

# **Ethics Emergency Survival Kit**

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on State and Federal Appeals**

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**3 days before appellate oral argument  
Client: “Bend the facts in the trial record.”  
You: “Not appropriate. Won’t do it.”  
Client: lose/lawsuit malpractice  
To quote the travelers cheques  
commercials from the 1970’s:  
“What will you do?  
What will you do?”**

Before we discuss your options in the appellate emergency just described, answer this question:

What is the best way to survive a motor vehicle collision?

Not to get in a motor vehicle collision in the first place.

Similarly, what is the best way  
to survive an appellate  
emergency?

Not to get in one in the first  
place.

### Strategies for Avoiding Ethics Emergencies

#### **Choose better clients:**

Some walk into office with suing you as a  
litigation strategy if client doesn't prevail.

1. Rep Agreement – authorize  
background checks and grant permission  
to communicate with prior counsel, if  
any.

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