



XL CATLIN

Education Pays. Professional Liability Education Program Catalog

Updated September, 2017



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General Information

XL Catlin's Design Professional unit offers risk management education courses, claim case studies and workshops designed to increase your knowledge of liability issues and give you tools to avoid claims and mitigate losses.

Premium Credit – US: Each policy year, firms that successfully complete an approved program can earn up to 10% credit toward their renewal premium—up to the first \$5 million of coverage.

Premium Credit – Canada: Each policy year, firms that successfully complete an approved program can earn up to a 10% premium credit—up to a maximum of \$10,000 on the first \$5 million of coverage.

Annual Policies: To qualify for a premium credit, all required staff must complete and pass the course before you submit your renewal application so that the credit can be reflected on your policy binder. Premium credit is given only at renewal. It is your responsibility to ensure that the course is completed prior to renewal and that the credit is reflected on your policy binder. It's important to remember that no mid-term education premium credits will be processed.

Multi-Year Policies: To qualify for a premium credit firms need only complete ONE Education program to serve as their "Banked" credit for renewal.

Unless otherwise noted, courses may be repeated after three years for a premium credit.

Continuing Education Credits: Programs are registered with the national AIA, and units earned by architects are directly reported to the AIA by XL Catlin's Design Professional unit. Engineers may use certificates of completion to self-report learning units. Not all states and licensing boards accept these programs for learning units, and some do not recognize the HSW qualification.

To earn continuing education credits for repeating a course, there must be three full calendar years between completions.

Not-for-Premium-Credit Participation: Individuals can enroll in courses on a not-for-premium-credit basis. That means enrolled participants who complete the program will receive certificates and earn learning units, but the firm will not qualify for premium credit. This is useful for new employees who need to catch up on course content, or for those employees that wish to earn learning units.

Questions: Please contact your agent or broker with any specific questions about our programs or our Learning Management Center.

Contact the Learning Management Center

In the US:

831 657 2524
DPEducUSA@xlcatlin.com

In Canada:

416 342 8682
Beverley.Dunham@xlcatlin.com

HSW Learning Units

Due to evolving AIA criteria regarding HSW program qualification, agents and brokers can verify learning unit status on AMOS and XL Catlin policyholders can contact our Learning Management Center to find out if a course or workshop qualifies.

eLearning Courses

Available on our Learning Management System (LMS), an exclusive online platform, accessible 24/7

Completion Requirement:

Each required participant must pass with a score of 80% or higher and is allowed one retake.

Contract Basics for Design Professionals

1 AIA/CES LU | PDH

This one-hour course is based on XL Catlin's Contract eGuide for Design Professionals—an authoritative guide to issues, contract trends, claims and practice management. You'll learn why it's important to have a written agreement and get tips on developing fair, solid professional services agreements. Taking this course won't turn you into a legal expert. But it will give you an overview of some basic concepts about contracts, provide suggestions on how to review client-drafted agreements and help you spot troublesome areas.

Attendance Requirements for Premium Credit: All principals

Contract Review: Focus on Liability

1 AIA/CES LU | PDH

Even the simplest project can be risky. Some contract provisions transfer inordinate amounts of project risk onto your shoulders, jeopardize your insurance or make demands that you cannot reasonably fulfill.

At the same time, there are contractual provisions that can help reduce your risk and maintain the protection of your professional liability insurance. This course will identify and discuss some of these provisions and explain how to negotiate appropriate terms and conditions in your client contracts.

Attendance Requirements for Premium Credit: All principals

Contract Review: Key Provisions – Raising the Bar

1 AIA/CES LU | PDH

Whether you have developed your own standard contract, prefer the use of professional society agreements, or find yourself being asked to use a client-written form, it's important to learn to review and, if necessary, revise professional services agreements. You need to understand your obligations under the terms of the contract. In the event of a dispute, you also have to be able to establish your rights and obligations. In addition, you must be able to recognize unfair, one sided contracts. You need to be aware of what a contract doesn't say, too. When contracts are silent on certain issues, the law may impose its own default conditions. Finally, poor contracts can create additional risks. In this course you'll look at the steps required to review professional services agreements with our recommended Contract Review Checklist. We will also take a closer look at a few important contract clauses, some of the clauses that we think raise the bar for architects and engineers.

Attendance Requirements for Premium Credit: All principals

Document Retention: Keys to Maintaining Files and Minimizing Risk

1 AIA/CES LU | PDH

A well-written and consistently applied Document Retention Policy is a valuable tool for avoiding or defending against claims. This mobile friendly and engaging course has three 10-15 minute bite-size lessons with interactive video clips that illustrate valuable tips and recommended best practices. It provides a road map for developing and implementing a customized Document Retention Policy for your firm. You'll learn how a consistently applied policy saves valuable time researching and retrieving information and will better protect you in the event of a claim.

Attendance Requirements for Premium Credit: All principals

eLearning Courses

Lessons in Professional Liability

4 AIA/CES LU | PDH

Architects and engineers face the very real threat of claims on every project they undertake. Given the small profit margin of the typical firm, a single claim can mean the difference between profit and loss on a project—and a large claim can spell disaster. That's why it's so important for design professionals to understand how to avoid claims and mitigate their exposure.

In this course, you'll improve your "Liability IQ" by learning to identify and manage the common risks faced by design professionals. You'll be exposed to strategies and techniques that can increase your effectiveness in practices such as business communications, project evaluation, client selection, contract and scope development, and shop drawing review.

NOTE: The four (4) continuing education units for this course are based on the average time it takes to read the 150-page textbook. Participants should be prepared to download the textbook and read it before taking the online test.

