



100 East Thousand Oaks Blvd. Suite 187
Thousand Oaks, CA 91360

P: 888.501.2747

F: 888.502.2747

E: info@csisonline.com

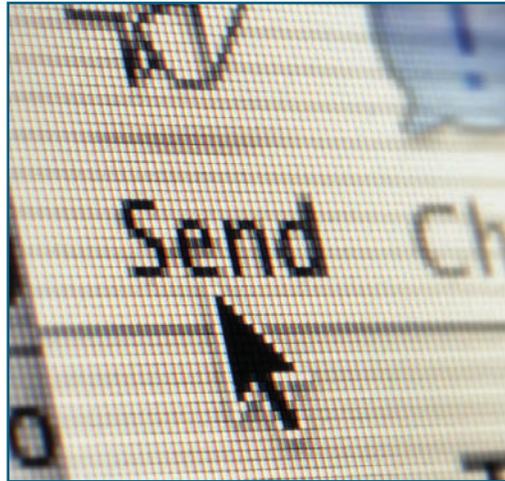


volume 26 • issue 5

Electronic Document Transfer

While technology has undoubtedly made business transactions simpler, that same technology, if used improperly, could create an errors and omissions (E&O) problem for your firm.

For example, many firms that sell products or services are shifting to a fully digital delivery system for documents. Policies, warranties, guides, terms and conditions, contracts, and other documents containing important data are now being delivered to customers electronically rather than personally or through the mail. In this case, confirmation that the document has been received is extremely important due to the fact that, if brought into an E&O claim,



many organizations rely on the “duty to read” defense.

Firms should require consent from a customer before electronic document delivery is enabled. The consent form should inform the client that electronic delivery will continue until the customer chooses otherwise. Further, firms should consider using some kind of receipt verification for all electronically sent forms. There are vendors that provide such electronic certification services.

Protecting your firm from claims of errors and omissions is a matter of diligence. Check out what technology has to offer and make sure your E&O insurance is as comprehensive as possible.

Wage and Hour Disputes Skyrocket

It’s not a surprise that employment-related lawsuits become more frequent during times of adverse economic conditions. A growing number of employees are filing lawsuits alleging unpaid wages and uncompensated overtime. Between 2004 and 2010, there was a 77% rise in wage- and hour-dispute lawsuits.

The biggest problem areas for employers include misclassifying workers as exempt, allowing employees to work off the clock, paying overtime at the standard hourly rate, denying payment for overtime worked without pre-approval, and failing to keep

complete and accurate time records.

To minimize risk, employers must keep a thorough file of employees’ time and pay. Policies concerning overtime and hours worked must be clearly communicated to employees, and employers should get special help with understanding the Fair Labor Standards Act—the law is very complicated.

Employers should also consider purchasing an employment practices liability insurance policy. Such insurance may provide an employer with dollars to assist with the cost of a claim or suit.

Professional Exposures for Volunteers



Does using the services of volunteers protect your non-profit from a claim alleging a breach of professional service? On the contrary, the use of volunteers often increases the likelihood of errors, breaches or oversight.

If a claim is the result of a volunteer's action (or lack thereof), the non-profit should brace for a difficult experience. If a claim turns into a lawsuit, defense costs can add up quickly.

Non-profits face the same professional risks as other entities. These include employment-related matters, civil rights issues, breaches of fiduciary duties, misappropriation of funds, and violation of anti-trust laws for non-profits.

Having the right professional liability insurance allows management to hand over a claim or lawsuit to the insurance company and focus on running the organization. Turn to your trusted insurance advisor for help in selecting quality coverage.

Social Services Agencies

Social services agencies—whether for-profit, non-profit, or simply an association of members—often don't insure beyond property insurance and a general liability policy to cover bodily injury or property damage to others. Unfortunately, neither of these traditional insurance products will cover professional liability exposures.

The professional liability exposure for a social services agency can be significant. For example, many such organizations provide emotional or financial counseling. Volunteer or employed nurses, doctors, advisors and other administrators may also render services on behalf of the organization.

Since professional liability insurance policies differ, these individuals' actions might be insured, or they might require endorsement to the policy. In any case, you will probably want to get insurance that covers both the agency as an entity and the employees, directors, trustees and executive officers in their duties for the agency. You might even need to cover volunteers and students, depending on their activities.

When applying for insurance, tell your agent about all your professional services and providers to make sure your blanket coverage, if applicable, addresses them all. Some professionals, such as psychiatrists, might not be included automatically.

Climate-Related D&O Suits

Communities continue to enforce strict regulations against companies whose operations are thought to contribute to climate change, according to law firm Anderson Kill & Olick, P.C.

In a recent edition of its Policyholder Advisor, the legal group cites multiple climate-related cases.

