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WHEN A CLAIM OCCURS OR IS EXPECTED

Design professionals should protect their talent, their businesses and their profession by heading off claims whenever possible. When claims do appear, they should be settled if they have merit and fought vigorously and effectively if they are not substantiated. Among the best defenses against claims are impeccable documentation of all relevant communications, efficient and well-enforced office procedures, and a design team that has been educated about insurance matters.

Sometimes, however, claims are unavoidable. When a claim does occur or is expected at any time, the design professional should implement a plan to contain and manage the situation. Each firm will probably want to prepare its own plan for handling claims. Here, we offer some general advice and some specific points that might be included in a plan. (This information is also available in the 'Checklist' section.)

Keep cool

Even though claims are submitted in a highly emotional atmosphere and nobody likes to be confronted with a direct and specific accusation of negligence, it is important to treat the matter on a professional level and avoid any increase in the level of anger or animosity. *But, in no way, shape or form should anyone on staff at the design professional's firm apologize, offer to make the situation right or assume any responsibility!* This can make it impossible for the insurer to mount an effective defense against the claim. Without giving offense, try to simply receive information and do not transmit any. You may not be in possession of all the facts.

Contact insurer promptly

Report all the circumstances surrounding the claim to your insurer immediately. Delay can compromise the insurer's ability to defend the claim, while early notice allows for a well-prepared and confident response. Any action taken after the claim arrives should be cleared with the professional liability insurance company. CNA/Schinnerer has the staff, expertise and experience to help find a reasonable solution. There is no reason to delay or avoid calling on our services; after all, you pay for them with your premiums. Helping to resolve your difficulties is why CNA/Schinnerer is in business.

Maintain communication

Keep working on the project and continue communicating normally with all parties, including the party that submitted the claim. This may be difficult, but it is very important. Failure to communicate may leave the design professional subject to additional liability.

Assemble documentation

The desire to take some kind of effective action in a threatening situation can be channeled into the practical and necessary task of assembling and organizing all the relevant information for the insurer's representative.

Make no response

Do not respond to the claim until you have thoroughly researched the documentation and any available information and sought the advice of your legal counsel or CNA/Schinnerer.