

Circling the Wagons – Practical steps for scheduling professionals and production teams to consider when “schedule” risk grows into “litigation” risk.

When it appears that every tool in your scheduling and production tool box may not be enough to rescue a project, you may need to think about plan “B”. This seminar will discuss practical steps which scheduling professionals and their production teams can take before the attorneys get involved, to preserve potential claims and defenses.

I. No Attorney means No Secrets

- a. The protective bubble of the attorney-client privilege
- b. Without it every document and every communication is fair game

II. Attitude Adjustment

- a. In the beginning it was a partnership of mutual respect and cooperation
- b. Now, something has gone very wrong and someone will be blamed
- c. Your “opposition” may already have attorneys and experts on the job
- d. This is no longer one big happy team working together
- e. The temptation and risk associated with walking off the job or throwing a contractor off of the job

III. Lock Down Communications

- a. Death by email – internal and external – all discoverable and potentially devastating
- b. Limit points of contact
- c. Specify who speaks for the company
- d. Beware self-serving “notes” or “minutes” from team meetings

IV. Build a Record

V. Preserve Evidence

- a. Helpful and potentially not so great
- b. If you feel a claim coming you may have a legal duty to preserve evidence
- c. Especially bad if you violate your own companies retention policies
- d. Beware the rouge laptop not connected to the network, the manager using a non-company email address, the paper notes and calendars that may be lost or discarded

VI. Skeletons in your closet?

- a. Are there delays that are unquestionably attributed to your team
- b. Are the delays discrete and limited or ongoing and pervasive
- c. High level employees that have been fired or let go during project
- d. Employees you are considering letting go that you may want to keep in the family for a bit longer

- VII. What is the End Game – take a quick look at your contract(s)
 - a. Court versus Arbitration – Arbitration clause
 - b. Which law governs