



Multiple Concurrent "Claims" On One Project: Implications for Design Professionals By Jonathan C. Shoemaker, Esq., Lee/Shoemaker PLLC

Professional liability insurance is an essential tool for architects and engineers, protecting them against claims of professional negligence or errors in design services. Historically, claims-made policies have treated multiple alleged critiques of an architect's or engineer's work on a project as a single claim. For example, if a client asserts ten different alleged deficiencies on a project, there is typically only one "claim" under the professional liability insurance policy and only one deductible obligation. This approach simplifies claims administration, reduces the insured's financial exposure, and aligns with the traditional risk profile assumed by design professionals when purchasing coverage.

A recent legal decision, however, reveals that this historical practice may be evolving, introducing new risks that design professionals must carefully consider.

Case Law and Project-Specific Policies

In a recent court case involving a project-specific professional liability policy procured for a design-build project, the design-builder asserted claims against the prime design professional. The contract between design-builder and prime design professional provided that the design-builder would procure a project-specific professional liability insurance policy and would be responsible for paying any deductibles or self-insured retentions associated with claims made on the policy. The policy included a \$1 million self-insured retention per claim.

After the design-builder notified the project-specific professional liability insurance carrier of a claim against the prime design professional's services, the carrier took the position that each alleged deficiencies constituted seven separate "claims" under the policy, triggering seven separate self-insured retentions (one for each claim). The carrier's position created a \$7 million out-of-pocket obligation before coverage could be utilized. By contending that multiple claims were asserted related to services performed on one project, the insurer effectively created a buffer, delaying and potentially eliminating its obligation to pay. While such tactics are uncommon among practice policy carriers today, their recent deployment signals a potential shift in carrier behavior about which design professionals should be aware.

While the foregoing case dealt with a project-specific professional liability policy, there is a risk of practice policy carriers pursuing similar insurance policy interpretations in an effort to minimize coverage. As client demands for higher limits of professional liability insurance increase, carriers have responded by requiring design firms assume higher deductibles or self-insured retentions. This development underscores an important point: pursuing higher limits of coverage while agreeing to higher deductibles could backfire if carriers adopt an interpretation of claims that literally multiplies the deductible obligation.



Financial and Risk Management Implications

Multiple deductibles can create significant financial exposure. For mid-size or large firms, the difference between a single deductible and multiple deductibles on the same project could strain cash flow, disrupt project budgets, and jeopardize firm stability.

Design professionals should also be aware that policy language matters. Terms defining what constitutes a “claim” or how multiple allegations are handled can vary by carrier and by policy type. Without careful review, architects and engineers may inadvertently assume coverage protects against scenarios that could, in practice, leave them exposed.

The Role of Experienced Brokers

An effective strategy for navigating these complexities is to work with specialty insurance brokers who understand the nuances of professional liability coverage for design professionals. Experienced brokers bring deep knowledge of carrier behavior, claims-handling tendencies, and policy language. They can advise architects and engineers on potential exposures across all projects, not just a single client engagement.

Specialty brokers provide significant strategic value. By leveraging their relationships with insurers, brokers can help ensure that coverage remains meaningful, even in the face of emerging practices that might otherwise disadvantage insureds. They also help firms secure competitive premiums and higher limits while understanding the full implications of deductible structures and potential multiple-claim scenarios.

Key Takeaways for Design Professionals

There are several lessons to be learned by design professionals from the case study cited above. First, professional liability insurance policies – like any contract – may be subject to unexpected interpretations. Second, any loopholes in professional liability insurance policies will most likely be tested in high-dollar claim scenarios when exposure is greatest. Finally, brokers who specialize in design professional coverage provide insight, advocacy, and strategic leverage to ensure that coverage remains robust and aligned with a firm’s risk profile.

By understanding the evolving landscape of professional liability insurance — from historical treatment of claims to emerging trends in carrier behavior — architects and engineers can make informed decisions that protect their firms, their projects, and their financial stability.

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