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This policy may save your day



INSURANCE
& LAW

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For decades, doctors, lawyers, architects, engineers, accountants and insurance agents and brokers have benefited from professional liability insurance policies specifically tailored to cover the various liability risks inherent in their professions.

But what about the rapidly growing class of other types of professional service providers? Regardless of the type of service provided – whether it's managing an online marketing campaign, giving business or financial advice, maintaining a property or providing some other type of service – any company or individual may be faced with a lawsuit from a client or customer who claims that something done on their behalf was done incorrectly or negligently, and that error caused them financial or some other type of harm.

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As our economy continues its shift toward an increasingly services-driven market and the body of professional disciplines expands to meet new needs and technologies, the insurance industry has responded by creating what are called miscellaneous professional liability (MPL) policies to address the vast liability exposure these professionals face.

There is not a formalized definition of what constitutes a "miscellaneous professional" – and surely the industry means no offense in classifying anyone as miscellaneous – but in a nutshell, if you or your company provide a service for a fee, your professional activity may be insured by an MPL policy. Examples of miscellaneous professionals are credit counselors, interior decorators, trustee services, risk managers, advertisers and marketers, translators, collection agencies, employment agencies, auctioneers – the list goes on, and it keeps growing.

Qualifying business owners of all types may benefit greatly from the protection afforded by an MPL policy, especially in a lawsuit-conscious business climate in which ever-escalating and enticing court settlements make the headlines almost daily. An MPL policy can provide protection in the event of a lawsuit alleging an error, omission or negligence in providing a service; malpractice; failure to provide a service; fraud; improper documentation or nondisclosure; mismanagement; misrepresentation of facts; violations of the law; or other allegations.

No matter how inadvertent the alleged misdeed may be – and even if the allegation is completely without merit – a lawsuit can have drastic and irreparable effects on a business, especially a smaller one, that go beyond the

financial hit into the realm of lost time, legal hassle and a damaged reputation.

For example, consider a designer who builds a space to store perishable or valuable goods for a client, and it doesn't properly control temperature and moisture, resulting in damage to the client's goods. Or, with one wrong click of the mouse, a marketing consultant mistakenly sends a promotional email blast to the wrong list of recipients, resulting in significant business problems for the client. Or a property manager mishandles a homeowners' association's contracts for snow removal on the property, and a tenant is injured. These are the types of negligence claims that can result in significant defense and settlement costs, and they may not be covered under a traditional business owners' policy.

In fact, most general liability insurance policies include specific exclusions precluding coverage for claims premised upon "professional services." The nature and purpose of a general liability policy is to provide coverage for third-party claims, usually premised upon bodily injury or property damage. General liability policies simply do not contemplate – and a general liability insurer will seek to avoid – extending coverage for claims based upon the mistake or bad work product of the insured, especially in the context of claims seeking monetary damages as a result of a mistake or error.

Access to skilled defense counsel to defend such lawsuits, and coverage for the cost of defending them, is where having an MPL policy properly tuned to the needs of your business may just save the day. Many MPL policies specifically allow the policyholder the option of choosing their defense counsel, with the insurer's approval, which is an excellent feature to have if there is an attorney particularly well-versed in the unique liabilities that accompany your services.

A potential policy should be examined closely with your counsel or insurance broker to make sure it meets the specific needs of the services you provide, along with the size and scope of your company. There are many variables to consider: For example, do you need personal injury coverage, or perhaps spousal liability coverage? Are the premiums, deductibles and caps on coverage set at the right amounts for the risk you take on every time you perform your duties? Are you covered for first-party and third-party exposures? A growing number of miscellaneous professionals may also require supplemental policies such as cyber risk or media-focused policies, depending on the nature of their business.

In the end, an MPL policy should never be seen as a replacement for the standard coverages provided by traditional business insurance policies – but for the expanding array of professional service providers out there, a properly calibrated MPL policy is an important protection that cannot be overlooked.

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