Attendance Requirements for Premium Credit: All principals

Managing Construction Phase Risks: When Your Design Becomes a Reality

1.25 AIA/CES LU | PDH

The construction phase of a project brings a design firm's hard work to realization. By approaching this phase proactively, A/E's can exercise greater control over the interpretation of the final design, address questions and problems as they arise, and support the client's objectives more effectively. But anyone who has been involved in construction phase services knows the process also has plenty of traps for the unwary—traps that can leave firms open to a professional liability claim.

You'll get an overview of XL Catlin's Risk Drivers research, highlighting how many factors are linked or related to CA services. You will review the purpose and importance of CA services, typical CA activities and best practices in each of these areas. The course identifies how to spot and manage disputes, takes a look at project close-out procedures and wraps up with an opportunity for you to reflect on potential areas of improvement.

Attendance Requirements for Premium Credit: All principals

Negotiations: Strategies for Better Client Agreements

1 AIA/CES LU | PDH

Negotiations can be a great opportunity to forge client relationships, manage risk and set the stage for project delivery. Using knowledge checks and unique exercise scenarios, this course outlines varying negotiations styles and how these styles engage with each other. You'll learn strategies and tactics that can improve negotiation outcomes and walk away with an action plan to put what you've learned to use in your firm. The course takes 60 minutes to complete. For convenience, you can take the course in 15-minute segments or complete it in one session.

Attendance Requirements for Premium Credit: All principals

Risk Drivers

1.25 AIA/CES LU | PDH

With each project an A/E firm undertakes, the firm assumes risks in order for the client to achieve a successful outcome. But without a clear understanding of what causes claims, any project can feel like a house of cards. Risk Drivers is designed to give A/E firm principals and professionals a solid foundation to build upon.

Since risks are present throughout the entire project cycle—from client acquisition to project close-out—managing them is a constant activity. Based on our large body of claim data, this course identifies the technical and non-technical causes of loss in A/E firms. In this course, you'll develop a better understanding of the dynamics of risk, learn the key areas that influence your firm's risk, and gain strategies to anticipate, manage and respond to risk.

Attendance Requirements for Premium Credit: All principals

eLearning Webinars

Select recorded webinars developed in conjunction with PSMJ available on our Learning Management System (LMS).

NOTE: If you leave the recording before its conclusion and return, it will commence at the beginning. Because these webinars were originally delivered live, you will see references to PSMJ special offers that no longer apply. Also, PSMJ is no longer issuing learning certificates for these webinars. Webinar Learning certificates are issued by XL Catlin from our Learning Management System.

Completion Requirement:

Each required participant must pass with a score of 80% or higher and is allowed one retake.

Cyber Risk and Design Professionals

90 Minutes - 1.5 AIA/CES LU | PDH

Find out about the duties and associated risks you take on when handling client or employee related data such as: Personally Identifiable Information (PII), Protected Health Information (PHI) or Contracts containing confidential or proprietary information. Understand the types of cyber threats that can jeopardize your reputation and your profitability. Learn what to do if your cyber security is breached. We'll also explain what cyber-related liabilities are covered in an XL Catlin professional liability policy and what is covered by a Cyber Suite endorsement.

Attendance Requirements for Premium Credit: All principals

Developing Your Project Management Plan

90 Minutes - 1.5 AIA/CES LU | PDH

This webinar discusses how to create a successful project plan. Project planning should not only anticipate design challenges, but should anticipate risk, potential mid-project changes, and schedule upsets. Learning how to create a project plan before the project begins allows a firm to think through the potential alternatives and map out a plan of action.

Attendance Requirements for Premium Credit: All principals

Keeping Projects Under Budget & On Schedule

60 Minutes - 1 AIA/CES LU | PDH

It's bad enough that project budget problems can cost your firm big bucks. Even worse, they can create serious liability concerns. The key to successful financial management of projects is the consistent use of earned value analysis (EVA).

What is EVA? EVA is a way to stay on top of the schedule and budget status of projects so you can see early on when projects are starting to get into trouble. This concept is not new. David Burstein of PSMJ published the first article we know of on this subject back in 1979 and Randy Lewis of XL Catlin discusses the impact of failing to effectively manage and respond to budget/schedule changes and illustrate how these failures can lead to professional liability claims against design professionals. Today, there is an increasing array of options to help project managers perform this critical analysis. Some of them are highly useful, others are less effective. This presentation describes what EVA is, how it can help you keep your projects on course, and how to decide if the emerging techniques are right for your projects.

Attendance Requirements for Premium Credit: All principals

Managing Scope Creep & Other Project Changes

60 Minutes - 1 AIA/CES LU | PDH

Diogenes said, "The only constant is change." Unfortunately, many designers seem to believe that once they have finished their design the project execution is simply a matter of following the check sheets. Change orders appear from all sides, owner and contractor personnel are rotated out, schedules creep, budgets grow: all of these are examples of everyday changes in the design and construction world. This joint webinar by PSMJ and XL Catlin's Design Professional Group discusses change in the project environment, how you can anticipate it, and how you can manage the change process.

Attendance Requirements for Premium Credit: All principals

eLearning Webinars

Quality and Risk Management for Smaller Firms

60 Minutes - 1 AIA/CES LU | PDH

A/E firms—large and small—know the challenge is to please the client and make a profit doing it. And that creates another challenge: avoiding the risk of errors and omissions. For smaller firms, risk management is an even more important issue—one mistake can wipe out your firm completely! But because smaller firms don't have the resources of larger firms, it's the non-technical risk and quality issues that are frequently overlooked. This webinar will help you understand the importance of quality and risk management and how you can develop the tools to minimize your exposure to claims.

Attendance Requirements for Premium Credit: All principals

Scope & Change Management – Effective Management of Project Change

60 Minutes - 1 AIA/CES LU | PDH

One of the biggest issues that all architects, designers and engineers struggle with is change management. Identifying, communicating and obtaining budget approval for providing additional scopes of work is a key to successful project performance. This program provides the insight and tools to ensure greater success in obtaining client approval for your additional project work.

