

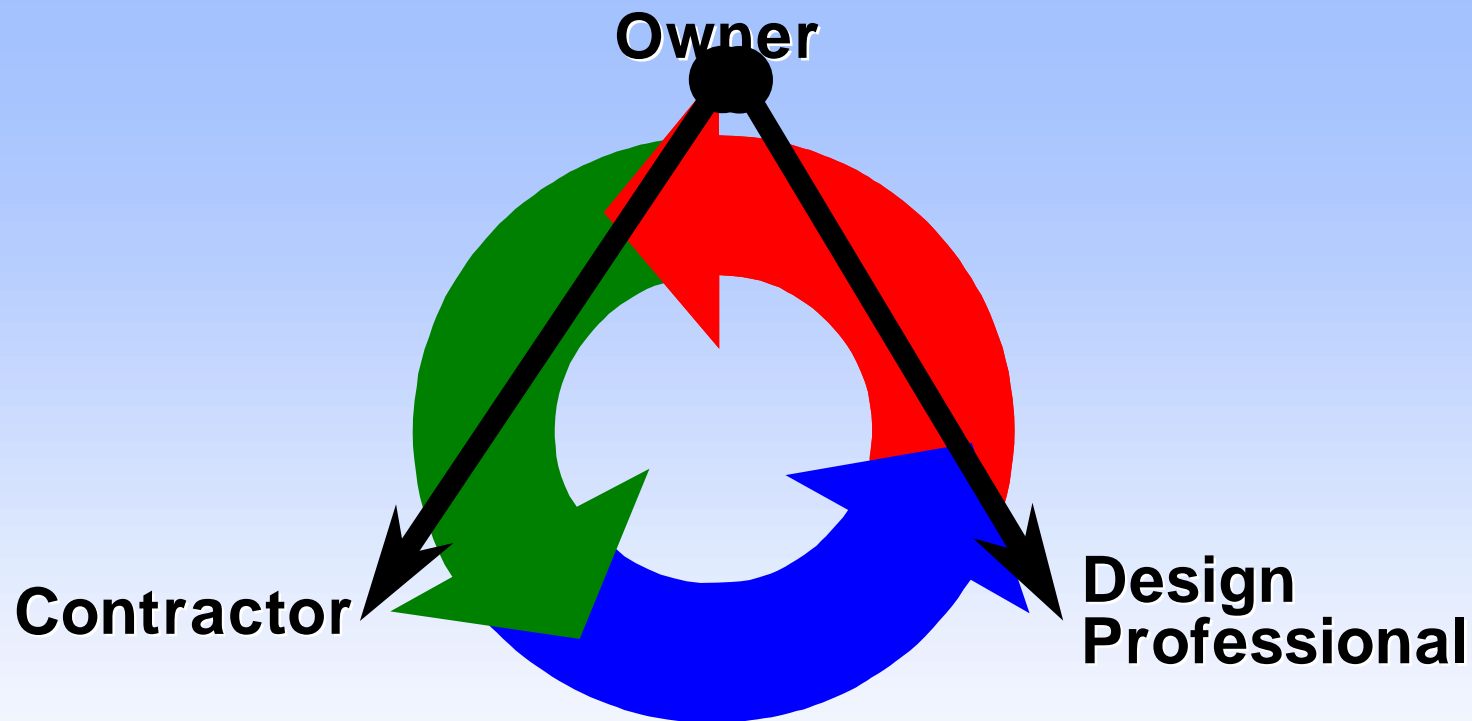
Introduction to Professional Liability

presented by



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ROLES OF PARTIES TO CONSTRUCTION PROCESS



Communication Duties vs. Contractual Relationships

ROLES OF PARTIES TO CONSTRUCTION PROCESS


Recognize each party's assumption of authority, responsibilities, and control

	Design Phase	Construction Phase
Owner		
Contractor		
Design Professional		

Use One/All: Responsibility Authority Control

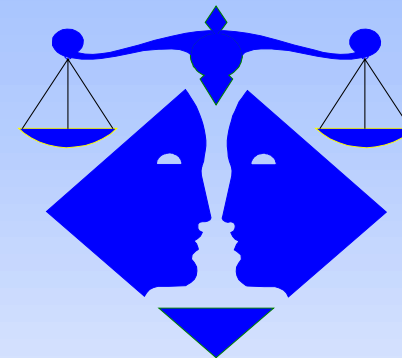
ROLES OF PARTIES TO CONSTRUCTION PROCESS

YOU DO **NOT** HAVE CONTROL
DURING CONSTRUCTION!

