

# ProNetwork News

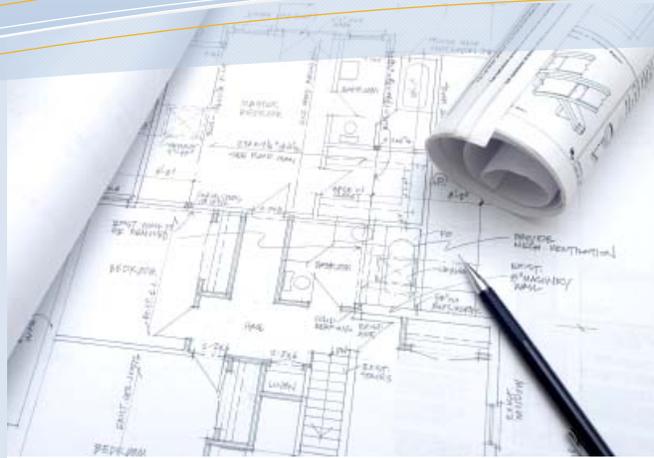
## Risk Management Tools for the Design Professional

Drew F. Seaman



Drew F. Seaman, a founding member of Straub, Seaman & Allen, P.C., received his B.A. degree in Architecture from Iowa State University and his law degree from Washington University in St. Louis. His practice is principally related to the representation of Architects, Engineers and Surveyors with a focus on construction. He is a frequent speaker at risk management seminars for design professionals as well as seminars for attorneys involved in construction matters.

Mr. Seaman can be contacted at [dseaman@lawssa.com](mailto:dseaman@lawssa.com)



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Robert L. Coleman  
Professional Underwriters, Inc.  
[www.profunderwriters.com](http://www.profunderwriters.com)  
[pumich@profunderwriters.com](mailto:pumich@profunderwriters.com)  
248.553.8300 \* (fax) 248.553.8305

### Internal Risk Management – Part 2 of 2

*Excerpted from an article by Drew Seaman and Tom Waggoner of Straub, Seaman & Allen, P.C., St. Joseph and Grandville, Michigan*

In the last issue, we presented the first of two parts of a practical guide to risk management protocols for the design professional. We first addressed the selection of clients and projects, and recommended that both be assessed in light of your firm's strengths and culture before engagement.

We then presented a detailed list of tips on how to navigate the sometimes-treacherous waters of the contract. The most important take-away from this section is that your firm needs to establish and maintain a document and contract review process, helmed by your most able staff, and to enlist the aid and counsel of an attorney who is an expert in the field.

We will now address the final four topics in our risk management procedure review:

- Communications
- Contract Document Reviews
- Surveys
- Construction/Contract Administration

#### Communication

No one piece of risk management advice is more repeated, or more important, than to document all communications throughout the course of the project. All communications, including oral conversations, should be documented in some fashion.

Your firm's communication protocol should address these matters:

- Letters, notes, memos, e-mails and plans and specifications
- Protocols for file documentation



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## Risk Management Tools for the Design Professional

Thomas F.  
Waggoner



Thomas F. Waggoner received his undergraduate degree from Indiana State University and his Juris Doctorate from the University of Notre Dame Law School. His areas of concentration include construction matters, Owner/Engineer agreements, specifications, Green Building certification and design/build matters. He has presented lectures and seminars to various industry groups including the AIA and the NSPE.

Mr. Waggoner can be contacted at  
[twaggoner@lawssa.com](mailto:twaggoner@lawssa.com)

### Internal Risk Management – Part 2 of 2 *Continued*

- Protocols for file retention
- Archiving of emails
- Avoiding chain emails
- Prohibiting emails from legal counsel being forwarded to those outside the firm
- Ensuring that all communication is professional in tone
- Protocol for handling of Bulletins, Submittals, RFIs and Change Orders
- Retention of communication records, including plan versions, for one year longer than required by the statutes of limitation in the states where your firm works.

If a problem arises, the firm needs to be able to show that the matter was discussed with the owner, construction manager and/or contractor *and* that a particular decision was agreed to by the parties. And remember to impress upon your staff that all communications, except with legal counsel, can be obtained by an opposing side in the event of a dispute.

“A formal mentoring program is a powerful risk management tool that produces both immediate and long-term benefits to the design firm.”

### Contract Document Reviews

Independent peer review by a firm member not involved in the project is the best way to avoid errors or omissions in design drawings and specifications. If someone who has not been involved in the development of the project reviews assumptions, calculations and layout, the probability of catching mistakes is greatly increased. The review should include not only the drawings, but general conditions, special conditions and specifications.

Each document should be proofread for clarity of language, accuracy and content. The review should also focus on removing provisions and sections in the Contract Documents that are not applicable to the specific project.

Further, have your attorney perform a detailed annual review of your standard front-end documents, general conditions, special conditions and specifications to minimize errors and omissions.

### Surveys

- Remove out of date site plans and topographic surveys from the active file.
- Establish a written checklist for:
  - ALTA/ASCM surveys
  - easement identification
  - flood plain identification
  - drainage boundaries
  - building staking
- Refer to ALTA/ASCM's website for established minimum standards for land title surveys.

### Internal Risk Management – Part 2 of 2 *Continued*

#### Contract and Construction Administration

Establish protocols that parallel those set forth in the Contract Documents for the submission and review of:

- Shop drawings
- Samples
- RFIs
- Change Orders and substitutions

The firm's internal protocols should set forth its procedures for reviewing and/or responding to submittals. Be sure to:

- Develop standardized forms
- Maintain logs
- Use a date/time stamp
- Develop a checklist of reviewer responsibilities
- Instruct reviewer on the specific purpose of each review
- Use appropriate stamps
- Return improper submissions

Further, Contract Administration, and in particular field services, needs to have established protocols and special considerations.

- Protocols must be consistent with the contract between the Owner and the Design Professional.
- They need to identify what services will be provided, by whom and how often.
- They should include limitations on the authority of the resident project representative or field architect.
- Carefully select the Project Engineer for Construction Administration.
- Make sure experienced and qualified design professionals conduct site visits.

We'd like to take this opportunity to give you one final bit of advice. A formal mentoring program is not often considered a part of a design firm's risk management program, but its benefits are both immediate and long-term. Performing the firm's Construction Administration obligations is an excellent opportunity for an experienced design professional to impart his or her years of experience in addressing design issues to the next generation.

#### Conclusion

These are but a few of the steps that can be taken by your firm to help prevent claims by Owners and Contractors. By developing an internal risk management program, you can also increase your overall productivity and see the difference in your firm's bottom line.

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Professional Underwriters, Inc.  
[www.profunderwriters.com](http://www.profunderwriters.com)  
[puimich@profunderwriters.com](mailto:puimich@profunderwriters.com)  
248.553.8300 \* (fax) 248.553.8305

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