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# CONTRACTOR WAR STORIES

## ILLUSTRATING THE VALUE OF PROFESSIONAL LIABILITY

Professional liability insurance isn't just for architects and engineers. As a contractor, you too need to be covered. The following claims scenarios are based on real cases—and they illustrate that despite your best efforts, things sometimes go wrong. Professional liability protects you from unsatisfied clients and potentially faulty or defective work by your subcontractors.

### School Woes I

XYZ Construction Company was hired as the construction manager overseeing the construction of a new elementary school. After the project was completed, the school district filed suit against various parties, including XYZ Construction Company, alleging damages due to defective workmanship and shoddy construction. The school district also alleged damages as a result of construction debris left behind when construction was completed.

The school district claimed XYZ Construction Company, as the construction manager, was required to monitor the work and notify the school district and the district's architect of any problems. As part of the lawsuit, the school district argued XYZ Construction Company had not made as many site visits during construction as required by the contract.

The main issue in this claim was defective workmanship. The school district claimed that XYZ Construction Company should have been able to spot the defective work during its site visits. XYZ Construction Company used AIA B801 contract documents that specified the required number of site visits. The company had



documentation showing the dates and times of all site visits, as well as specific notes describing what it had observed. XYZ Construction Company's professional liability insurance carrier paid over \$70,000 in defense costs to have this claim dismissed. If XYZ Construction Company had not carried professional liability coverage, this expense would have come out of the company's bottom line.

### School Woes II

ABC Construction Company was hired to provide for the design and installation of a wet fire-suppression system for a new high school. Sometime after the work was completed, the sprinkler system went off in a closet. The incident resulted in \$211,000 worth of damage to the gym floor and sports equipment.

While it's not clear why the sprinkler went off, the investigation found that ABC Construction Company should not have specified the sprinkler head used. Ultimately, the sprinkler head manufacturer and the community school district's general liability carrier also contributed to the settlement costs. Despite the global settlement, ABC Construction Company's costs included \$65,000 to settle the claim and \$10,000 in defense costs.

## Health Club Air-Handling Problems

Ten members of a health club sued the owner after maintenance equipment fumes leaked into the women's locker room and caused respiratory problems. Their claim: the air-handling unit was improperly located in a maintenance/equipment room, leading to harmful fumes leaking into the locker room. They also alleged that the health club was not properly outfitted with a fresh air exchange system. Design Services USA was brought into the suit because it had subcontracted the HVAC design engineer.

Design Services USA's insurance carrier has spent approximately \$85,000 in defense costs—before the trials even started. Various claims from the injured health club members totaled several hundred thousand dollars.



## The Overheated Office Building

RG General Contracting was hired to provide design/build services for a new office building. The company subcontracted a local mechanical design/build firm to handle the mechanical, electrical, and plumbing portions of the work. When the building was completed and people started working in it, they discovered the office thermostats didn't work properly. As a result, some offices were uncomfortably warm while others were too cool. The problem was traced to a fault in the HVAC design.

Repair costs of \$175,000 were borne by RG General Contracting and paid by the insurance carrier. The work included installing several new and larger heat pumps in the building, as well as placing some additional pumps in other locations throughout the building. Even though the subcontractor was responsible for the faulty design, RG General Contracting—as the prime contractor—was vicariously liable for its subcontractor. Thus, it was the party sued.



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