Who is this program for?

- Architects, designers, engineers who manage projects
- Firm Principals/Owners looking for information to support and train their PMs on scope change management
- Firms that strive for a consistent, effective approach to their change management process

What does this program include?

- Defining the scope of work – defining the project, work breakdown structure, having a plan, conducting a kick-off meeting
- Change Management – defining change, internal vs. external change, recognizing and identifying change, obtaining approval for change
- Tools – Change Order Request, Change Order Log, Weekly Progress Report, documenting change
- Examples of templates for the following: Work Breakdown Structure, Kick-off Meeting Agenda, Change Order Approval, Change Order Log, Weekly Progress Reports

Instructor

Patty Huntley, Risk Manager with XL Catlin's Design Professional Loss Prevention & Client Education team. Patty is a certified Project Management Professional (PMP) with a 35-year technical career, including 28 in the Architectural and Engineering (A/E) design and construction industry. Huntley has trained thousands of A/E principals, project managers and their firms on best practices and the tools to complete projects successfully.

Attendance Requirements for Premium Credit: All principals

Value Pricing: The Easiest Path to Profitability

90 Minutes - 1.5 AIA/CES LU | PDH

A typical A/E firm can increase its profits by about \$300,000 per year if it can raise its prices by just 5%—it's not easy but consider the alternative. This webinar will show you how to add more value so your client's won't resist your price increases

Learn how to:

- Identify the sources of client value on design projects through specific examples in the design sector.
- Measure the impact of different pricing strategies and to determine which most benefits your particular portfolio of clients.
- Recognize that cost-plus pricing may underprice the value you add to design projects and short-change the firm.
- View the sources of client value as pricing triggers, allowing you to better price the true value you bring to your clients' projects.

Attendance Requirements for Premium Credit: All principals

Paper Courses

Completion Requirement:

Each required participant must pass with a score of 80% or higher and is allowed one retake.

Contract Basics Series

1. Understanding Contract Basics: A Monograph

5.5 AIA/CES LU | PDH

This course strengthens your understanding of contract elements, terminology and review, and explores the problems and solutions associated with 20 common clauses. “Contract Basics” helps you develop and negotiate professional services agreements that minimize liability exposure.

Attendance Requirements for Premium Credit: All principals

2. Beyond Contract Basics: A Monograph

5 AIA/CES LU | PDH

This higher level course examines 40 important contract clauses. It builds on our “Contract Basics” course to help you develop stronger alternative contract language and negotiate fair and equitable professional services agreements.

Attendance Requirements for Premium Credit: All principals

3. Further Studies in Contracts: A Monograph

5 AIA/CES LU | PDH

Our third contract review course digs deeper into XL Catlin’s Contract eGuide and explores a number of important contractual and loss prevention issues. It will further sharpen your ability to negotiate with clients on contractual matters that affect professional liability.

Attendance Requirements for Premium Credit: All principals

Lessons in Professional Liability

4 AIA/CES LU | PDH

Architects and engineers face the very real threat of claims on every project they undertake. Given the small profit margin of the typical firm, a single claim can mean the difference between profit and loss on a project—and a large claim can spell disaster. That’s why it’s so important for design professionals to understand how to avoid claims and mitigate their exposure.

In this course, you’ll improve your “Liability IQ” by learning to identify and manage the common risks faced by design professionals. You’ll be exposed to strategies and techniques that can increase your effectiveness in practices such as business communications, project evaluation, client selection, contract and scope development, and shop drawing review.

NOTE: The four (4) continuing education units for this distance-learning course are based on the average time it takes to read the 150-page textbook. Participants should be prepared to download the textbook and read it before taking the online test.

Attendance Recommendations for Premium Credit:

All Principals and Professionals

Loss Prevention Improvement Project

Firm Project

NOTE: This course may be repeated annually.

This project helps firms apply the principles of continuous improvement through the selection, development and implementation of a loss prevention initiative that is relevant and important to the firm.

Attendance Requirements for Premium Credit: Selected team of firm managers/professionals

Completion Requirements: Course project documentation must be completed and submitted by the firm.

Workshops

Site Visit Guidelines

3 AIA/CES LU | PDH

The construction contract administration phase of a project is where the design meets reality. By proactively approaching construction administration duties, an architect can exercise greater control over the interpretation of the final design, address questions and problems as they arise, and support the client's objectives more effectively.

During the construction contract administration phase, the architect's over-arching role is to help ensure that the actual construction is in conformance with the design intent, thereby resulting in a project that serves the welfare of the project constituents and ultimately the public.

Attendance Recommendations for Premium Credit:

All Principals and Professionals

Workshops are presented by your XL Catlin Agent/Broker.

Please contact your Agent for workshops planned for your area.

Completion Requirement:

Within 30 days of the workshop, the firm must complete a Seminar Data Sheet (provided by your Agent/Broker) demonstrating attendance by required participants.

