

## 5. It's Been a Privilege

Perry Varicate: Counsel, I asked to see you today because I was so pleased that your summary judgment motion was successful in my last breach of contract case. I have another, unrelated case involving a contract and want you to represent me again.

Counsel: Nice to see you again, Perry. The affidavit we drafted on your behalf was the basis of the Judge's opinion dismissing the last suit. And, by the way, according to my diary, the plaintiff's time to appeal in that case has now passed, so the matter is concluded. This time we will need a similar affidavit from you.

Perry: Fine, but I want you to know that there were a number of errors in that affidavit that I did not correct.

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Counsel sends a memo to his partners that after this discussion counsel reviewed the affidavit in the prior action. Counsel advised them that the "errors" were material and that without those "errors" the summary judgment motion should and likely would have been denied.