



Together with NEXTEL

How to Work Effectively with Your Safety Counsel: Best Practices

International Telecommunications Safety Conference

Michael Allen, Senior Counsel
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Agenda

- Who is your safety counsel?
- Discovery 101
- Records/Files
- Attorney-Client Privilege
- Emails
- Q&A



Disclaimers

This presentation is not intended to provide specific legal advice or to take the place of either the written law or regulations. Individuals are urged to consult with their legal counsel for answers to their legal questions.



Where is your safety counsel?

- In-house or Outside Counsel or Both
- EHS Department or Risk Management or Legal Department or Government Affairs
- Employment/Labor or Regulatory or Litigation or Real Estate.
- Litigation focused??



Discovery 101

- Complaint and Answers
- Document Requests and Interrogatories
- Depositions
- Motions for Summary Judgment



Record Retention

- All records have an established length of time to be preserved (legal, regulatory, operational, etc.)
- Determine the required time frame upon which to maintain records and files
- Promote the routine and timely disposal of business files
- Follow your company's record retention policy



Record Retention

- Work with Safety Counsel to create a retention schedule, if one does not exist
- Don't forget the OSHA and State retention requirements
- How are records maintained– safe and secure?
- Keep personal records separate



Attorney-Client Privilege

- What is the “attorney-client privilege” really?
- Privilege belongs to the client (but in our case the client is the corporation and not you!)
- Don’t assume that a document (or conversation) is protected by the attorney-client privilege



Attorney-Client Privilege

- Mark your documents attorney-client privilege, when appropriate
- Waiver/Exceptions/Court-ordered Disclosures
- Other privileges may apply (but let your counsel worry about those!)



Emails

- “The only way to control dumb documents is to prevent their creation in the first place!”
- Incorporate electronic files in your record retention policies
- Morgan Stanley – lost \$1.45 billion verdict
- UBS – lost \$29 million verdict



Emails

- Avoid the mass emails
- Know your audience
- Avoid the email chain ("Pick up the darn phone!!!")
- Avoid casual opinions
- Avoid over reacting



QUESTIONS????????