



OnetoOne

News, information and us. Focused for you.

OneBeacon Professional Insurance

OBPI creates liability insurance solutions for professionals who work within various fields of construction. We do this through a team of claims, underwriting and risk management experts who work together as *one* for you.

If you'd like to know more about our DPL coverage, including eligible risks, limits information and specialized protection and features details, please [click here](#).

Our interactive webcard provides instant, one-touch access to information about all OBPI coverages and services. You can [click here](#) to open the webcard and see the variety of professional liability products and services available from OBPI.

DPL News You Can Use **From OneBeacon Professional Insurance**

Welcome!

Welcome to the second edition of ***DPL News You Can Use*** from OBPI. Each edition will provide a look at what's new in the industry, some tips on coverage, a look at ethics and more. Our goal is to provide you with an entirely better professional insurance experience, and this newsletter is a part of that commitment. Please let us know how we're doing by sending us a note to [DPL News Feedback](#). We welcome any and all suggestions as to how we can improve our service to you.

What's New?

Effective January 1, 2011, design professionals in California providing professional services to a public entity will not have to defend the public owner against claims that do not arise or relate to the design professional's negligent performance of work. Prior to the enactment of SB 972, the California Supreme Court had ruled that design professionals were required to defend public owners even if the claims were not caused by the professional's negligence. SB 972 appears to represent a more appropriate assessment of risk exposure. However, most other jurisdictions do not limit the design professional's defense obligations on either private or public contracts. The design professional needs to know the obligations created by indemnity and other agreements, as well as what is allowed by law. Your agent, the OBPI Design Professional Liability team and your counsel can aid you in determining the above.

Acting Ethically

In our last issue, a design professional had learned that the license holder of one of its prime competitors has been sentenced to 5 years in a Federal Prison for an offense not related to providing professional services. The question was whether the design professional design should disclose this information to the licensure board, local developers and project owners. The design professional should examine his or her motive for disclosing the above information. Is it being done out of a concern for public safety or to potentially eliminate a competitor? Moreover, the professional needs to consider whether he or she has the full picture. Maybe the competitor's ability to use the license is not affected by the principal's conviction. Maybe the competitor has hired another license holder. Unless the professional knows all the facts and can point to a potential public harm, ethics rules suggest that the information not be disclosed.

Coverage Tip: Copyright Infringement

Copyright infringement should be a concern of the design professional, particularly whenever they take on the completion of a project due to the default of the original design professional. Regardless of the reason for the default, the succeeding design professional needs to ascertain whether the project owner has assumed an ownership interest in the original design documents at the time of the default, as well as the parameters for use of those documents. The agreement between the project owner and original design professional will provide insight with regard to the aforementioned. You should review that prior agreement and also submit it to your agent, the OBPI Design Professional Liability team and your legal counsel to assist in determining your risk exposure and legal rights. You should also seek indemnification and defense from the project owner if your agreement with the project owner does not contain that provision. You should be indemnified and defended by the project owner for the use of any of the defaulting design professional's documents since they are being provided by the project owner for your use. You also need to review your professional liability policy to see if copyright infringement actions are excluded from coverage. If you are the defaulted professional, you should monitor the use of your design documents to ensure they are used in accord with your agreement with the owner. As the defaulted professional, you should also be indemnified and defended by the project owner for any misuse of your design documents and work product.

Claim Tip: Dispute Resolution Meetings

Agreements often seek to resolve claims before formal litigation or arbitration is engaged. Meetings between the claimants' senior team and mediation (or both) are often conditions precedent to commencing litigation or arbitration. While meetings and mediation are encouraged, it must be recognized that statements made during a dispute resolution meeting may be used by a party in an arbitration or court proceeding. Unlike mediation, where statements cannot generally be used later, there is no similar protection offered during a claim meeting unless the parties agree to same in writing. Therefore, you should consult with your counsel and be careful to avoid statements that could be considered to be admissions or acknowledgement of liability.

Entirely Better

For OneBeacon Professional Insurance and Design Professional Liability *Entirely Better* means being decisive. You will not wonder whether or not we are going to quote an account, and you'll get the reason(s) behind our decision. These decisions will not be made in haste, but in a timely manner. We will assess every request and submission responsibly and professionally and provide you with a response that allows you to plan accordingly.

Would you like to know who is making this commitment? You can [click here](#) to access the DPL team site, which includes biographies and contact information for each staff member. We think you'll discover that OneBeacon Design Professional Insurance underwriters possess the expertise, experience and knowledge that allow us to provide market-leading solutions designed to meet your needs.
