

© 2002, Victor O. Schinnerer & Company, Inc. The information presented here is for risk management guidance. It is not legal advice nor should it be construed to be a determination on issues of coverage for specific claims.

OVERSELLING CAPABILITIES

Danger of overselling capabilities in promotional materials and proposals—and to yourself

One of the pitfalls of promoting a firm's capabilities through printed material is that policy and personnel changes can mean some of the claims in the material simply are not true at the beginning of a project. Lawyers fighting for a claim or settlement will seize on any and all information that will help to make their case, and documentary evidence that a firm promised something that it could not deliver can be very embarrassing during a trial.

Superlatives are words that end in 'est.' The customary legal obligation of the design professional is taken beyond a reasonable standard of performance. This overzealous language unnecessarily commits the design professional to results like the 'thinnest' slab or the 'longest' span, and should be avoided. In addition to the possibility that superlatives may raise the standard to which you will be held, you are creating expectations that could lead to later dissatisfaction and claims.