Client Selection and Management

2 AIA/CES LU | PDH

In this interactive workshop, you'll review the Risk Drivers research that identifies poor "Client Selection" as one of the top four causes of loss; acquire tools to create sound strategies for client review and intake; learn to understand and manage client expectations; and develop an action plan for your firm.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

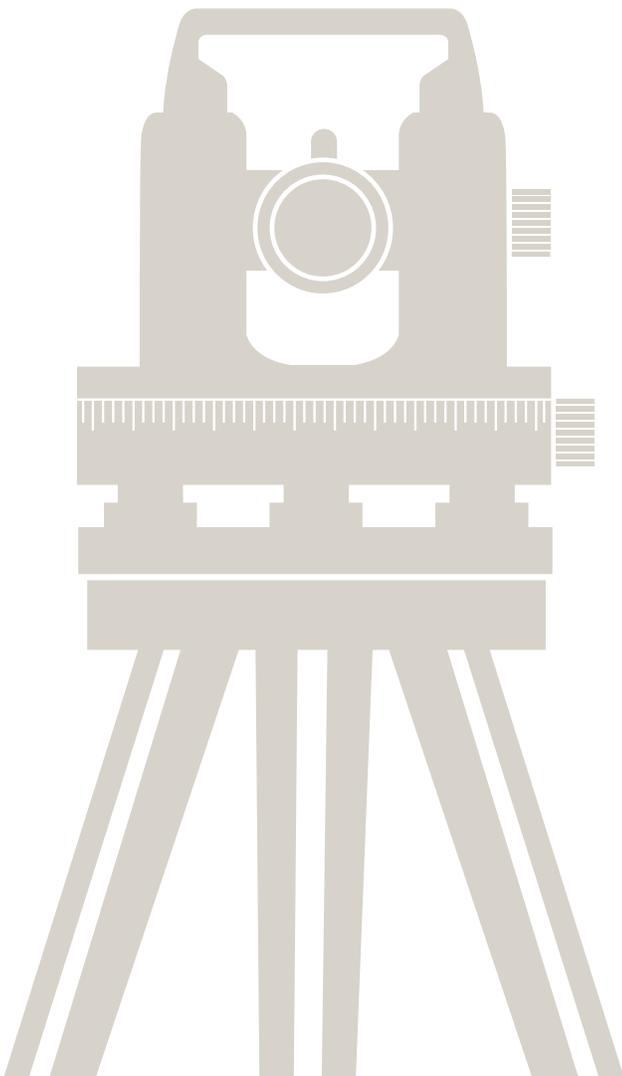
Contract Management: Risk Allocation by Design

2 AIA/CES LU | PDH

Based on XL Catlin's Risk Drivers research, this workshop demonstrates how poor project evaluation/selection, scope of services problems and breakdowns in contract protocols can lead to disputes and claims. You'll acquire tools and tactics to address these issues, review key contract clauses and develop an action plan for your firm.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers



Workshops

Deal Makers and Deal Breakers

2 AIA/CES LU | PDH

This workshop highlights the impact of Deal-Maker and Deal-Breaker clauses in professional services agreements. You'll learn to identify the characteristics of contract provisions that make them either "Deal Makers" (something so important that it should be in every agreement) or "Deal Breakers" (something so onerous and risk-laden it should be deleted from any agreement). The program also shows how some clauses, depending upon how they're worded, can be either "Deal Makers" or "Deal Breakers." The program wraps up with a negotiation exercise.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Design Professional and Owner Negotiation

2 AIA/CES LU | PDH

You'll learn strategies to successfully prepare for and conduct contract negotiations in this workshop. A mock contract negotiation between a design professional firm and project owner stipulates the items to be negotiated and has point values for each possible outcome.

Attendance Recommendations for Premium Credit: >50% of the firm's principals

Internal Claim Review

This workshop helps firms develop an internal exercise to review a professional liability claim or dispute, drawn directly from the firm's experience.

Requirements for Premium Credit: AGENTS: This customized program may qualify for an education premium credit, but it must be approved by XL Catlin at least three weeks prior to delivery. Review the program materials for more information on developing the claim review, securing approvals and submitting for a premium credit.

It's a Question of Ethics

2 AIA/CES LU | PDH

Description: Participants in this workshop review the ethical cannons that apply to engineers and understand some of the obligations that fall under each of the cannons. After discussing the subjects of the most complaints made against engineers, attendees will look at fact patterns, issues and decisions of the Board of Ethical Review (BER). Two additional situations that are explored involve a state licensing board decision and the ethical responsibility in following FAA guidelines concerning the placement of retention ponds. The discussion concludes with examining current research on ethical behavior.

Key Points:

- Ethical Cannons
- Common complaints
- BER Decisions
- Current Trends

Attendance Recommendations for Premium Credit: >50% of the firm's principals

Managing Construction Phase Risks: When Your Design Becomes a Reality

2 AIA/CES LU | PDH

The construction phase of a project brings a design firm's hard work to realization. By approaching this phase proactively, A/Es can exercise greater control over the interpretation of the final design, address questions and problems as they arise, and support the client's objectives more effectively. But anyone who has been involved in construction phase services knows the process also has plenty of traps for the unwary—traps that can leave firms open to a professional liability claim.

You'll get an overview of XL Catlin's Risk Drivers research, highlighting how many factors are linked or related to CA services. You will review the purpose and importance of CA services, typical CA activities and best practices in each of these areas. The course identifies how to spot and manage disputes, takes a look at project close-out procedures and wraps up with an opportunity for you to reflect on potential areas of improvement.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Workshops

Negotiations: Strategies for Better Client Agreements

2 AIA/CES LU | PDH

Focused on the negotiation of professional services agreements, this workshop will help you understand your own negotiation style. You'll learn the four basic skills of good negotiators, the importance of preparation and how to develop and implement successful negotiation strategies. You'll also develop an action plan for your firm.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Project Team Capabilities: Building a Team for Success

2 AIA/CES LU | PDH

In this practical and interactive workshop, you'll learn how project team capabilities can impact claims and how to successfully choose projects based on your team's capabilities. You'll acquire tools and techniques to help you select the best project manager and team members for your projects, and you'll gain an understanding of the phases of team development. Finally, you'll develop an action plan for your firm.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers



