Respond to Subpoenas with Confidence with Subpoena Assistance Coverage

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Getting served with a subpoena is never on anyone's wish list. Depending on the individual and their familiarity with the legal system, responses can range from calm compliance to complete panic or ignoring the subpoena entirely.

A subpoena is a court order. It's how the legal system compels individuals or firms to provide testimony or documents related to a matter in court. And because it's mandatory, failure to comply can lead to fines, contempt of court charges, or even arrest.

Fortunately, professionals insured with Berkley Service Professionals don't have to navigate this legal issue alone. Berkley Service Professionals includes subpoena assistance coverage with every professional liability policy. This built-in coverage is designed to help policyholders respond to subpoenas efficiently and correctly without incurring excessive costs or scrambling to find outside counsel.

What is subpoena assistance coverage?

Berkley Service Professionals' subpoena assistance coverage is a dedicated sublimit that sits on top of the professional liability policy's regular limits of liability. It is not subject to the insured's deductible, meaning there's no out-of-pocket expense to the policyholder for using it.

When a policyholder reports a subpoena, Berkley Service Professionals' claims team will review it to confirm that it pertains to a matter that would be covered under the Policy if a Claim were to be presented, and, if necessary, Berkley will retain vetted panel counsel — experienced attorneys who specialize in professional liability insurance matters, often with industry-specific expertise — to guide the response. These attorneys work at pre-approved rates, helping policyholders avoid the burden of excessive legal fees.

Depending on the requirements of the subpoena, panel counsel may assist with document production, request extensions, or prepare policyholders for deposition testimony. They also provide guidance on how to handle the deposition process and expected deposition questioning so that policyholders are prepared, focused, and don't inadvertently create new exposure. This support is invaluable, providing immediate access to legal experts who understand both subpoenas and the nuances of insurance-related litigation.

Early Reporting is Key

Timing is critical when it comes to subpoenas. They often come with deadlines as short as 30 days. Reporting a subpoena immediately — either through a broker or directly to our claims team — gives us time to confirm coverage, retain counsel without conflicts, gather documents, and ensure compliance with court-mandated timelines. Waiting too long can lead to rushed decisions, missed deadlines, and reporting issues under the professional liability policy.

When reporting, insureds should be prepared to provide:

- A copy of the subpoena,
- The date it was served,
- Background on the situation and the relationship to other parties involved,
- Relevant contracts, documents, and correspondence

From there, Berkley Service Professionals will assess what is needed and when, and will either directly assist the insured or retain counsel, if needed, and will coordinate with the policyholder and counsel to ensure there is an action plan and that deadlines will be met. If counsel is retained, the policyholder will have one primary attorney contact, supported by the claims team, ensuring the process is managed professionally from start to finish.

What Not to Do and Why it Matters

It's easy to overreact or underreact when served with a subpoena. Both extremes can create unnecessary risk. Common mistakes include the following:

- Ignoring the subpoena: It is a legal order with consequences for noncompliance.
- Admitting fault: Liability should never be assumed verbally or in writing.
- Sending documents or making statements without legal review: This could unintentionally expose the insured to liability.
- Handling the matter alone: Even well-meaning responses can be misinterpreted if not artfully or strategically crafted, with legal considerations in mind.

Without professional or legal guidance, a policyholder might inadvertently share details that are not relevant to the issue or that could be used against them later. This risk is especially high during document production or testimony. Professionals often believe they have responded correctly, only to discover months later that something said or submitted has been misinterpreted or misconstrued and has opened the door to liability.

Proactive Risk Management and Peace of Mind

Subpoena assistance coverage isn't just about compliance; it's about confidence. For most insureds, especially small and mid-sized firms, the peace of mind this coverage provides is invaluable. Berkley Service Professionals has already vetted panel counsel and negotiated rates, making the process efficient and worry-free. The policyholder simply needs to remain responsive and provide the requested information; our team handles the rest.

Beyond responding to the subpoena, this coverage acts as early loss control. Each subpoena gives us insight into potential exposures and allows us to work with the policyholder and underwriters to prevent future claims. If patterns emerge, such as repeat subpoenas on similar issues, Berkley Service Professionals works with insureds to strengthen their business practices and documentation processes before they become larger problems.

Subpoenas are more common than many policyholders realize, especially in industries where firms hold client data or project documentation. With the right preparation and timely communication, professionals can ensure their response is handled properly every time.

A subpoena doesn't have to turn into a crisis. With Berkley Service Professionals' subpoena assistance coverage, insureds can meet their legal obligations, minimize their risks, and move forward with confidence.

About the Author

Kevin joined Berkley Alliance Managers in 2020. He has more than 10 years of diverse experience in the insurance industry. Kevin previously served as a claims analyst for an international commercial lines insurance brokerage firm and held customer service roles at a leading property casualty insurance carrier. Kevin earned a Bachelor of Arts in Philosophy from Central Connecticut State University, New Britain, Connecticut. He is based in Colorado and can be reached at kmarrs@berkleyalliance.com.

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