

# Innovation Meets Exposure: Rethinking Liability Risk in Professional Services

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In today's evolving business landscape, service professionals are expanding their offerings to meet client demands, stay competitive and unlock new revenue streams. Modern technologies like artificial intelligence (AI) and virtual service platforms are accelerating this shift by enabling professionals to broaden their scope and serve clients in new and dynamic ways.

Innovation creates new opportunities, but it also introduces new risks. As service professionals venture beyond their core competencies, they encounter liability exposures that are often hard to identify or fully understand. This shift presents both a challenge and an opportunity for insurance carriers, brokers and the professionals themselves.

## Expanding Services, Expanding Risk

The rise of the gig economy was one of the earliest signs of this change. Platforms like Airbnb, Uber and DoorDash created new business models that blurred the lines between personal and professional services. Freelancers stepped in to meet increasing demand, often without fully understanding the potential liability risks involved.

More recently, AI has become the most significant driver of change. Professionals in industries from insurance and real estate to consulting and law are integrating AI tools into their workflows to streamline operations, generate content and offer faster analysis. While this technology promises efficiency, it also introduces liability risk. Many professionals don't totally comprehend how these tools operate, or how their use might be interpreted by clients. With little legal precedent to draw from, the liability risks are difficult to quantify and even harder to defend against when something goes wrong.

Cybersecurity is another growing concern. IT consultants are increasingly expanding their services to include network security, vulnerability testing and data protection. However, as the cyber threat landscape changes, staying up to date is nearly impossible and even minor oversights can lead to data breaches, system failures or litigation.

Virtual services have also become more prevalent, particularly in sectors like healthcare, finance and marketing. While remote service delivery offers convenience, it also brings a higher risk of miscommunication, misunderstandings and technology failures, any of which can lead to legal disputes or claims.

When professionals begin operating outside their core skill set, they may not recognize the potential pitfalls or regulatory requirements involved. For example, a real estate agent branching into home inspections may not understand all regulatory or technical standards, and a marketing consultant offering crisis communication advice may unknowingly issue statements that expose a client to defamation claims. Their advice, while well-intentioned, can be misunderstood or misapplied by clients. Without a strong understanding of the new service area or a clear framework to guide delivery, they're more prone to errors, omissions and unmet expectations.

### **Where Claims Are Likely to Come From**

Although claim volumes stay relatively low for now, exposures are rising as professionals keep expanding their services. Several recurring themes have surfaced as potential sources of future claims.

One of the most common mistakes is not having clear, legally solid contracts. If professionals forget to specify what is or isn't included in an engagement, skip important disclaimers, or fail to add a limitation of liability, clients may develop unrealistic expectations, which can lead to disputes when outcomes fall short.

Service creep is another frequent issue. As professionals take on more work outside their expertise, often without formal training or experience, the likelihood of mistakes rises. Clients may interpret suggestions as advice and hold professionals responsible when results don't materialize.

AI also creates unique challenges in this space. If professionals do not fully disclose how these tools are being used, clients may assume a level of oversight or accuracy that simply isn't there. When outcomes diverge from expectations, this disconnect can quickly escalate into a liability issue.

### **How Professionals Can Protect Themselves**

To reduce liability risk while expanding their services, professionals should focus on three key areas: contracts, communication and insurance.

- **Contracts.** Well-drafted contracts are essential. Every agreement should clearly define the scope of services, outline responsibilities and include disclaimers that clarify the duties the professional is not assuming. Termination clauses can help prevent misunderstandings at the end of an engagement. Similarly, dispute resolution clauses can de-escalate conflicts before they become lawsuits. When possible, a limitation of

liability clause can also help cap potential losses, though enforceability may vary by jurisdiction.

- **Communication.** Clearly stating expectations and maintaining consistent documentation help prevent conflicts. Every engagement should start with well-defined expectations regarding deliverables, timelines and responsibilities. Important client conversations should be put in writing and any scope changes should be confirmed by both parties. It is also important to memorialize options presented to the client along with the client's decision. These measures serve as a key defense in the event of a claim.
- **Insurance.** Professionals should also make sure their insurance coverage evolves in line with their services. A standard professional liability policy may not cover every new offering. In fact, most professional liability policies include a definition of "professional services" that limits coverage to explicitly listed activities. For example, if an insurance agent begins offering financial planning or a consultant adds AI-based services without updating their policy, those activities might be excluded from coverage, leaving the professional responsible for claims.

Working with an experienced insurance broker, especially one with access to the excess and surplus (E&S) lines market, can help professionals customize their professional liability policies to match their evolving services.

### **Fine Line Between Innovation and Exposure**

The line between innovation and exposure is thinner than it appears. As service professionals venture into new areas, many unknowingly enter riskier ground. Professionals who understand their exposures, communicate clearly, and secure the right protections will be better positioned to grow confidently and avoid costly surprises later.

### **About the Author**



Tom has nearly 30 years of experience in professional liability underwriting and an extensive background in portfolio management. His production-driven approach has enabled him to develop successful professional liability products and build teams from the ground up. In 2020, Tom joined Berkley Alliance Managers to lead Berkley Service Professionals. During this time, he has successfully launched multiple new products, demonstrating his ability to drive business growth and expand the portfolio by building strong relationships with brokers.

Before joining Berkley Alliance Managers, Tom held various roles, including senior vice president, product head, product/portfolio manager and senior underwriter. He has worked in both large and small insurance companies as well as for Managing General Agents, specializing in both admitted and non-admitted professional liability insurance.

Tom is a licensed insurance agent and surplus lines broker in the state of Connecticut. He holds a Bachelor of Business Administration from Western Connecticut State University. Tom is based in Glastonbury, Connecticut, and can be reached at [trea@berkleysp.com](mailto:trea@berkleysp.com).

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