Revisiting Ethics for the Design Professional

2 AIA/CES LU | PDH

Highlighting the results from a national business ethics survey, this workshop gives you a better understanding of the current state of business ethics, and it reviews the implications of those trends within the design sector. After a discussion of the ethical canons that apply to architects and engineers, there is an interactive component involving the review of actual cases that have been brought before the AIA's National Ethics Council (NEC) and/or the NSPE Board of Ethical Review (BER). You will review cases and, based on the facts presented, render decisions—and see whether your perspective matches that of the ethics review board.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Risk Drivers: Understanding the Dynamics of Risk in the A/E Industry

2 AIA/CES LU | PDH

Our flagship workshop demonstrates how the A/E and professional liability industries interrelate. It provides an overview of the nature of risk, identifies the ways risk presents itself throughout the project, and offers insights to improve your practice, achieve successful project outcomes and build stronger client relationships. You'll better understand the non-technical factors that lead to claims, such as breakdowns in communication, poor client selection, negotiation and contract issues and project team capabilities. And you'll delve into our rich body of claims data to see discipline-specific claim triggers and technical causes of loss.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Workshops

Time Management & Project Initiation

2 AIA/CES LU | PDH

This interactive workshop demonstrates the importance of effective time management and project initiation. You'll learn how improvements in these areas can impact your firm's profitability, and you'll acquire tools and tactics to successfully evaluate and manage your time and the project kick-off process. You'll also create an individual action plan and one for your firm.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Understanding Ethics for the Design Professional

2 AIA/CES LU | PDH

This workshop helps you understand the topic of ethics as it relates to the design professions. You'll define ethical behavior, review professional association ethical canons, explore models for ethical decision making and develop strategies for ethical responsiveness. A case study workshop, materials from professional associations and an excerpt from the Contract eGuide are included.

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Case Studies

Studying claims that have actually happened can help you more readily spot risks, identify opportunities to use loss prevention techniques and decrease your exposure to claims.

Case Studies are presented by your XL Catlin Agent/Broker. Please contact your Agent for workshops planned for your area.

Completion Requirement:

Within 30 days of the workshop, the firm must complete a Seminar Data Sheet (provided by your Agent/Broker) demonstrating attendance by required participants.

Arch Enemies (formerly Brown/Watson)

2 AIA/CES LU | PDH

Discipline: Architect & Engineer

Project Type: Renovation in a 110-year-old building into two large apartment/condominiums

During the renovation, an arch collapsed, and a patron at the restaurant downstairs was injured when a moose head fell during the collapse.

Key Points:

- lack of written agreements
- incomplete documentation
- inadequate communication
- inadequate observation of the Work

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Case Studies

Bench Design

3 AIA/CES LU | PDH

Discipline: Multi-discipline

Project Type: Structural collapse of steel framing

This three-hour seminar is about the structural collapse of steel framing during the construction of a courthouse, which resulted in a worker's death and serious injuries to four others.

Key Points:

- crisis management
- quality control
- contract and scope of services
- the redesign trap
- submittal review
- preserving and documenting evidence
- working with OSHA
- site visits
- duty to the public

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Bon Temps

2 AIA/CES LU | PDH

Discipline: Civil Engineer

Project Type: Renovation of a 105-year-old municipal building

Civil firm hired by city to replace the existing Construction Manager. The project was in crisis with poor construction quality from a low-bid contractor. Firm assigned a new employee as project manager. The PM was shocked by the shoddy work and was so consumed with trying to figure out what went wrong that he did not effectively communicate with the client or firm management. The frustrated city manager gives an ultimatum to the CM firm, and accusations fly.

Key Points:

- poor project evaluation
- inadequate scope of services
- no review of onerous owner-generated contract
- inexperienced project site staff
- design firm inexperienced in project type
- failure to document project progress (or lack thereof)
- breakdowns in communication with client
- mishandling of dispute

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Capital Architects–Updated

2 AIA/CES LU | PDH

Discipline: Architect

Project Type: Remodel and expansion of a 25-year-old school

Over 700 change orders were issued during the project, which led to claims for \$2.5 million.

Key Points:

- contract
- subconsultant selection and supervision
- client expectations
- documentation
- limitation of liability
- claim notification
- replacement subconsultants
- damage control
- change orders

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Cow County Fairgrounds

2 AIA/CES LU | PDH

Discipline: Structural Engineer

Project Type: Fairgrounds complex

Out-of-state architect engaged local SE to design the structural foundations for the complex's pre-engineered metal buildings. SE began work after a letter proposal. Snow load calculations were made for the foundations based on the type of building occupancy. Four years later, when the roof on one of the buildings deflected after a massive blizzard, the calculations for all of the structures came into question. County asserted a claim for \$27 million to make things right.

Key Points:

- high-profile public project
- unsophisticated owner
- low-bid contractor
- lack of a written contract/scope
- failure to document
- overextended design firm and inexperienced staff

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Case Studies

Desert City

2 AIA/CES LU | PDH

Discipline: Multi-discipline

Project Type: A new prototype big-box store

Multidiscipline firm engaged by a long-time client to design a flagship big-box store. Learned that a subsidiary entity of the client would actually hold the design and construction contracts, which meant that the “client” had just become a whole new group of people to deal with. In addition, the store was to be ultimately handed off to a franchisee. The project timeline for the 60,000 square foot building was an extremely aggressive seven months. There were permitting difficulties and some mysterious consultants brought in by the subsidiary entity, and communication issues abounded. The claim, itself, involved the HVAC system, which was dubbed ineffective by the franchisee, although built as specified by the client. However, issues are tempered by a good contract, with a key clause that “saved the day,” and a terrific job at project documentation.

