

Learning Objectives

- Understand the benefits of mediation and arbitration as viable dispute resolution options
- Identify grounds supporting a request for a voluntary discontinuance or a motion to dismiss
- Recognize whether there has been spoliation of evidence, and if so options available to the design professional
- Be aware of the impact workplace e-mails have on liability exposure and available litigation options to design professionals

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Mediation- A Viable Option

- Proceedings are Generally Non-Binding
- Fact Finding Mechanism/Shared Cost
- Cost Efficient
- Knowledgeable Mediator
- Get Your "Day in Court"
- Mediation Credit

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Arguments in Support of Design Professional's Request for a Voluntary Discontinuance or Motion to Dismiss

- Design Professional Owed No Duty to Plaintiff
- Lack of Proximate Cause
- Lack of Contractual Privity
- Design Professional not within Class of Persons Held Liable Under Labor Law
- Plaintiff Failed to Establish a Triable Issue of Fact against Design Professional
- Failure to State a Cause of Action

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Has Evidence Been Spoliated? If So, a Motion to Dismiss May be in Order

- Was the party that destroyed evidence on notice that the evidence might be needed for future litigation?
- What is the extent that the spoliation of evidence might prejudice a party?
- Is a dismissal necessary as a matter of elementary fairness?

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USE OF E-MAILS IN THE WORKPLACE: BENEFIT, BURDEN OR BOTH?

- Benefits
- Risks
- Legal Implications

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Questions & Answers

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