



Managing Client Expectations

By: Steve Rowinski

The vast majority of professional liability claims filed against architects and engineers have a common theme - an upset client. A client who has been damaged due to a negligent error or omission by a design professional is obviously justified in making a claim to recoup his losses. Often, however, claims are filed by unsophisticated and unreasonable clients who have little or no real knowledge of the construction process or the design professional's role in that process. Clients with unrealistic and unrealized expectations are much more apt to view minor delays, design changes or additional costs as an indicator of incompetence. They expect absolute perfection and are prone to respond to typical project problems with confrontation rather than cooperation.

Managing client expectations is the key to avoiding such unnecessary claims. It is a process that involves both education and communication, and should apply to all clients and each project that you undertake. Never overestimate a client's knowledge of the project or services you will provide. Client education should begin at the first client meeting and should continue throughout the entire project until close-out. The client needs to know what you can do and what you can't, what you will do and what you won't, what is possible and what is not. The more your client knows about the project and your role in it the less likely he is to file a claim when problems arise.

Communication with the client should be two-way. You must know what your client needs and expects. Formal communication channels between your firm and the client, contractors, and sub-consultants should be agreed upon in advance and confirmed in your written design contract. A pre-construction meeting should be convened to review plans and procedures and clarify roles and expectations, communication channels, and problem resolution methods. Face to face meetings with key parties during construction help to keep lines of communication open, encourage feedback and aid in identification of problems before they become serious. Regular status reports to the client help to keep him informed of goals/milestones reached, planned work, problems encountered and methods of resolution, and any lessons learned.

One of the primary concepts that a client must understand is your professional standard of care. As a design professional you are required to perform professional services with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the same locality. The standard does not require perfection, and does not require you to be psychic. However, you must practice within the limits of your skill and expertise and employ experienced, competent staff and sub-consultants. Avoid superlative language (i.e. "the best", "most qualified", "highest standards of practice") in your marketing materials, correspondence, proposals and contract language as it can be interpreted as raising your performance requirements above those of your peers. Beware any client drafted contract

language defining your standard of care as it will generally attempt to subject you to an elevated standard - if you accept it you may risk denial of coverage by your professional liability insurance carrier if a claim arises. Never give performance guarantees - they are not required by the standard of care and will not be covered by your carrier.

Keep in mind that the most important clause in your contract is your scope of services - it should be detailed, comprehensive and closed -ended. The scope of services clause will define in writing each party's expectations and responsibilities. That clause will be the first point of reference for a reviewing court, and will be your first line of defense if a claim arises. Negotiating the language of the scope of services clause should be looked upon as an ideal opportunity to further educate your client.

Educating your client, communicating early and often, and using appropriate contract language that does not raise the standard of care will significantly increase your chances of avoiding expensive and unnecessary claims.

About the Author

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