

PRESENTATION 1: *Welcome to Private Practice*

A career as a technical professional in private practice is not easy, but it can be intellectually, financially, emotionally, and spiritually rewarding. It can be a great deal of fun, too. The key to reaching the “pot of gold” is knowing how to get safely from here to there. Others have gone before and have shared their experiences. It’s up to us to learn them and put them to good use. For your own benefit.

The case of the retired civil engineer who became a home inspector highlights several important safeguards technical professionals cannot afford to overlook. These include:

- Attorneys owe their loyalty to their clients. Do not believe that, by explaining to an attorney why the attorney’s client is wrong and you are right, the attorney will agree with you. Attorneys’ job is to be their clients’ advocate. Attorneys cannot serve the cause of advocacy by agreeing that their client is wrong, by forgoing opportunities to earn money for their clients, etc. That is not how “the game” is played.
- The civil justice system is all about money. One side claims damages and the damages have a price tag attached to them.
- The civil justice system is adversarial. To obtain money for their clients, attorneys pursue those that are vulnerable; i.e., those that can easily have allegations brought against them (e.g., “You should have defined ‘structurally sound.’”)
- Technical professionals are personally liable for what they do, no matter what size the company for which they work; even if it’s a firm of one or 100,000. This means YOU!

- Don't use jargon. Define the terms you use. (It's another reason why, "If it isn't in writing, it didn't happen.")
- Be sure your contract is in writing.
- Include a limitation-of-liability (LOL) provision in the written agreement.
- Include an alternative dispute resolution (ADR) agreement in your written contract. (Do not use arbitration if you can help it. Like litigation, it is an adversarial system.)
- It's a good idea to have a professional liability insurance policy.
- At the outset of a project, educate client representatives about: things that can go wrong, the services that are required, extras that may occur, and what can happen if certain services are not performed. Gain informed consent.
- Document (i.e., commit to writing) what you tell the client representative (and anything else important that you convey orally).

- Choose clients carefully. Note that clients in the residential sector tend to create more difficulties than others. The same can be said about those (or their representatives) that are adversarial in nature and those that do not have the budget required to obtain a high-quality service.

Don't take short-cuts. Short-cuts are the fast way to get to Hell.

Society expects of technical professionals exactly what it expects of physicians: To do it right.

Do not assume that a doing a good deed (i.e., a professional function you perform at no or low fee) means you can take short-cuts. It doesn't. "Do it right or don't do it at all" must be your mantra. Using "good deed" as an excuse to take short-cuts – i.e., the failure to dot all I's and cross all T's – is precisely why, often, "no good deed goes unpunished." For example, if you agree to provide free deck-design services to your neighbor, or free design services to a religious facility, community facility, etc., be sure the client obtains any permits necessary. Also be sure that whatever you design and specify at least complies with code.

If you suggest that the contract include an alternative dispute resolution provision, and the client representative refuses, think long and hard about accepting the engagement.

Imagine the most professional professional you can think of. How would that person act in a professional capacity, when various types of decisions have to be made, and so on? That's precisely the way you need to act!