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WARNING SIGNS OF POTENTIAL CLAIMS

The contractor is in financial difficulty

When it is obvious that the contractor is in trouble, and there is a strong possibility that there will probably be a claim for additional compensation, it is time to strengthen the alliance with the client and lay the groundwork for a common defense.

The client is in financial difficulty

When clients restrict construction field services to save money, it is appropriate to warn them in writing that it is no longer possible to sign unqualified certificates because the design professional cannot be responsible for what is going on in the field. If inferior materials are substituted, again, the client should be warned in writing. (Remember—design professionals are not just liable to clients. In tort, they are liable to the world at large.) Where issues of safety are concerned, it is the design professional's duty to stop the project by reporting them to the proper authorities.

Unexpected site conditions

Every time contractors report an unforeseen condition, clients should be briefed. The design professional should force a decision. The worst thing design professionals can do is allow work to continue with a promise to discuss a resolution later.

Arguments with contractor about quality

When contracts give design professionals the authority to reject improper work, design professionals should do so, with the client's full knowledge of the situation. Design professionals should not assume responsibility and 'protect' clients from such situations because final decisions rest with the client. A client looking at an unexpected claim from a contractor for a large amount of money will often drag the design professional into the lawsuit as a third party.