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PROFESSIONAL LIABILITY SPOTLIGHT

Frequently asked risk management questions

By Sarah Beckett Ference, CPA

The Accountants Risk Control team at CNA, the endorsed underwriter of the AICPA Professional Liability Insurance Program, fields thousands of questions annually from CPAs seeking risk management advice. We've summarized our frequently asked questions below so you can easily access resources to manage professional liability risk in your practice. Engagement letters are so important that they deserve a dedicated FAQ article, which will publish in an upcoming issue.

TOPIC: CLIENT OR ENGAGEMENT ACCEPTANCE AND CONTINUANCE

Understanding the risks that you allow into your firm and managing and monitoring them once they're there is incredibly effective in mitigating the risk of a future claim.

I have a new client opportunity. What do you think?

Be mindful of the company you keep. Working with clients that are the right fit for the firm affects staff morale, profitability, and professional liability risk. Read "[Professional Liability Spotlight: Client Acceptance: A Liability Gatekeeper](#)," *JofA*, Dec. 2020, to learn what to evaluate when considering a new client. Is the new opportunity for a celebrity, high-net-worth, or high-profile client? Proceed with caution, as claims related to these clients can be substantial. Read "[Professional Liability Spotlight: Risky Business of Serving the Rich and Famous](#)," *JofA*, July 2014, to learn more.

A client has asked me to perform XYZ service. What are the risks?

ET Section 1.300.010, *Competence*, of the AICPA Code of Professional Conduct (the Code) requires that CPAs possess the "appropriate technical qualifications to perform professional services." If a claim arises, a plaintiff attorney may question the CPA's competence as the reason an error was made. Don't just take our word for it; read "[Professional Liability Spotlight: The Dangers of Dabbling](#)," *JofA*, Nov. 2015, for perspectives from defense counsel.

Many firms have grown through the provision of consulting and client accounting services. Such services are not without risk. Claims that arise related to these engagements are often the result of disagreements related to scope. Aligning expectations between the CPA firm and the client is critical to help ensure a smooth delivery of service and to mitigate the risk of a claim. Learn strategies to mitigate risk by reading "[Professional Liability Spotlight: Managing Risk Related to Consulting Engagements](#)," *JofA*, Feb. 2020, and "[Professional Liability Spotlight: Minding the Expectation Gap in a CAS Engagement](#)," *JofA*, Aug. 2018.

Longtime client asked you to be a trustee? This honor brings with it significant risk and the potential for a substantial claim. Why? Read "[Professional Liability Spotlight: The Unexpected Risks of Trustee Services](#)," *JofA*, July 2016, to find out.

I no longer wish to provide services to a client. What should I do?

Whether the firm has outgrown the client, the client the firm, or if it's just no longer the right fit, sometimes the best decision is to terminate a client relationship. Regardless of the reason, severing ties with a client should be done in a direct and professional manner. Tell the client what they need to do to move on from you, including any deadlines and the consequences of not meeting those deadlines. Read "[Professional Liability Spotlight: Take a Hike: Ending Client Relationships](#)," *JofA*, Feb. 2017, to learn about termination considerations, and check with your professional liability insurer for a sample termination letter.

TOPIC: FEE ISSUES

Managing billing, collections, and realization not only helps manage the profitability of a CPA firm, but it also helps manage risk.

My deadbeat client owes me money. Can I send them to collection or sue for fees?

Please, please, please don't. Doing so nearly guarantees that the client will bring a counterclaim for negligence, and the lost time and money one spends defending the counterclaim almost

Continued.

always is more than what one would have received from a collection activity. Still on the fence? Read [“Professional Liability Spotlight: Think Twice Before Suing for Unpaid Fees,”](#) *JofA*, March 2018, for considerations to make before undertaking such activity.

OK. I won't sue for fees, but can you help me avoid this situation in the future?

Read [“Professional Liability Spotlight: Billing for Defense \(and Payment\),”](#) *JofA*, Dec. 2013, for ideas and billing strategies to help stay in the black. Sometimes, overruns or additional fees are due to the provision of additional services, which may be only tangentially related to the original service. This scope expansion can lead to financial risk as well as professional liability risk. Learn ways to better manage these risks in [“Professional Liability Spotlight: Don't Let Scope Creep Lead You Out of Bounds,”](#) *JofA*, Sept. 2015. Finally, having a difficult conversation about fees is one that many CPAs avoid or put off, to their detriment. Read [“Professional Liability Spotlight: Effective Communication to Help Avoid Litigation,”](#) *JofA*, June 2019, to learn how communication before, during, and after the engagement can help.

TOPIC: CLAIMS

“War stories” about previous claims are always of interest — as long as they have happened to someone else.

How do large claims arise?

Read [“Professional Liability Spotlight: Early Warning Signs of a Large Malpractice Claim,”](#) *JofA*, Sept. 2020, to learn common indicators of a high-severity claim, one of which is the failure to detect a theft or fraud at a client. This assertion is seen in claims relating to all areas of practice, not just audit. Read [“Professional Liability Spotlight: Failure to Detect Theft and Fraud: It's Not Just an Audit Issue,”](#) *JofA*, Feb. 2014, to learn ways to mitigate this risk.

Another warning sign of a large malpractice claim? Situations where the CPA is alleged to have violated the Code. Unfortunately, the mere perception of an ethical violation can thwart a claim's defense. Read [“Professional Liability Spotlight: Independence Is in the Eye of the Beholder,”](#) *JofA*, June 2013, and [“Professional Liability Spotlight: Managing Conflicts of Interest,”](#) *JofA*, Nov. 2017, to learn how questions of independence and objectivity can be problematic for a CPA. Then read [“Professional Liability Spotlight: A Framework for Maintaining Ethics Compliance,”](#) *JofA*, Nov. 2019, to learn how to evaluate and respond to threats to and demonstrate adherence with the Code.

You've sufficiently scared me. What can I do to help mitigate the risk of a claim?

Client and engagement acceptance and continuance, engagement letters, communication, and knowing and correctly applying professional standards are universal risk management practices for any service. Leverage resources available to you, including those offered by your professional liability carrier and the AICPA. Regular risk management training of all professionals is also a great way to reinforce quality at your firm.

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