#### May 2020

# ORSHAK & ASSOCIATES, P.A. ATTORNEYS AT LAW

At *Korshak & Associates*, *P.A.*, we strive to be your trusted firm. If you have a legal problem, we encourage you to contact us to learn more about how we can assist you!

#### Featured Article



**Text Messages-A Binding Contract?** 

Korshak & Associates, P.A.
ATTORNEYS AT LAW
YOUR NEIGHBORHOOD LAW FIRM



With more than 40 years of combined legal experience our attorneys at Korshak and Associates, P.A. are able to provide experienced representation in a wide range of legal matters such as:

- Civil Litigation
- Wills and Probate
- Business
- Collection
- Family Law
- Personal Injury

CALL US TODAY TO SCHEDULE YOUR FREE PHONE CONSULTATION

#### www.korshaklaw.com

Stephen D. Korshak, Esq. Admission FL Bar: 1985

407.855.3333

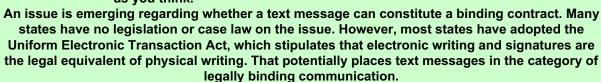


We welcome your referrals

We value all our clients.
While we're a busy firm, we

## TEXT MESSAGES COULD BE A BINDING CONTRACT

As more business communication is conducted via text messages, businesses need to be aware that they can have legal ramifications. In the eyes of the law, text messages may not be as informal as you think.



In California, the Statute of Frauds, which relates to real estate, expressly states that a text message is an electronic message that is ephemeral in nature and insufficient to create a contract.

In Massachusetts, however, the Land Court has held that text messages and emails can potentially satisfy the Statute of Frauds, giving rise to a binding and enforceable contract. In that case, the court evaluated whether text messages were mere negotiations or whether they constituted a binding contract. The exchange involved several drafts of a letter of intent.

In the pivotal exchange, the broker responded to a text messagethat contained the material terms of a contract and included his first name in the end of his response. The court concluded that inserting his name at the end of the message qualified as a binding signature.

Even where there are no regulations in place, business owners would be advised to assume that the Massachusetts interpretation could be applied in their own state. As many other states have adopted the Uniform Electronic Transaction Act, it's reasonable to assume those courts would interpret the law in the same way.

Though the Massachusetts case involves real estate, it provides some direction for other business negotiations, including sales and construction change orders.

One practical step to avoid confusion or conflict is to insert a provision into draft agreements stating that the agreement can only be executed via a physical signature and that a name in an email or text is insufficient.

Alternatively, you may want to avoid the use of text messages during negotiations or ensure you do not manually type your name below the message.

To protect themselves, businesses should take steps to preserve relevant text messages, in the same way they preserve email documentation. A legal claim could survive or fail on the basis of text messaging documentation.

welcome all referrals.

If you refer someone to us, we promise to answer their questions and provide them with first-rate, attentive service.

If you've already referred someone to our firm, thank you!!!

### **OFFICE LOCATIONS**

950 S. Winter Park Drive Suite 290 Casselberry, FL 32707 14115 Town Loop Blvd #300 Orlando FL 32837 \*By appointment only

Korshak and Associates, P.A. Attorneys at Law