



All Ohio 2021

Oswald's Questions from the Field

oswald[®]

oswald centre

Prompt Reporting of Claims / Potential Claims

- In all policies it's a condition precedent to coverage
- If you're not sure-CALL

Limitation of Liability vs. Insurance limits

- LOL- limiting liability to a dollar amount
- Limit of Liability- Total Coverage Available
- Meaning of Certificate of Insurance

Split Limits Option

Highly suggest you purchase - it's cheapest at renewal; not after a claim

Example \$2M per claim/ \$2M aggregate Aggregate is the most insurer will pay in policy year

Once it's gone no coverage back to beginning of firm

Contract Trends

Make sure flow down provisions are consistent with prime (ie. dispute resolution, LOL)

Internal contract protocols

When to involve legal counsel

Don't fall for "everyone signs it" (even if it's a national firm who is hiring you)

Contract Trends

What the A/E saw or should have seen or could have seen,,, just because you could have seen something but didn't,,, doesn't mean you were negligent.

Compliance with all codes, Owner's standards, budget,,, performance specifications are uninsurable.

Confidentiality Clause – OH law firm- Just say no

Could You Have Seen The Problem?

,,, known defects or problems with respect to the Work, which can be reasonably observed,,,

,,, defects which it observed or should have observed,,,

,,, which it observed or could have observed,,,

,,, deficiencies which it knew of or should have discovered,,,

,,, knows of or within the Standard of Care should have known of,,,

Spot the Difference



Performance Specifications - Uninsurable

,, design the Project in conformance with all such laws, codes, regulations, including but not limited to all national, state and local regulatory and statutory requirements.

,, comply with the applicable ADA requirements ,,,

,, comply with Owner's planned objectives and criteria,, for both functions to be accomplished.

,, conform its services and the Project design to meet the applicable standards of accrediting agencies and entities,,

,,so the Project can be built within

Owner's budget.

The Ohio Law Firm Clause

- § 12.10 Privileged Communications. All communications between the Owner's legal counsel and the A/E, while the A/E is acting as the agent for the Owner under the terms of this Agreement and which relate in any way to the administration of the construction of the Project or to the work of the Contractor, any Subcontractor, materialman, or any other person rendering services in connection with the Project, shall be subject to the attorney-client privilege that can be waived only by the Owner... and shall not be disclosed to any person other than the A/E's own legal counsel without the express written permission of the Owner...
- This paragraph shall not apply in the event of a dispute between the A/E and the Owner or between the A/E and a third party. This paragraph shall not restrict the A/E from giving notices or engaging in discussions with its legal counsel or as may be required by its insurance carriers, by law or by contract or complying with an order to provide information or data when such an order is issued by a court, arbitration board, administrative agency or other legitimate authority, or if disclosure is necessary for the A/E to defend itself from any legal action, claim, dispute, demand, and causes of action.

Cyber Issues

- Claims we are seeing- Ransomware, Invoice Manipulation, Business Interruption, Social Engineering
 - 77% of ransomware attacks involved threats to release stolen data
 - 70% of victims were companies with less than 1,000 employees, with the median at 234
 - \$4.1 billion reported losses in 2020
- If you don't have MFA in place, options for coverage will be limited to non-existent
 - Something you know
 - Something you have
 - Something you are
 - 99% of account compromise attacks can be blocked by MFA
 - 94 of ransomware victims did not use MFA
- Critical components to your cybersecurity
 - Formal Remote Work Policy
 - Incident Response Plan
 - User Education
 - Dual Authorization Controls
 - Password Manager
 - Utilize insurance carriers risk management resources

Return to Work Policies

- Having a written policy
 - COVID-19 Vaccination Navigation and Employer Guidance
 - Work-From-Home Policy
- Impact to insurance coverage
 - Work Comp for employees working in other states, countries
 - Employment Practices Insurance
- Our informal survey



Thank You

WHAT IS THE IMPACT OF A CLAIM ON OUR FUTURE COVERAGE AND PREMIUMS?

- It depends
 - Frequency
 - Severity
 - Loss Ratio
- Loss Prevention have
 - "claim" & just the

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