



PROGRAM UNDERWRITERS

## Claim Scenarios and Tips for Architects + Engineers



### Assumed Duty to Supervise

An insured was contracted solely for engineering design services. While their contract didn't explicitly include or exclude construction administration or supervision, they had an employee on-site daily to document contractor progress. This employee noticed construction errors and recorded them in daily logs but didn't report them to the contractor or project owners. Those errors later caused significant damage to a neighboring property, requiring extensive repairs and remediation. In the resulting lawsuit, the court ruled that, despite the written contract, the insured had taken on a supervisory role and failed in that duty, leading to liability exposure.



#### Risk management tip

Review contracts carefully and include a provision (to the extent enforceable in the governing state) that the insured assumes no duty or obligations outside of its specified scope of work, despite any of the insured's actions.



### Use of materials/building code violations

An insured designing a large sports stadium did not comply with building codes because they failed to specify the use of the required fire-retardant materials in their plans. Because of this, non-compliant materials were used throughout the project and later had to be removed and replaced. The remediation work caused considerable delay costs. More cost-effective alternatives were not viable as they did not meet code requirements.



#### Risk management tip

Check all relevant building codes for materials specified in your plans and any contractors' submissions of materials you will approve. Be sure the materials specified or approved are appropriate for their purpose. Where possible, consider the scenario of non-compliant materials being used and how things might play out if that occurs. Thinking about the consequences of an incorrect or non-compliant choice on the front end can help avoid errors and claims.



## Calculation error

An insured made a miscalculation when converting from architect scale to engineer scale on a large amusement ride project, mistakenly entering the wrong number. As a result, the concrete ride access platform was built too tall and couldn't be used. The insured's client also provided incorrect width dimensions for a ride section, leading to shared liability. By the time the mistake was discovered, the park had already opened, requiring all the concrete work to be torn out and redone. An access road also had to be built to work around the operational park, leading to a significant loss claim.



### Risk management tip

Establish procedures to double-check the accuracy of calculations, especially when the project involves consequences that would be difficult to remediate, such as concrete. The extra time required to double or triple-check calculations is a small cost compared to the claim that might result from an error.



## Failure to consult resources

After changes were made to the column spacing for a new parking garage structure, the insured did not specify the correct thickness for the concrete slab. Additionally, they failed to consult relevant resources regarding the span and depth ratios for increased post-tension forces and larger spans. This oversight was discovered only after construction had begun, resulting in a partial rebuild and necessary design modifications for future construction. These issues caused significant delays and potentially added costs exceeding \$1 million. Because the insured neglected to verify their design against the recommendations of the Post-Tension Institute, the claimants had a strong argument for a breach of the standard of care, leading to a substantial loss claim.



### Risk management tip

Design changes can often produce design errors if they are not adequately researched and addressed before construction. Address design changes before construction begins to avoid costly expenses.

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