

# Accountability

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Issue XI

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So, you think the firm is operating like a well-oiled machine, business is good, profit margins are high, and everything is going well.

## But....

- Æ You've been experiencing unusual or persistent inquiries by the client concerning an engagement, or
- Æ You received a telephone call or letter from an attorney who's just looking for information, or
- Æ You received a request for a second opinion or review of your work product by your client.
- Æ Before all work is completed, the client transfers the engagement to another CPA.

These are flashing signs and symptoms of a claim. Heightened awareness of the true impact of these circumstances should compel you to "step-up" your documentation of conversations and correspondence between you and the client. The first indication that an error or omission claim is being made against you is rarely an official Summons and Complaint delivered by a Process Server. However, you may be served with a Summons and Complaint at any point during the life of your practice.

When you purchased professional liability for your firm, you purchased more than a piece of paper. You have purchased the insurance company's commitment to vigorously defend your firm against unfounded claims.

## If a claim is made against you:

- Æ Notify your agent/broker or insurance company, in writing, with a complete account of the

circumstances. (**Do not distribute this document to anyone else without first consulting your attorney and carrier.**)

- Æ If the circumstances indicate the need for immediate counsel and advice, call your insurance agent, who then will call the carrier. This carrier will retain local legal counsel.
- Æ Once a claim has been made, do not attend, or agree to attend any conferences set up especially for the purpose of discussing this claim without first consulting your Claim Representative.
- Æ Do not sign or accept any releases from any parties without first obtaining approval from the Carrier's Claim Representative.
- Æ Commit to writing the circumstances which surround the claim situation as known to all principals and staff members involved. Do this as soon as possible since the passage of time fades memories and obscures details.
- Æ Assemble, in chronological order, all pertinent letters of agreement for services and correspondence, memoranda, etc. affecting the claim situation. **Do not alter the files and never release the original files.**
- Æ Accept all letters, memoranda, suit papers, etc. without comment or argument (especially do not admit liability and do not attempt to place blame.)

## INITIAL LAWSUIT STEPS

1. Filing of a Summons and Complaint with the court and serving these documents upon the defendant.
2. The Summons and Complaint is transmitted by the carrier to your defense counsel.

3. The defense counsel files an Appearance which officially notifies the Plaintiff's attorney and the court of legal representation.
4. Your defense counsel also files an Answer, which is a brief denial of the allegations made in the complaint.
5. The Professional Liability Insurance Carrier will ask you to prepare a written narrative outlining the engagement with your client/claimant. The narrative should be addressed to the defense counsel and is confidential communication between you and your attorney.

The earlier a potential suit is identified and reported to your insurance company or agent, the better the chances to avoid or win it.