	Design Phase	Construction Phase
Owner	R A C	R A C
Contractor	(r)	R A C
Design Professional	R A C	R A 

UNDERSTANDING OF LAWS/LIABILITY

- **Common Law interpretation-negligence doctrine**
- **Statutes of Limitations**
- **Standards of Care**
- **Joint & Several Liability**



... of average persons vs. professionals

LOSS EXPOSURES

-Causes and Areas

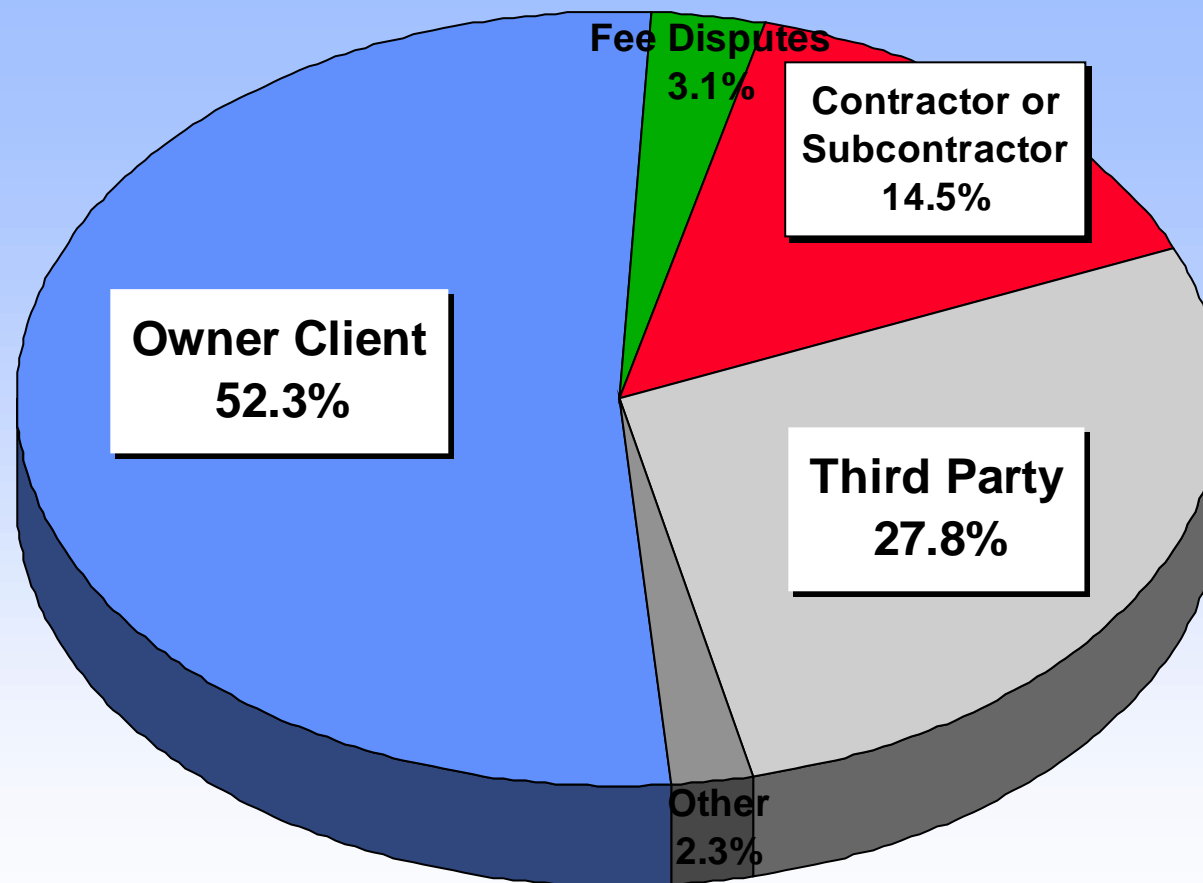
Causes

- **Communication**
- **Documentation**
- **Technical errors**

Areas

- **External (i.e., outside your firm's practice)**
- **Internal (to your practice)**

LOSS EXPOSURES -Causes and Areas



CONTRACT ISSUES OVERVIEW

- **Scope of Services**
 - What Creates Your Scope of Services ?
- **Construction Review**
 - Expectations:
Services Typically Provided
 - Non-Expectations:
Services Typically Not Provided
- **Additional Services**



