

## Berkley DP Coverage Highlight

April 2014

### Fee Dispute Mitigation Reimbursement

The vast majority of insured-pursued fee claims, as high as 99%, result in a client-driven E/O claim back against the insured, with an accompanying dollar amount that often matches or “dwarfs” the fees being sought for recovery by the insured. It leaves the insured with the quandary of deciding whether to continue pursuing the owed fees or walking away from them. For financial, emotional or principle-related reasoning – or a combination of all three components – insureds typically continue to pursue the collection of owed fees rather than choose the “walk away” option, which almost always guarantees a corresponding E/O claim. The endeavor usually ends poorly, with the insured typically having regret and remorse because they rarely recover anything of significance. On the contrary, after protracted litigation, they often end-up having to forego the fees all together, pay for the defense of an E/O claim, and, sometimes even pay indemnity dollars to settle their client’s E/O claim. The scenario is time consuming, expensive and unpleasant.

Berkley DP has tried to eliminate some of the risk, uncertainty and costs associated with fee claims through its Fee Dispute Mitigation Reimbursement Coverage. The Fee Dispute Mitigation Reimbursement Coverage is an Additional Coverage, meaning that it is not subject to a deductible and it is in addition to the insured’s Liability Limit(s).

#### How Does It Work?

The Fee Dispute Mitigation Reimbursement Coverage is designed to provide the insured with financial incentive to resolve matters involving fee disputes, which are very costly and typically end-up in litigation, by issuing payment to the insured for a portion of the owed fees if certain requirements are met.

If the insured attempts to recover a withheld fee from its client and the client, in turn, responds with a claim that is greater than the withheld fee, the Policy would reimburse the insured 50% of the withheld fee, up to a maximum policy aggregate of \$25,000, if the insured subsequently provides written confirmation from its client, acceptable to BDP, that the client will withdraw its claim against the insured.

#### Is There an Additional Premium?

No. There is no extra charge or additional premium for the Fee Dispute Mitigation Reimbursement Coverage. It is one of Berkley DP’s standard coverages.

If you have questions about this coverage, talk to a Berkley DP underwriter or Bob Connor at 405-805-6635.

Just another way we are working hard to be **Better by Design**