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Risk Management Tools for the Design Professional

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Sandip graduated from Drake University in Des Moines, Iowa. Immediately after graduating in 1993, he began his career in the insurance industry and joined PUA. Over the next 10 years, Sandip learned every facet of the business from his father, Ram. During this time, he earned Chartered Property Casualty Underwriter (CPCU) and Registered Professional Liability Underwriter (RPLU) designations. In 2003, while still working full time at PUA, Sandip began taking law school classes in the evenings. In 2007, he obtained his Juris Doctor degree from the John Marshall Law School, passed the bar exam, and became a member of the Illinois Bar.

Sandip has over 25 years of professional liability underwriting experience and have worked extensively on all facets of the business including developing and building relationships with the agents that send us business; working with our carriers in developing policy forms, endorsements, and underwriting guidelines/rates; and working closely with our claims department on claims issues.

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Forging Ahead in a Post-Pandemic World

By Sandip R. Chandarana, Director, Professional Underwriters Agency

As we continue to navigate the most extensive shift in the economic landscape that many of us will ever experience, the industries we work in and interact with on a regular basis will continue to change. Architecture and engineering firms have been particularly impacted with designers, contractors and owners having to adapt and create new approaches and protocols to manage communication, safety obligations and even “virtual site visits.” In fact, [six in 10 developers](#) globally report delaying projects in the wake of the coronavirus pandemic, and many builders have also been forced to rethink their future projects.

As a result, there have been many significant impacts and implications when it comes to insurance coverage for this space that brokers will need to stay abreast of and help direct their insureds through to effectively prepare for what is likely to be more uncertainty ahead.

Setting expectations for insurance premiums

Over the past few decades, we have seen several recessionary events that have caused economic downturns, such as the dot.com bubble burst of the early 2000s, September 11 attacks and the subprime mortgage crisis of 2009. While COVID-19 is different in that the economy was booming when this recession started, it will still have a similar economic impact. Historically, such economic downturns have resulted in construction delays and project funding problems, which in turn has resulted in declining revenues for A&E firms coupled with an uptick in claims.

As construction projects become delayed and the true financial impact of such delays become evident, the finger pointing often begins. In an effort to deflect blame and avoid liquidated damages, the general contractor will often allege that slow responses to requests for information, change orders or other negligent acts by the architect necessitated the delays. We see a true ripple effect that starts with the owner and flows down to the general contractor, down to the architect and then down to various engineers working on the project. All of this leads to an uptick in professional liability claims against design professionals. This has held true in prior economic downturns and will unfortunately hold true now.

Where this becomes even more challenging is in managing the expectations of design professionals who are seeing a deep decline in billings in 2020 and beyond. While their

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RFIs: What's Good, What's Bad & What's Ugly About Them, by Eric O. Pempus

With most projects, it's inevitable that some information in the contract documents will be missing or inconsistent, so when handled well the RFI process can work in a project's best interests. But while RFIs can be a force for good, they can also be bad or even ugly. [Read More](#)

BLOG

Malpractice Statute of Limitations Applied to BOC Claims, by J. Kent Holland

Statute of Limitations for causes of action for negligent supervision and breach of engineering contract are both deemed professional malpractice claims subject to a three-year statute of limitations for negligence actions, and began to run when firm completed its services. [Read More](#)



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expectation is for a similar reduction in their professional liability premium — the reality of the situation is that exposures are actually up for professional liability carriers. Because the economy was flourishing pre-pandemic, a large majority of A&E firms' revenues spiked, some as high as 15 - 30 percent annually over the previous years. Conversely, the true exposure for professional liability carriers lies with the tail or prior acts of their insureds. In other words, professional liability carriers see claims today on work that firms performed several years ago. The true exposure lies with the past higher billings and not with the lower billings anticipated for the present or future years.

The industry is truly at a crossroads due to this divide between the insured's expectations vs. the reality facing today's professional liability carriers. We will likely see a "survival of the fittest situation" where irresponsible carriers will fall by the wayside while responsible carriers who have navigated through similar situations before — and who understand today's challenges — will not only survive, but will also flourish.

Closely evaluating new carrier partners

Based on current market conditions and the challenges facing our industry, placing business with the right carrier is more important than ever. Some carriers are offering lower rates — but only as a temporary measure. While it may seem attractive to select them initially, they may not be the best long-term partner as they will likely increase rates dramatically in coming years or even worse, exit the marketplace.

Along the same lines, it is equally imperative that A&E firms choose a qualified insurance broker to represent their interests. When it comes to an A&E firm's search for a new carrier, relying on their trusted and knowledgeable broker is key. The insurance agents and brokers of a/e ProNet, who represent more than 16,000 A&E firms nationwide, bring unparalleled expertise to the table and can assist in navigating A&E firms through this challenging business climate. It is important for brokers to be informed enough to tell A&E firms this is coming and, equally, for the broker to have a carrier partner that will tell them the same thing. When it comes to the carrier, both brokers and firms should ask themselves:

- How many years has the carrier been writing professional liability insurance in this space and have they been consistent with their underwriting approach? What is their A.M. Best rating? Are they financially stable?
- Do they offer broad coverage and all the bells and whistles available in today's marketplace?
- What does their claims department look like? Are they knowledgeable and responsive? Which defense firms are on their panel counsel?
- What type of risk management services do they offer? Do they offer pre-claims assistance? Contract reviews?

Assessing claims adjusters

With a superior claims adjuster, you have an expert to help prepare, estimate, negotiate and settle your insurance claims. But, how do you know you are working with a best-in-class claims department? Whether you are assessing your current relationship or considering a switch, examine the following:

- How many adjusters does the entire claims department have?

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- What is the makeup of their professional experience or background? Are they attorneys?
- How long have they been handling claims like this?
- Do you have a choice of counsel for any claim for which you are seeking coverage?
- How many years have they been with that specific carrier, and how many years has that carrier been in the space?

At the end of the day, especially during these turbulent times, it is essential to have an experienced claims department on your side. Professional liability claims are not exclusively about financial impact, but also emotional impact, which may come with a reputational component. No firm wants to be accused of having a faulty design, poor communication or anything of that nature. This is where a good, seasoned claims adjuster can be relied on to hold the insured's hand throughout the claims process and guide them through the intricacies of the claim.

Elevating your industry knowledge

With so much happening in the global labor market amidst this pandemic, it is crucial for brokers to search for ways to enhance their knowledge and enable an even stronger industry post-pandemic. One simple but effective way to do so is through online training and webinars. Our program, PUA, is proud to offer this type of ongoing opportunity to A&E brokers, as well as all licensed architects and engineers who can earn continuing education credits.

The pandemic has certainly had a major impact on many industries, and the construction and insurance industries are no exception. During these turbulent times, it is essential that A&E firms do not cut corners and remain steadfast in their loss control and risk management protocols. A&E firms must have a plan in place to deal with potential pitfalls resulting from COVID-19, such as construction delays, site safety, supply chain and price escalation issues — and all of this must be addressed contractually with their clients. Equally, it is imperative that A&E firms select the seasoned insurance agent/broker and sustainable professional liability carrier to continue to help them navigate these challenging and ever-changing times.



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