Key Points:

- lack of project and client evaluation
- perils of an aggressive schedule
- not proactively dealing with issues and potential disputes
- failure to seek help

Attendance Recommendations for Premium Credit:

>50% of the firm’s principals plus >50% of the firm’s project managers

Design-Build-Sue

2 AIA/CES LU PDH

Disciplines: Architect and Mechanical

Project Type: Chemical Research Lab

An architect and contractor form a joint venture to deliver a research facility for the Army Corps of Engineers. The JV hires an MEP firm to design the highly specialized mechanical systems. The MEP agrees to a reduced scope and fee, but shortly before the 95% set of MEP drawings is due, the MEP is told they must take responsibility for a more robust scope of work with no increase in fee. After the lab opens, the contractor sues their architect JV partner for \$1,000,000; the architect in turn sues the MEP for \$1,500,000. Let the finger pointing begin.

Key Points:

- importance of a well-drafted agreement
- client selection considerations
- importance of a clear scope of service
- risks and complexities of joint venture relationships
- need for clear dispute resolution provisions in jv partnership agreements
- failure to manage and document decisions and changes
- lack of procedures to identify and act on problems as they arise

Attendance Recommendations for Premium Credit:

>50% of the Firm’s principals plus >50% of the firm’s project managers

Express Engineering–Updated

2 AIA/CES LU | PDH

Discipline: Electrical & Mechanical Engineers

Project Type: Review of the HVAC system

In the review of a one-year-old building, there was a miscommunication regarding the cost to repair, which resulted in a substantial claim.

Key Points:

- poor communication and documentation
- weighing risk vs. fee
- benefits of a written agreement

Attendance Recommendations for Premium Credit:

>50% of the firm’s principals

Case Studies

Green Acres

2 AIA/CES LU | PDH

Discipline: Civil Engineer

Project Type: Residential subdivision

Civil firm hired by a developer (and its secret partner) to perform surveying and engineering services for the project site. Developer refused to contract directly with the geotechnical, so the CE firm hired the geotech. The CE told the developer that three of the lots would require unique structures because of their slope. The CE firm loosely observed the site preparation and moved on to the next project. The houses went up and then the claims started rolling in. Two of the houses on the unique lots were showing signs of cracking and settlement problems

Key Points:

- no formal project review
- prior history with client ignored
- use of a letter agreement
- poor communication
- failure to document recommendations
- insufficient site observation

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Holy Smokes

2 AIA/CES LU | PDH

Discipline: Architect & Structural Engineer

Project Type: Church renovation and expansion

Poor coordination between project manager and structural engineer results in a design that can't be constructed. The contractor works with another engineer to move the project forward. When the contractor removes the shoring from the free-span ceiling, the roof drops several inches and causes an outward deflection on the beams. Accusations fly.

Key Points:

- project team capability issues
- failure to get subs involved early
- failure to read the contract and to check insurance
- documentation problems
- billing and payment issues
- communication breakdowns
- failure to respond properly to problems and to report to the insurance company

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Interstate Engineering

2 AIA/CES LU | PDH

Discipline: Highway Design Engineer

Project Type: Design of an overpass and associated ramps that would link to a major state highway

During design, the engineering firm hired a traffic safety engineer to develop a temporary traffic safety plan. This plan included diverting traffic away from the edge of the deceleration lane during construction. The "routine" project was handed over to a recently hired engineering school graduate. During construction, the cones marking the deceleration lane were not placed as specified in the traffic safety plan. However, the engineer did not notice this deficiency during construction observation. A motorist, surprised by the cones, was unable to change lanes, caught his tires in the uneven pavement, flipped his car and ended up a paraplegic. The driver sued everyone involved.

Key Points:

unqualified on-site staff
failure to check insurance
inadequate scope of services
failure to perform adequate site observation
complacency

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Case Studies

It's All Downhill

2 AIA/CES LU | PDH

Discipline: Landscape Architect

Project Type: Street design adjacent to an upscale pedestrian mall

An out-of-state LA firm with experience in road projects won an RFP to redesign the mass transit route to bring more shoppers to the mall. The project called for snowmelt technology and easy access to subsurface utilities, all while maintaining the Old World look of the mall. The LA retained a mechanical engineer subconsultant for the snow removal system design/technology. To save money, the ME recommended an innovative use of a product. Construction completed in the off-season and the mall opened as scheduled. Everyone was happy...until the concrete pavers on the roadways started to shift. The city brought in an expert who opined that it was the result of the "innovative" use of materials. The city sued the design team for \$4 million.

Key Points:

- failure to document conversations, concerns and assurances
- use of new and unproven technology
- lack of research and failure to obtain client's informed consent
- use of client-written agreement that had only limited construction phase services and no LoL
- risks of being from out-of-town

Attendance Recommendations for Premium Credit: >50% of the firm's principals plus >50% of the firm's project managers

Longhorn Engineering

2 AIA/CES LU | PDH

Discipline: Civil Engineer

Project Type: Property survey and design of a sanitary sewer system

This out-of-state project included a property survey and design of a sanitary sewer system, water treatment plant, site drainage/retention system and grading/street plans. Numerous survey errors became apparent during construction followed by an \$11 million claim.

Key Points:

- poor project selection
- unqualified and uninsured subconsultants
- poor project management
- poor technical procedures

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Mesa Architects

2 AIA/CES LU | PDH

Discipline: Architect

Project Type: Design and construction of a public library
The final installation of newspaper and magazine racks was delayed by the city project manager. However, once their positions were finalized, the racks were never affixed to the walls. A claim arose when a rack toppled onto a library patron.

Key Points:

- certificate of final completion
- uninsured subconsultant
- incautious or vague wording on plans and/or specifications
- lack of documentation
- ignoring the safety factor

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Case Studies

Muddy Waters

2 AIA/CES LU | PDH

Discipline: Civil Engineer

Project Type: Sewage treatment plant for a waterpark and hotel resort

This complex project involves a developer, multi-prime agreements, a sensitive permit application for waste water treatment, major program changes that took place after permits were issued, value engineering, plant operation problems and, ultimately, citations for the illegal discharge of untreated sewage into a local stream. Not surprisingly, the developer claimed \$20 million in damages.

