



Top 10 Ways for Design Professionals to Manage Risk and Prevent Losses

1. ELIMINATE LIABILITY ILLITERACY

Make sure all employees learn how everyday business practices affect your exposure to risk. All must understand that claims not only arise from technical mistakes but from non-technical issues such as client selection, contracts, project team selection and communication issues. Make sure your employee training and risk management programs support your commitment to quality and address these critical practice management issues.

2. SELECT PROJECT AND CLIENTS CAREFULLY

Certain projects (such as condominiums) and certain clients (such as developers) are higher risks than others. Check into the client's track record and finances before accepting any assignment. Don't accept projects that do not provide adequate fees for your services, that restrict your scope of services to an unacceptable level or that are outside of your firm's area of expertise.

3. SET REALISTIC EXPECTATIONS

Make sure the client understands that error-free projects simply don't exist. Discuss potential problem areas and changes that may be needed. Strive for a commitment from the owner and the contractor to identify and address the inevitable problems at the earliest opportunity and to work together to achieve win-win resolutions.

4. ALWAYS HAVE A WRITTEN CONTRACT

A fair, well-defined professional services agreement that precisely states the intent of both parties helps prevent misunderstandings and has terms easily understood by a mediator, judge or jury. This alone may discourage a plaintiff from asserting an otherwise marginal claim.

5. OFFER COMPREHENSIVE DESIGN SERVICES

A full scope of services that includes construction observation provides the design professional with the best opportunity to ensure a quality, claim-free project. You should also list in your contract those services you have explained and offered to the client, but that the client has declined.

6. IMPLEMENT DISPUTE RESOLUTION PROVISIONS IN CONTRACTS

Make every effort to avoid litigation. Commit to a program of early problem identification and resolution. Agree that conflicts be resolved fairly, quickly and inexpensively through mediation and other alternative dispute resolution techniques.

7. REFUSE TO ACCEPT UNLIMITED LIABILITY FOR YOUR SERVICES

Work for a limitation of liability (LoL) clause in your contracts that makes the amount of liability you assume proportionate to your ability to control risk.

8. IDENTIFY “DEAL-BREAKERS”

Some risks are so significant that you cannot possibly accept them. Let clients know that they must retain the liability for such risks (through indemnities) if you are to provide services.

9. KNOW THE WARNING SIGNS

During the course of a project, there are certain signs that should alert you that a claim may be forthcoming. Recognize and react appropriately to communication breakdowns, accusations, finger pointing, significant overruns on the budget or costs, work stoppage, and being excluded from important meetings.

10. SELECT THE RIGHT INSURANCE PROGRAM

By selecting the right insurance program, your firm gains a partner that focuses on the many risk management issues in your practice. Carefully consider the sleep-at-night benefits you expect from your professional liability insurance carrier - strong financial ratings, broad coverage, relevant loss prevention education programs, and the proven technical expertise to resolve an incident or claim to your advantage quickly and efficiently.

The Design Professional group of XL Insurance provides a complete program of innovative coverage options and risk and practice management solutions that can help protect your company's reputation and reduce your business risks and insurance costs.

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