While many of the disputes center around the interpretation of pollution exclusions found in common general liability policies, the firm reports that "alleged failure to comply" with a community's emissions requirements may lead to suits against a company's directors and officers as well.

Businesses with pollution liability risk should prepare for possible action against their management team by reviewing the business's directors and officers (D&O) liability insurance coverage. This policy is not designed to cover property damage caused by pollutants; rather, it is designed to protect individual directors and officers from claims alleging that their company's failure to comply is the result of their faulty decisions or failure of oversight.

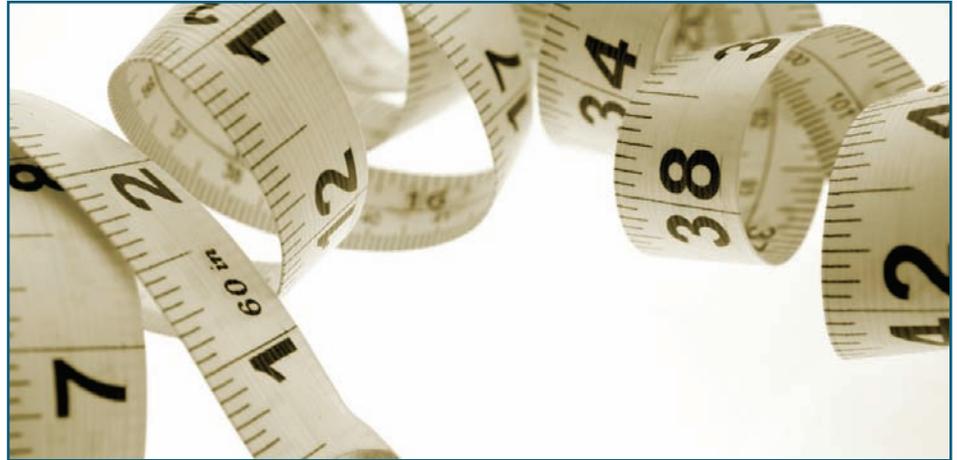
If you have any concerns about your protection against climate-related D&O liability, talk to your insurance representative. We can help you understand your policy and find coverage options.



A Policy Tailored to Fit

Terms and conditions of professional liability insurance policies differ. For this reason, it's important to review your policy for answers to important coverage questions. For example:

- Does coverage apply for administrative or disciplinary proceedings brought by a governmental body?
 - Does a simple allegation of wrongdoing trigger coverage? Or does an actual written demand have to be made or a lawsuit filed before coverage will begin?
 - Does the policy cover claims for acts occurring during the current policy period only? Or does it include a retroactive date, prior acts endorsement, or extended reporting period?
 - Are defense costs paid out of or in addition to the policy limit?
- Insurers tailor professional liability coverage to different business niches, sizes and tax status. Some,



for instance, focus on medical care providers, while others deal with technology firms. All will provide defense costs, but not all will have the same deductibles or rules on out-of-court settlements. There

are many more intricacies that deal with the particular needs of firms within industry sectors. Look to your insurance representative for guidance on the specifics applicable to your firm.

Cover Your Prior Acts

Could a service provided by your firm in times past come back to haunt you today?

Liability can linger for many years. Depending on the type of service you provide, your firm could be brought into a claim or suit emanating from an error, omission, decision or action long after that incident took place.

Many types of professional liability insurance are issued on a claims-made basis. This means that, in the absence of a retroactive date, the event causing the claim

and the claim itself must occur during the policy period. Even if the current policy contains a retroactive date, it's possible that

Your firm could be brought into a claim emanating from an error, omission, decision or action long after the incident took place.

your firm may switch insurance companies in the future, thus removing the retroactive date

and that policy's coverage for events occurring prior to the policy period.

It's essential to have insurance that will cover your firm for an event that may have occurred prior to the policy period. To address this need, many professional liability insurance providers offer "prior acts" coverage. For an additional charge, this coverage can offer your firm important insurance protection for an event that occurred years earlier, depending on the terms of the coverage. Call us for more information.

Good Workflow Habits

Errors and omissions (E&O) experts maintain that establishing workflows and verifying their application by employees is a tried-and-true method that significantly reduces a firm's E&O exposure. Firms big and small should run a workflow review based on the following checklist.

Where are our procedural manuals? They need to be readily available to all employees who might need them.

When did we last update them? Each time you do a software or other system upgrade or change personnel divisions or duties, your manuals need to be retrofitted.

Who reviews the manuals? Management isn't always the best at reviewing workflow in the trenches. Involve your front-line employees in an annual review of procedural codes.

If you've never set a procedural code, a great starting point is your current E&O insurance provider. Many insurers offer services such as checklists, scenarios and audit services to help your staff stay aware of E&O risks. If you need help finding those resources, try the insurer's website or give us a call.

Thank you for
your referral.

If you're pleased with us,
spread the word! We'll be
happy to give the same great
service to all of your friends
and business associates