CONTRACT ISSUES: SCOPE OF SERVICES

- **What Creates Your Scope of Services ?**
 - **Written Scope of Work**
 - **Standard Practices In The Profession**
 - **Professional's Conduct In The Field**

CONTRACT ISSUES: CONSTRUCTION OBSERVATION

Expectations: Services *Typically Provided*

- **Construction Observation**
- **Review of Contractor Submittals**
- **Review of Payment Applications**
- **Providing Field Directives**
- **Preparing Change Orders**
- **Contract and Document Interpretation**
- **Administration of Project Communications**
- **Dispute Resolution**

CONTRACT ISSUES: CONSTRUCTION OBSERVATION

Non-Expectations:

Services *Typically Not Provided*

- Construction Inspection
- Monitoring and Controlling Safety
- Scheduling and Sequencing
- Directing Means and Methods of Construction
- Correction of Contractor Errors

Pros and Cons of *Avoiding* Construction Administration

Cons

- Owner gets lower quality result
- Lose Last Minute Opportunity To Correct Oversights and to fine-tune the documents
- Lose control of project and design

Pros

- None

CONTRACT ISSUES OVERVIEW

- **Other Contract Clauses**
- **Miscellaneous Contract Considerations**

UNDERSTANDING ROLES/LIMITS IN INSURANCE

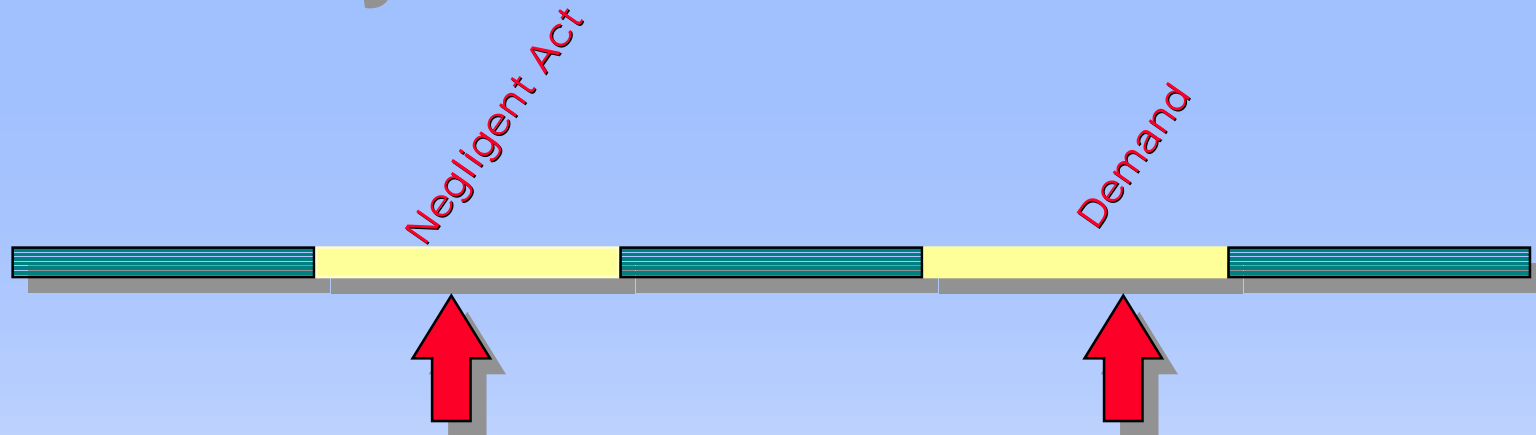
General Liability

**Workers'
Compensation**

**Professional
Liability**

**Builders'
Risk**

Policy Limits: Claims Made



- Occurrence-Based Policies Respond to *When The Negligent Act Occurred*
- Claims-Made Policies Cover Those Claims *Occurring During The Policy Period*

UNDERSTANDING ROLES/LIMITS IN INSURANCE

How/Where Is Insurance Invalidated?

- **Warranties/guaranties/certifications**
- **Waiver/estoppel**
 - **Safety**
 - **Techniques of construction**

Changing Risks

How Do These Exposures Affect How You Respond?

- **Alternative Delivery Systems**
- **Construction Observation On Others' Designs**
- **Banks/Inspections**
- **Contractor As Client**

CONCLUSION

- **Goal of all parties to any construction project is the same-*successful completion and client satisfaction.***
- **This can only occur when *all members work together*, and where applicable, either eliminate areas of liability or minimize situations entirely.**
Nobody profits from an unsuccessful job.
- **Recognize importance of:**
 - **Team approach**
 - **Communication**
 - **Documentation**