



**ALFA International**  
THE GLOBAL LEGAL NETWORK

## 2025 Transportation Seminar

April 30-May 2, 2025

### DEALING WITH SHOT GUN DEMANDS AND A BENCH FULL OF EXPERTS

Andrew Douberly  
Moderator  
DICKINSON & GIBBONS, PA  
Sarasota, FL  
[Adouberly@dglawyers.com](mailto:Adouberly@dglawyers.com)

Last-minute demands are a frequent and disruptive feature of litigation. From newly disclosed experts to plaintiff-imposed response deadlines, these surprise moves feel designed to catch defense teams flat-footed. Attorneys, clients, and adjusters often can't prevent these surprises, but they can prepare for them. This article outlines actionable techniques to stay calm, stay ready, and stay effective when the fire drill starts.

### A. Mindset and Framing

- *Expect the Fire Drill:* Assume last-minute demands and disclosures are part of the other side's strategy. Build your approach accordingly.
- *Don't Personalize It:* Stay strategic. These tactics are often about leverage and the demands are often boilerplate; they are not personal.
- *Stay Calm to Stay Sharp:* Avoid reactive decisions. The best moves come from a clear, prioritized approach.

### B. Documentation & Templates

- Last-Minute Response Playbook: Create templates for:
  1. Immediate acknowledgement of the demand, including requests for anything missing for your evaluation.
    - This establishes a record of good faith engagement.
    - Florida Law, for example, does not require perfect responses to demands, just *reasonable and prompt investigation and communication*.
  2. Reservation of Rights letters
  3. Objections to untimely disclosures
  4. Requests to continue mediation or trial

### C. Track It!

- *Track it!* Create a claim-specific method of tracking when the demand was received, what it included (or failed to include), when and how each step of the review occurred, copies of all written responses or clarification requests, and deadlines to respond in one centralized document to rebut inaccurate assertions and keep your team on the same page
- *Calendar Surprise Windows:* Add calendar alerts a few days before mediations or trials to anticipate last-minute disclosures.
- *Pre-Mediation Checklist:* Include a reminder to expect and prepare for last-minute issues.

### D. Collaboration Between Attorney, Client, and Adjuster

- *Pre-Authorize Authority Protocols:* Know what's needed for rapid approvals on high demands. Build time buffers before events.
- *Establish a Rapid-Response Team:* Clarify who needs to be looped in immediately (coverage counsel,

managers, etc.). Shameless ALFA plug here— ALFA has lots of resources available to assist with rapid response, including the “Transportation Go Team,” which lists both attorneys and experts all over the country and world who are ready to help.

- *Scenario Planning*: Conduct short “what if” drills for high-risk cases to test workflows.

### E. Legal and Tactical Responses in Litigation

- *Object to Improper Disclosures*: File motions to strike or limit use of untimely expert opinions.
- *Preserve the Record*: Even if extensions or objections are denied, making the effort is crucial for appeals and coverage.
- *Use It as Leverage*: Show the mediator or court how last-minute behavior undermines credibility or good faith negotiation.

### F. Proactive Moves

- *Set Expectations Early*: During initial case management, confirm clear deadlines and expectations for disclosures.
- *Require Written Demands with Exhibits*: Avoid the “we sent it months ago” game by standardizing the format for demands.
- *Retain and Disclose Experts Early*: Get ahead of plaintiff surprises with fully developed, timely expert opinions.

### G. Useful Tools

- *Shared Access Folders*: Keep teams synced with shared files for fast reaction.
- *Internal Deadline Bots or Alerts*: Use technology to keep surprises from becoming disasters.
- *Red Alert Protocol*: For sensitive or high-value cases, assign someone to monitor key windows before important events like mediation or trial.