

Claims Prevention and Early Reporting

January 2014

“Berkley Design Professional is here for you, we are your partner in Risk Management”

Where there’s smoke, there’s fire! However, not all fires are bad, and sometimes they are easily contained or all together extinguished by an early and proactive response. Smoke can be easy to spot, but identifying when your firm may be in trouble or need to contact Berkley Design Professional’s claim department for Claim Prevention assistance may be less clear. Your Berkley Design Professional policy provides you and your firm with **Free** Claim Prevention Assistance, meaning that if, during your Policy Year, you become aware of an event that you reasonably believe may result in a Claim being made against you or your firm, you can report the matter during that same Policy Year to Berkley Design Professional, and one of our claim professionals will assist you and provide Claim Prevention guidance. Counsel may also be retained on your behalf, at no cost to you or your firm, if Berkley Design Professional determines that legal or other external assistance is needed. Berkley Design Professional will pay all of the approved expenses and costs incurred with investigating, mitigating or avoiding the potential Claim. So, you have nothing to lose by asking for help! The following are some common indicators that your firm may need Claim Prevention assistance:

- An error or omission has been discovered, and although the project participants are working together amicably to address the situation and you don’t expect significant impact to the project or budget, your client or another party has made reference to making a claim at a later point in time
- The project is significantly behind schedule and/or over budget
- There are significantly more change orders than anticipated
- Your firm is not being paid or is having trouble collecting owed fees
- Your relationship with your client has changed or communication has become strained
- You or your project members are excluded from meetings or have reduced roles
- Another project participant is pointing the finger at you or your firm, or tries to constantly blame your design or plans for issues on the project
- A third party consultant is retained by your client or another to review the plans, services or issues
- There is a collapse, partial collapse or significant event during construction that could pertain to the design
- You just have a general, unsettled feeling and don’t believe the project is going well or that your client is happy

What Should You Do?

If you believe your firm needs Claim Prevention assistance, you should:

- Contact your broker as soon possible to discuss your concerns
- Allow your broker to report the situation to Berkley Design Professional's claim department if your broker makes that recommendation. Remember, Berkley Design Professional's Claim Prevention assistance is free!
- Expect a call from one of our claim professionals, and be prepared to:
 - Discuss the key issues that are causing concern
 - Identify the key project participants, including owner, contractor and any subconsultants' work that maybe at issue
 - Provide a copy of your contract for the project and any other relevant contracts, such as subconsultant agreements'
 - Provide contact information for the key members within your firm
- Inform others within your firm so they are aware they may be contacted, and so that communication is contained
- Refrain from taking action without the input from Berkley Design Professional's claim department. Importantly, and to avoid jeopardizing your insurance coverage,:
 - Do not admit liability or assume or agree in writing or verbally that you are at fault
 - Do not provide verbal or written statements that will be recorded or transcribed, or a written statement or position letter, unless required by law
 - Do not make payments, settle or assume any obligation or incur any expense
 - Do not sign or accept any releases, allocations of fault or agree to any binding process to resolve the issues
 - Do not make statements such as, "Don't worry about it, my insurance will take care of it" or "That's what I have insurance for"

Although we hope you won't ever have to call your broker regarding project-related concerns, early identification and action on your part may help avoid or minimize a claim against your firm. Berkley Design Professional is here for you; we are your partner in risk management, and our dedicated and experienced claim professionals will help you manage the issues and concerns so that you can focus on the project and your business.

For more information, contact Laila Santana, Executive VP and Chief Claims Officer at lsantana@berkleydp.com or Andrew D. Mendelson, FAIA, Senior VP and Loss Prevention Officer at amendelson@berkleydp.com.

© 2014 Berkley Design Professional Underwriters

risk.berkleydp.com