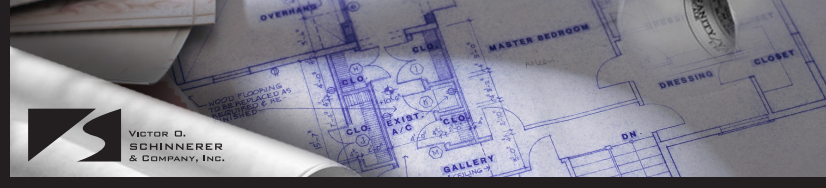


The Construction Management Program



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Why Construction Managers Need Professional Liability Insurance

If you're like most construction managers, you focus your efforts on doing a good job for your clients. When you hear about a construction management firm being sued, you can rationalize...they probably did a poor job of client selection, didn't manage client expectations appropriately or a job just got off schedule. Sound familiar?

"Just because you think you're doing a good job—and perhaps even are doing a good job—that's no guarantee you won't be sued", says Betsy Good, Vice President, Victor O. Schinnerer & Company, Inc.

In one recent case, a construction management firm on a new \$90 million hotel project faced a large claim when the hotel could not open on time due to construction delays. The claim alleged the construction manager was liable for the delay due to a failure to properly coordinate and schedule the work. Because of the number of contractors on the site, and the number of experts retained to investigate the allegations, this became a very expensive claim to defend. The claim was eventually settled with over \$1.5 million paid in defense and indemnity.

Can your firm afford to make this kind of mistake? Because it's not just big construction managers with deep pockets that get sued—it could happen to you.

Take for example the case of a small firm hired to manage the construction of a new, high-end residence. The construction manager worked with the project owner to develop a project budget. When bids came in that were 50% higher than the project budget, the construction manager was sued.

And here's one final example of what happened to a construction manager on a new school project. During construction, an employee of one of the trade contractors fell from scaffolding and was injured. The construction manager had agreed by contract to "supervise construction and overview safety programs developed by the contractor..." The injured worker sued his employer, the project owner, the design team, the general contractor and the construction manager. Although the construction manager was not a primary target, defense costs would have been high, and the plaintiff would have made a sympathetic witness. The construction manager's portion of the global settlement was \$200,000.

What do these examples have in common? An error—real or alleged—had very unintended consequences.

Construction managers can provide many services including: contract preparation and negotiation, obtaining and evaluating bids, coordinating work schedules, cost estimating, budgeting, value engineering, code compliance, constructability review and more. Each of these services creates exposures that could lead to professional negligence claims against construction managers.

The right insurance policy can protect you and your business from the high cost of a claim. Professional liability insurance is designed to provide vital financial protection against lawsuits for professional negligence. Coverage includes defense costs, which adds an extra layer of protection.

Bruce D'Agostino, President & CEO of the Construction Management Association of America (CMAA) offers several reasons why construction managers should be insured. "Having professional liability insurance allows a construction manager to focus on his business rather than waste valuable time and effort managing claims. Insurance companies have the expertise to manage and resolve claims—so let them handle it."

Meanwhile, Good points out that insurance experts can also provide contract reviews and advice, a useful benefit in an era when more and more standard corporate and government contracts include one-sided indemnity provisions and other clauses that are not favorable to construction managers. "It can be helpful at times to have an insurer tell you – and your potential client – that a clause is unreasonable and explain why they won't stand behind its requirements."

D'Agostino adds, "Many insurance companies can provide more than just professional liability coverage, contracts advice and claims management. They often can provide risk management services as part of a critical strategy to avoid potential exposures before they become claims."

Finally, ask yourself a fundamental question: Can you afford not to protect your business?

Schinnerer thanks Bruce D'Agostino for his contribution to this article. The Construction Management Association of America is a 25 year old organization of more than 4200 firms and professionals who provide management services to owners who are planning, designing, and constructing capital facilities and infrastructure projects. CMAA's mission is to promote professionalism and excellence in the management of the construction process. Bruce D'Agostino can be reached at 703-356-2622. For more information about CMAA, please visit www.cmaanet.org.