

Professional Liability What to Do in the Event of a Professional Liability Claim

When a problem situation emerges, or when a formal claim has been made (a demand for money or services), you should report it directly to us. We will alert the insurance company's claims department, and you should be contacted by them within 24 hours.

It is particularly important to put your insurance company on notice of a potential claim when you have a claims-made policy (your professional liability policy is claims-made). There are several reasons for this:

- Many times the insurance company will be willing or able to work with you prior to an actual claim to prevent a problem circumstance from turning into an actual claim.
- In the event that there is a potential claim that you do not report, you are opening yourself up to losing coverage for this situation if it results in an actual claim in the future.
- As an example, let's say that in November of 1999 you become aware of a circumstance that could give rise to a claim. Optimist that you are, you fail to report it and hope that it will go away. In January of 2000, you switch coverage from Company A to Company B. In February of 2000, the circumstances previously described turn into an actual claim which you report to Company B.
- Company B will deny the claim because you were aware of the claim circumstances at the time they placed the coverage. Logically, you go back to Company A for coverage. Unfortunately, coverage was written on a claims-made basis. Since the policy period has expired, and the claim is being made after the expiration date, there is no coverage under Company A's policy, either.

REMEMBER! STAY CALM AND DON'T:

- Assume that you are at fault until the insurance company has had an opportunity to investigate and analyze the issues
- Place blame on others or criticize subconsultants and other team members
- Sign or accept releases from any parties
- Expose yourself to unsafe conditions

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IN ADDITION, MAKE SURE TO:

- Gather all relevant documentation
- Notify your employees that the situation exists and ask them not to discuss the matter outside the firm (assign a media representative if necessary)
- Remember that the insurance company will need access to your key employees on this issue
- Photograph site conditions if appropriate
- Keep communication lines open with all parties to help preserve important relationships
- Document and make notes while details are fresh in your mind
- Accept all letters and suit documents without comment

If a formal claim has been made, we will need copies of suits or demand letters. Regardless of whether it is a formal claim or a mere circumstance, we will also need a narrative describing the facts and circumstances of the dispute, a copy of the client agreement, and any correspondence to and from the client (including relevant billing statements) concerning the alleged claim.

Remember that nothing can or will be paid on your behalf to resolve a dispute without your express consent. The insurance company will provide you with the information and advice you need to make an informed business decision about resolving the claim, but the final decision will be yours.