Key Points:

- lack of communication about unique project requirements, permitting restrictions and changes to the owner's program
- lack of coordination between disciplines
- multi-prime agreements
- value engineering
- owner's inexperience with project type
- binding arbitration
- no waiver of consequential damages
- no limitation of liability
- choice of governing law
- statutes of limitation
- joint and several liability
- sub not privy to the terms of the prime design contract
- unqualified operations staff
- lack of insurance and written contract for geotech

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Nast Engineering

2 AIA/CES LU | PDH

Discipline: Civil Engineer

Project Type: Project to design a five-mile waterline
A year after project completion, the waterline burst, causing portions of the street to collapse and partially flooding the surrounding area. The City sued for over \$1 million.

Key Points:

- contract language: inspection, stop work authority, and contract administration
- inadequate inspection
- inadequate communication

Attendance Recommendations for Premium Credit:

>50% of the firm's principals

Rising Tides

2 AIA/CES LU | PDH

Discipline: Civil Engineer/Surveyor

Project Type: Survey for a residential community and individual homeowner.

When surveying and developing plans for a waterside residential community, a partner in a small civil engineering firm relied on out-of-date FEMA flood zone maps, later siting a homeowner's dream home in a high-risk flood zone. Although the engineer provided additional services for the homeowner over the years—all without a written contract—he missed several opportunities to use the current maps. Only when the homeowner tried to change flood insurers did she learn her home was in a high-risk zone and worth far less than previously thought. When the homeowner sued, it was learned the engineer had kept virtually no documentation for the project.

Key Points:

- lack of signed contracts
- failure to adopt new technologies
- lack of QA/QC procedures
- poor internal communications
- lack of project documentation
- absence of record retention policy

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

Case Studies

Rockridge Elementary School

2 AIA/CES LU | PDH

Discipline: Architect

Project Type: Elementary school design

Under a tight schedule and even tighter budget, the architecture firm designed a 600-student elementary school. The school district insisted on the lowest-bidding contractor and cut construction observation services to save money. The district insisted on changes during construction and substitutions were approved on other items to cover the increased costs. The school opened on time, but six years later, cracks in the roof trusses were discovered along with construction defects and poorly performing substituted materials. In this highly publicized case, the initial demand against the architecture firm was \$5 million.

Key Points:

- financial constraints
- inexperienced client
- low-bid contractor
- failure to provide a full scope of services or to obtain a signed contract
- unqualified staff
- inadequate QA/QC processes
- communication breakdowns
- failure to require or check insurance
- schedule control issues
- failure to cooperate with insurance company

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers

(The) Shops at Galilean

2 AIA/CES LU | PDH

Discipline: Architect

Project Type: Retail complex

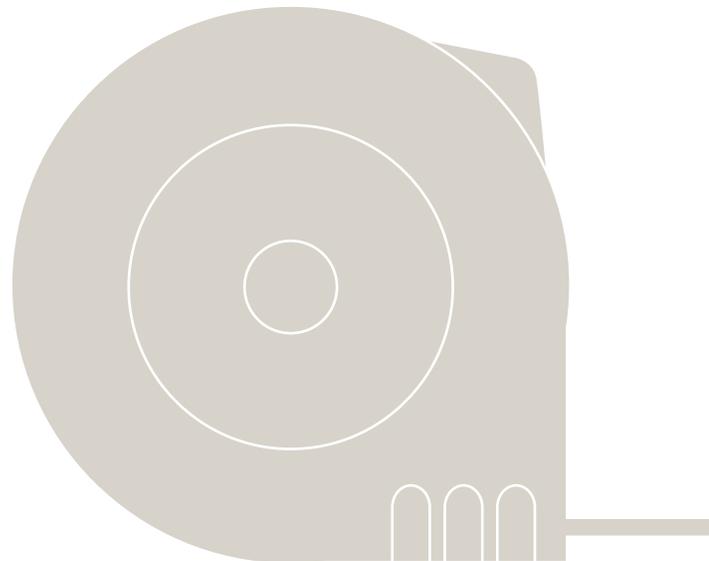
An out-of-town developer engaged the lowest-bidding architecture firm to design a shopping complex and then required the firm execute a purchase order agreement. Construction bids came in over budget. To cut costs—and without consulting the architect or even the contractor—the developer went to a metal building manufacturer to get an alternative roof system. The contractor, the architect and the structural all disavowed responsibility for checking the roof manufacturer's shop drawings. The shopping complex was completed a little behind schedule, but the real problems started when the shops began to leak. Forced into arbitration by the purchase order fine print, the architect and the structural engineer got dragged into a \$2.25 million claim.

Key Points:

- no formal project or client review
- use of a purchase order form
- no mediation clause—binding arbitration, instead
- certifications
- failure to document concerns
- failure to adhere to normal shop drawing review procedures
- uninsured subconsultant

Attendance Recommendations for Premium Credit:

>50% of the firm's principals



Case Studies

Uneven Pavement

2 AIA CECs LU | PDH

Discipline: Civil Engineer

Project Type: Highway

Renovation of an eight lane highway takes a bad turn when a civil engineer agrees to team up with an inexperienced contractor on their first design build project. Besides signing agreements with the contractor with onerous flow down provisions, the civil engineer failed to implement sound quality management procedures and coordinate staff changes, leading to a claim for \$1.2 million dollars.

