

Avoiding Trials and Tribulations: Common-Sense Policies to Shield Your Company Amidst an Increase in the Number and Severity of Professional Liability Claims

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Professional liability claims are on the rise. Recent trends show more severe claims, often coupled with increased litigation costs and higher payouts. More claims and higher payouts increase insurance premiums. Engineers and architects can implement a few common-sense practices to reduce their risk exposure.

First and foremost, work within your expertise. Business growth and increased revenue are important, but these pursuits can lead to projects outside core competency or for which you are unprepared (like not having appropriate staffing). Developing expertise, honing a strong reputation, and avoiding costly claims help growth and revenue too.

Also, choose clients carefully. In design-profession fields, clients are necessary. And in most instances, the client chooses the design professional. But design professionals also must be diligent in evaluating their clients too. Important considerations are a prospective client's financial wherewithal, the stability of their business operations, and their experience in the design-and-construction process. Inexperienced and unprepared clients can increase a design professional's risk.

Design professionals should also normally use standard contracts. Contracts that provide for guarantees, expanded warranties, or additional obligations (in excess of standard professional obligations) should be avoided. Contract terms should be clearly written to avoid conflicts or ambiguities about who bears responsibility in the event of a claim.

Lastly, document everything. On any construction project, verbal communications and directives often expand or modify a design professional's scope of work. But design professionals should have internal mechanisms and policies to ensure that all verbal communications are memorialized in writing, particularly those that change scope of work. Keeping a client apprised, in writing, of any developments or issues with the project is another important way to reduce risk - regular, scheduled communications that update on project status can be an effective tool.

Businesses seek growth, increased revenue, and long-lasting success - as they should. But large insurance claims can negate the hard-fought business achievements. These practical and easy ideas can reduce a project's risk and protect the business. If you have any questions or would like to discuss additional practices, please feel free to contact me directly.