

CFR The Commercial Flooring Report

For the Commercial Floor Covering Industry

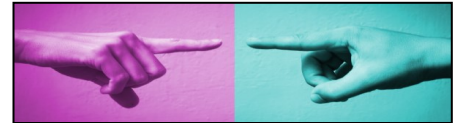
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The Best Advice I Can Give You

Remember these words: **"GET it in WRITING and SIGNED"**

This is the best way to confirm anything you're being told. No matter what anyone tells you about a product or a job relative to a concern or problem you may be having, ***get it in writing and signed.*** Otherwise, the story's going to change, not in your favor, and you're going to be on the short end of the stick. It will be a hot potato toss of "he said, he said."



With big commercial flooring claims and complaints getting more contentious, it is imperative that you keep impeccable records of everything you do, every conversation you have, and any information you obtain from the flooring manufacturer; the adhesive manufacturer, the underlayment manufacturer, and any other manufacturer of any flooring related product you're using on a project. Additionally, it is eminently important to document all information on any conversation you have with the GC on a project. Get dates, times, and details of the conversation down on paper so you can memorialize what took place. You must have the Who, What, Where, When, How, and Why of everything discussed with everyone or anyone you discussed it with. Simply put, you must cover your ass.

If you have a conversation on the phone or a conference call with a manufacturer or their representative, make sure you take notes or record the conversation. If you want to record the conversation, let them know you are. This can get a little ticklish as the laws of each state govern this, as this is state specific. So, find out what your state says about this. Not only the state law where you are, but the law of the state they are in. Take the more stringent state law and comply with that, since they are the ones making the statements.

If someone gives you a resolution/negotiation to your claim – stop them in their tracks and request them to write that down and sign it! If they tell you to use a specific product in a particular situation or they tell you that something will work, get it in writing and have them sign it. If they're so certain what they're telling you to do is correct, they shouldn't have any problem committing to it.

If it comes out of their mouth – make it legal – immediately!

If you are talking about a job in person with a field tech guy or a sales rep, don't let them leave without sitting down and putting it in writing and signing it. Have them open their laptop and send copies to you and anyone else involved. If this is about a resolution/negotiation of a claim or problem they just offered your company, get it in writing, signed, and dated. And take notes yourself, with time, date and place.

By doing this, you are just keeping everyone involved honest. This holds true if they tell you or suggest to you to use a product or material on a project that later fails. We see this happening more frequently. They can't deny it if it's in writing and signed. If a field tech tells you you're good to go, get it in writing, and have them sign it. Take pictures of what they said was good to go. Again, document everything.

A recent example of this was a sales rep overseeing a job where the substrate was being mitigated for moisture. He blessed the process being employed with their product and his company then provided a 10 year warranty in writing. Their process was flawed, they admitted it, and they, not the flooring contractor, were bound and committed by what they put in writing to resolve the failure.

From the legal perspective of our counsel relative to an email:

"An email is a legal document and can form the basis of an agreement but does not automatically form such an agreement. For instance, they also need to make sure the email is coming from someone in that company that has the authority to enter into agreements on behalf of that company. Additionally, the more detailed terms within that email the better. If the email is too vague, a fact finder may find that there was never a meeting of the minds due to critical terms not being addressed in the email."

Remember you can always suggest a Zoom or Microsoft Teams Meeting to find out if this person has the authority to enter into such agreements and at the same time discuss any agreements with upper management. **All the while recording the video. Just remember what we said earlier about recording stuff.**



THE COMMERCIAL FLOORING REPORT

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The next thing is taking pictures of everything, before, during, and after. No matter what it is. The substrate, the material, where it is being stored or acclimated, a vapor retarder under the substrate (if you can't get one ask the GC for it as they normally take pictures of everything), the adhesive, the installers prepping, the adhesive being applied, the installation process, rolling the flooring, and anything and everything being done. You can never have too much evidence. We keep running into the same excuses of the wrong trowel was used, there was too much open time on the adhesive, there was no adhesive transfer, the wrong adhesive was used, they didn't roll the flooring. To refute these allegations, or to confirm them, if necessary, memorialize the processes with pictures.

Before any work is done, READ all the information on the products being used, both what's on the supplier's website and what's in, or on, the box or packaging the material comes in or the labels on the containers. We often find that there is contradictory information. Someone, be it the installation manager, salesperson, or project manager, must read the directions, understand them and, when necessary, question them. Don't let someone come back and tell you what you did was or wasn't in the installation instructions or guidelines. Help yourselves by knowing what you can or can't do and what you must or must not do. And know, as previously stated, that the installation guidelines or product instructions can be contradictory and may put you in a bad position if there's a claim later. Assume nothing.

If you run into a problem, stop the job and contact all relevant parties. Take pictures of the issue(s) and, again, write everything down. Why the job was stopped, when and where this occurred, with what, who was notified and when, what was said and by whom, with dates and times.

You may often hear this as well; "You're the only one that has this problem." When you hear this, contact us. If you're having the problem, chances are someone else has called us with the same issue. And if they haven't, we can poll contacts we have to see if there is an issue with a product. And be careful using a particular product if your gut tells you that it may not work, or that you may have a problem with it. We had this happen to clients on two recent projects that failed when they listened to the sales rep. When we contacted the Technical Director of this company to get the correct information, he confirmed that the product suggested was not appropriate for the application. If we could easily get the correct information, you could too.

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"WHEN NO ONE ELSE HAS ANSWERS, WE DO"

Commercial Flooring Report

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Unfortunately, with as confrontational as things are becoming, you have to take measures to insure you're not going to be blamed for something you didn't cause. We're seeing some really stupid stuff being done with product that is specified or sold into an installation that had no business being there. Unfortunately, it was a case of someone being sold a bill of goods and believed the fairy tales they were being told that the stuff would work, only to have it fail. Then they want to blame you.

If you have a question or need help on a problem or guidance, contact us. We have the answers, always, it's our job to know and we are relentless at it. Every situation we've ever been involved in could have been prevented. Every situation can also be corrected. Prevention is far easier, in every way.



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