Key Points:

- inappropriate contract provisions
- communication breakdowns
- inexperienced staff
- staff shortages
- lack of QA/QC
- contractors lack of experience and awareness
- hasty admission of liability

Attendance Requirements for Premium Credit:

>50% of the firm's principals and project managers

Val U

2 AIA/CES LU | PDH

Discipline: Architect

Project Type: Upscale hotel complex

Val U highlights a prime architect and its interior design and mechanical subconsultants in the development of multimillion-dollar hotel complex on the Valkyrie University campus. Add a tight schedule and a low-bid contractor, and it gets really interesting. But wait, there's more. When faced with cost overruns, the contractor suggests value engineering, Val U agrees, and a product substitution leads, ultimately, to water intrusion and mold—and a \$20 million claim.

Key Points:

- lack of communication
- poor change management
- lack of documentation regarding decisions
- poor field observation and reports
- failure to update specs
- personnel continuity problems
- low-bid contractor
- value engineering
- use of a client-written agreement
- mandatory arbitration, lack of mediation and LoL clauses
- no written agreements with subconsultants
- failure to verify subs' insurance coverage limits

Attendance Recommendations for Premium Credit:

>50% of the firm's principals plus >50% of the firm's project managers



Case Studies

When Money's No Option

2 AIA/CES LU | PDH

Discipline: Structural Engineer

Project Type: High-end single-family residence

Architect engages a structural engineer sub-consultant for a very high end residence. Failures in client and contract management result in a loosely defined budget and ill-defined scope set the stage for a host of owner driven changes on the project. Contractor personnel changes and a volatile owner create the perfect storm for this claim. All of these issues collide when the owner files a claim for \$16 million, and life-safety issues are discovered.

Key Points:

- high-end residential project
- unsigned contracts
- poor follow up on on-conforming work
- scope management and documentation
- client selection
- risks of loose project budgets
- scorched earth mentality of the client

Attendance Requirements for Premium Credit:

>50% of the firm's principals and project managers

You're Toast

2 AIA/CES LU | PDH

Discipline: Architect

Project Type: Tenant Improvement

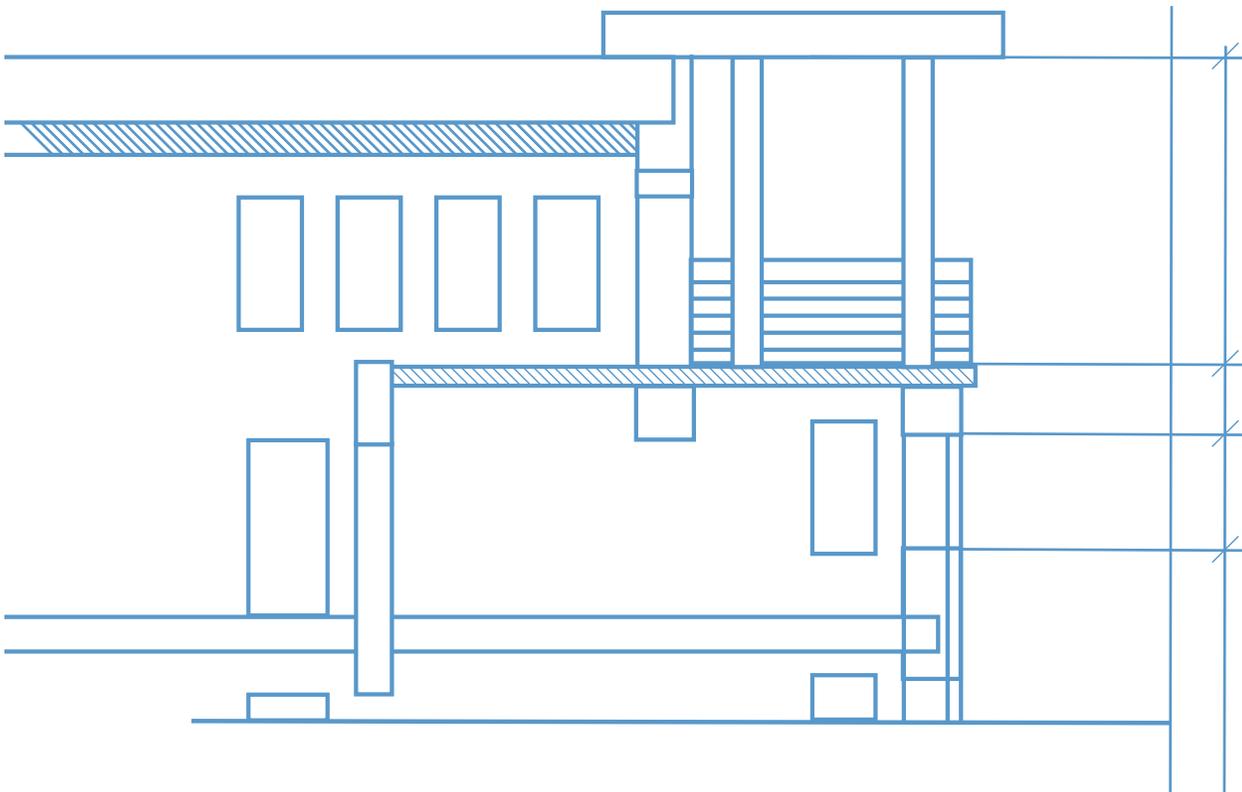
An architect is hired under a master agreement by a national fast food franchisor to design all of its franchisees' build-outs. During subsequent negotiation with one franchisee, the architect agreed to remove CA from its scope of services in exchange for a reduced fee. Not long after occupancy, the franchisee experienced several electrical issues. A year after completion, the building burned to the ground, resulting in cross-complaints by multiple parties and several years of litigation.

Key Points:

- poor client evaluation
- lack of formal project evaluation
- foregoing construction administration services
- inadequate subconsultant agreements
- stamping drawings prepared by another party
- failure to identify incompatible CAD programs

Attendance Recommendations for Premium Credit:

>50% of the Firm's principals plus >50% of the firm's project managers



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