



# 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 third 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?**

A recent Illinois Supreme Court decision ruled that the negligence of a design professional is defined not only by its professional standard of care but the terms and conditions of its design services agreement. In *Thompson v. Christie*, the plaintiff's expert testified that the defendant breached its ordinary standard of care by not designing an upgraded median strip barrier that would have prevented plaintiff from incurring the injuries incurred. The court considered that testimony but ruled in favor of the defendant because its contract did not call for the defendant to design an upgraded barrier. Does this change the standard of care? We will see.

### **Acting Ethically**

The question in the last issue was whether the design professional had an ethical obligation to tell the project owner that the contractor poured a slab 2 inches thicker even though it would not affect construction in any manner or cost extra. The design professional does have an obligation to tell the owner because it is the owner's project. The owner should be advised of everything that occurs; good, bad or neutral. Additionally, the above information is important for the owner to know if they are going to have work done on the slab in the future. Ethics says to disclose this information.

## Coverage Tip: Industry Recognized Standard of Care

Design Professionals are careful to ensure their rendering of professional services will be measured by the industry recognized standard of care. If the contract states something akin to the following; "Design Professional will strive to perform its services in accord with a manner consistent with the level of care and skill ordinarily exercised by other Design Professionals in the same locale," the design professional believes their services will be properly assessed in a claim situation.

The design professional, however, needs to review all contract language. If the contract indicates that the Owner relied on representations, or incorporates representations made by the design professional, those representations need to be identified. Representations can include marketing material that states that the "Design Professional has the skills and knowledge necessary to design a complex, expensive and complicated project." Despite the contract language, the aforementioned representation can be interpreted as creating a higher standard of care if it is deemed to be a part of the contract documents. A higher standard of care may adversely affect professional liability coverage.

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## Claim Tip: Submission of Circumstance and Notices

It has been a long held belief that the submission of circumstance and notices during a policy period will result in a higher premium at the time of renewal. At OneBeacon Design Professional, we encourage our Insured's to report any and all instances and claims once the Insured becomes aware of them. To us, the timely reporting of incidents and claims allows us to work with our Insured's to avoid potential claims, or mitigate potential loss. It also allows us to determine whether the reported incident warrants pre-claim assistance. Because we view the timely submission of circumstances and claims as a pro-active, positive risk management technique, we will not penalize an Insured for doing so.

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## Entirely Better

For OneBeacon Professional Insurance and Design Professional Liability *entirely better* means being empathetic to our Insured's and Producer's needs. We understand the economy has hit the construction industry hard, especially our design professional friends. We are dedicated to provide our best quote terms, coverage and value added services to each of our clients.

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.

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