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**NEWSFLASH!!****IMPORTANT INFORMATION REGARDING USE OF ELECTRONIC SIGNATURES**

Recently, the California Association of REALTORS® (CAR) introduced a new member benefit (zipLogix Digital Ink™). Questions have arisen regarding the use of electronic signatures. The following is a brief summary of the law regarding the use of electronic signatures. It is by no means all inclusive but merely provided to highlight a few issues REALTORS® need to think about.

1. Consent to use electronic signatures from **both the buyer and seller is required in advance**, prior to using electronic signatures in transactions, even if only one party is not using electronic signatures.
2. Although consent can be oral or inferred by conduct, it is better that agreements be memorialized in some type of writing, particularly in light of Article 9 of the Code of Ethics. If you are involved in a transaction where electronic signatures are proposed, have evidence of consent in writing, even if only confirming emails.
3. Not all documents allow for electronic signature. Wills, codicils, trusts, certain loan documents, and many notices including eviction are some examples of those excluded by the California laws regarding electronic signatures.
4. There may be authenticity issues with electronic signatures, so good documentation is strongly recommended.
5. Standard of care issues are important. REALTORS® have some obligations to go over documents with their clients. REALTORS® need to develop standardized cover letters or checklist to provide what was sent, what was discussed, and so forth. It is really no different than if the meetings were face to face or over the telephone. The difference, of course, is that there could be some temptation to do things quickly. REALTORS® must remember that pursuant to Article 13 of the Code of Ethics they are not lawyers, but there is still some obligation to make sure clients understand what they are signing, particularly as it applies to a transaction as large as the sale of a family residence.

In conclusion, REALTORS® need to be careful not to allow this amazing new benefit to replace good, solid professional care. (CAR has published a Q&A on Electronic Signatures in May 2010.)