avoid signing anything that might be used against them.

When it comes to electronic communication, such caution seems to go out the window. Perhaps, it is because the technology is still new and most do not appreciate the

or perhaps society is spiraling into a vicious speed cycle -- quicker messaging technology compelling quicker composing of messages. Spelling and typos are corrected automatically, words are spelled-out after only typing a few letters, and a whole new language of abbreviations and acronyms has evolved. Regardless of the cause, careless clicking is here.

You can use this nonchalant messaging to your advantage. When you want to document an understanding or a change in an agreement, send a confirming email. You may evoke a response email that confirms your position, evidence that may be used in the future. If there is a dispute brewing, send a short, inquiring email. Often people will vent through electronic communications, and unwittingly document assertions that they may not want a jury or judge to hear at a later date.

Figio House Update



Plan submitted by American Campus Communities.

As many of you are aware, we successfully defeated TriMet's attempts to acquire the building through eminent domain. See http://ackerlaw.com/the_figio_house. TriMet has now seized all of the other properties in the surrounding block, mostly through eminent domain. The properties have been transferred to PSU, pursuant to the "confidential" memorandum we previously exposed. PSU has contracted with American Campus Communities to build a 16-story structure on the block. To appease the Portland Design Commission, the plans include a new courtyard behind the Figio House. Recently, the Design Commission sent the plan back to the drawing-board, requesting an extension of the courtyard "feel" to the 6th Ave. side of the Figio House.