

When the Record Is Lost: Managing Risk in an Era of Virtual Project Communications

As project communication moves beyond email into chats, texts and virtual platforms, gaps in digital documentation are quietly increasing firms' exposure to costly and difficult-to-defend claims.

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Construction and design firms increasingly rely on virtual communications to keep projects moving forward. As firms continue to adopt digital tools and virtual collaboration, many are unknowingly creating new exposures — ones that often come to light only after a claim is already made.

Documentation and communication failures tied to modern technology are playing an increasingly central role in professional liability claims. However, the tools themselves are not the problem. The risk lies in the way firms use them and, more importantly, how or whether those communications are preserved.

Digital Blind Spot

Virtual meetings, compressed schedules, and real-time collaboration platforms are now standard across construction and design projects. Text messages, Teams chats, Slack messages, and video conferencing frequently replace traditional email and in-person meetings. While these tools increase efficiency, they also create a growing and often overlooked risk: critical project communications may never make it to the project file.

Key project decisions are increasingly made through informal channels. Design changes may be discussed in a Teams message, field conditions addressed by text, or scope clarifications agreed to during a virtual meeting without proper follow-up documentation. Many professionals assume these communications are automatically captured and easy to retrieve. In reality, however, they often are not. Virtual communications are often deleted over time, retained only on individual devices, or stored on platforms that are never incorporated into the project file. When a dispute arises years later, and those records are unavailable or incomplete, firms can face serious exposure consequences.

Why Documentation Matters in Claims

When a claim is reported, insurers and defense counsel rely heavily on the project record to understand how decisions were made, who was responsible, and whether the professional met the applicable standard of care. Missing communication makes a claim far more difficult, and more costly, to investigate and defend.

Claims often hinge on what was known, when it was known, and who communicated what to whom. However, claims are typically made several years later, when memories have faded and project personnel may have moved on. Without contemporaneous records, it becomes harder to establish defenses, defend design decisions or show that concerns were raised and addressed appropriately. But poor digital documentation does not just complicate claims, it can materially affect outcomes. Claims involving documentation gaps often carry greater uncertainty and increase the likelihood of an adverse outcome and higher exposure.

When records are missing, claims take longer to investigate and defend. Expert analysis becomes more challenging, discovery costs increase, and opportunities for early resolution may be lost. Weak documentation can turn an otherwise defensible claim into a costly one.

E-Discovery and Sanctions Risk

Courts increasingly expect parties to preserve electronically stored information, including texts, instant messages, and virtual meeting records when litigation is anticipated or reasonably foreseeable. Failure to retain or produce these materials can result in motions for sanctions, ranging from monetary penalties to adverse inference instructions—or, in extreme cases, striking of defenses. Even if sanctions are not imposed, disputes over missing communications increase legal costs and complicate claim resolution. Importantly, “informal” does not mean “non-discoverable.” Firms should expect that courts will treat texts, chat messages, and virtual communications as discoverable project records if they relate to the work.

Building Better Digital Discipline

Construction and design firms should evaluate whether their current record retention practices align with how projects actually operate today. Clear internal policies are essential. They should define which platforms are appropriate for project-critical discussions and consistently capture those communications in the official project record.

As virtual platforms become central to project communications, firms must remember that standard contract documents, such as a Request for Information (RFI), Construction Change Directive (CCD), change order, and Architect’s Supplemental Instruction (ASI), remain the backbone of the project record. Digital storage practices, therefore, should be structured so that virtual communications have a documented connection to the related contract vehicles. For example, if a project manager provides a design clarification during a Teams chat, the conversation should be captured in formal meeting minutes and linked to the subsequent RFI once it is created. This will help prevent a claimant from later arguing that the design professional provided informal direction outside of the documented RFI response. Likewise, if an owner directs changes in work via texts, relying on texted photos of field conditions, then a formal CCD should still be issued and the original messages and images should also be saved to the project file in order to document the factual basis, in case the

scope or cost is later challenged. Similarly, when an architect issues an ASI following a virtual discussion, retaining both the ASI and the relevant chat thread or meeting minutes will help provide crucial context showing why the ASI was issued and can help defend against any allegations of ambiguity or delay.

Effective risk-management practices for virtual project communications include:

- Establishing clear policies for documenting discussions held via virtual meetings (such as Teams or Zoom) and instant messaging platforms (including Teams, Slack, and text messages);
- Requiring follow-up emails, meeting minutes, or formal logs to memorialize key discussions made during virtual meetings;
- Building practices so that project-related text messages and chat communications are saved to the project file in a consistent and retrievable manner; and,
- Structuring digital retention policies so that informal communications do not become disconnected from the official project record and their associated standard contract vehicles.
- Establishing compliance enforcement procedures to confirm that retention policies are being properly followed, including interim audits and post-project audits. Incorporating routine compliance enforcement procedures into each project's operations will reduce the risk of these policies being ignored.

Training is also essential. Younger professionals, in particular, may default to instant messaging or texting without realizing the long-term implications. Leadership plays a key role in setting expectations and reinforcing documentation standards.

Finally, firms should periodically review their technology stack with risk in mind. Understanding where data lives, how long it is retained and how it can be retrieved later can make a significant difference when a claim arises.

The Bottom Line

Virtual communications are here to stay, but that has not changed what claims demand. When key project communications are not preserved, firms face increased exposure, higher defense costs and greater difficulty resolving claims favorably. Clear, consistent and retrievable documentation remains one of the strongest defenses available. In a digital project planning environment, discipline around communication is a critical risk management tool. Proactive documentation practices not only strengthen a firm's defenses but help reduce risk long before a claim arises.

Would you like to learn more? Watch our recorded webinar, ["Professional Communication in the Digital Workspace"](#) or review the [webinar handout](#).

About the Author



Jason joined Berkley Alliance Managers in 2025 with experience managing A&E claims for a leading insurance carrier. Prior to that, he was an attorney for 15 years and a partner at a national law firm. During that time, his trial work focused on construction-related claims involving contractors, owners, and design professionals.

Jason earned a Juris Doctorate from the University of Miami School of Law, Coral Gables, Florida. He holds a Bachelor of Arts in Political Science and Philosophy from Southern Methodist University, Dallas, Texas. He is admitted to practice law in New York. Jason is based in New York and can be reached at jatkinson@berkleyalliance.com.



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