



# RISK MANAGEMENT INSIGHTS

by W. Brian Ahern, RPLU

## Naming a Client on your Insurance Policies

**A**ttorneys are sometimes confronted with the issue of naming a client as an additional insured on the various insurance policies their law firms may hold. Clients may believe that being a named insured or an additional insured gives them additional protection if a claim arises. While this may not be an issue regarding your general liability policy or other types of insurance, when it comes to your professional liability insurance, such a request is problematic.

Standard contracts often contain boilerplate language that requires the client to be named on a service provider's insurance policy. However, this condition is intended for commercial general liability policies. Because of the unique nature of professional liability insurance, your carrier cannot, and will not, add your client as an additional insured.

Unlike other types of insurance, a professional liability policy does not make payments to a law firm. Instead such a policy pays on behalf of a law firm in the event of negligence in providing legal services that result in damages. As your client is not providing legal services, they do not assume the risk that your professional liability policy is designed to cover.

In fact, adding your client's name to your professional liability policy may eliminate their ability to file a suit against you pursuant to the an exclusion prohibiting an insured filing a suit against itself to cover damages (*Insured vs. Insured*). If a client is named on the policy, any claims against the law firm would be excluded, and the law firm would not have the coverage extended under the policy.

Requiring high limits of liability, another popular boilerplate statement, should also raise red flags. Typically, professional liability underwriters will not provide a law firm with limits higher than the firm's actual risk. A client may also request coverage for contractual risks (coverage for practices that you would not normally be liable for). Generally, a professional liability policy will exclude exposure that you take on contractually unless such liability would have occurred regardless of the contract.

Reasonable requests from clients to include certain language in your client agreements are more acceptable. According to San Diego defense attorney Douglas Pettit of Pettit Kohn Ingrassia & Lutz PC, there is nothing wrong with granting such a request, "As long as the agreement still complies with the Business and Professions Code, the Rules of Professional Conduct and includes what you need to protect your firm." Pettit cites a benefit to such a request, as it helps show that the client has reviewed the contract, which may help a law firm later if a claim is filed, alleviating the risk of the client stating that they never read the agreement.

Educating your client about the ramifications of any requests that are not appropriate typically alleviates any problems. If you aren't sure of the implications of a client's request, talk with your insurance broker or a defense attorney.

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