

Is your site review as good as you think?

Pro-Demnity's Risk Services Department, staffed by experienced architects, has seen a thing or two over the years in its involvement with claims against architects. And it's hard to unsee them. Although *new* claims cross our desks every week, we have observed that quite a few are due to the *same types* of common mistakes as they were five, ten or perhaps even thirty years ago. Most of these are easily avoidable if one follows some basic tips.

We're speaking specifically about claims related to construction phase services, most particularly, site reviews. **Site review is arguably an area in which the greatest liability exists for architects.** It's also an area where improving one's process and approach, could prevent claims, or at the very least, ensure that you will be better defended by Pro-Demnity against claims that may arise.

Many of these tips may seem obvious to most architects but, keep in mind, they have been gleaned from actual claims we've handled.

Twelve Tips to improve your site review and decrease claims:

1. It may go without saying that you should **charge a sufficient fee** to allow you to perform thorough professional services with diligence and without cutting corners. Most architects do. Pro-Demnity takes note of those that don't.
2. **Only do what you're contracted to do; do it fully, or not at all.** If not contracted to perform a service - don't "dabble" in it. **There is no such thing as "partial" site review.** For example, if you are not retained to perform site review, do not step foot on the site during the construction phase for any reason. If you do, it may be deemed by the Courts that you were, in fact performing site review, despite what your agreement states. When retained to do site review, be professional and carry out as complete and thorough performance of your services possible in accordance with your agreements.

3. **Document every direction, warning or notice you provide to your client, contractor, or anyone else during a project.** If someone says or does something that you feel does not appear correct, do not let it slide. Oral advice only becomes valuable when put in writing.

4. **Make sure your site reviewer is experienced and intimately familiar with the requirements of the contract documents and applicable Codes.** Do not send the most junior member of your firm to perform site review. Remember this is an area where massive liability exists for architects. Be comprehensive in noting deficiencies and make sure to follow-up on outstanding items.

5. **Do not feel pressured to side with your client or contractor in making interpretations of the documents, evaluations on site or in making certifications.** You have a duty as a professional to be impartial. If you are feeling pressure and require support, feel free to have a discussion with someone in Pro-Demnity's Risk Services Department.

6. **Be extremely careful in considering proposed substitutions and properly evaluate how any such change will impact performance and durability.** Ensure your client understands the pros and cons and signs off on it. It goes without saying that inferior products, although accompanied by a desired credit, may be detrimental to the project down the road, which may leave you vulnerable to a claim.

7. **Always insist upon and follow up in obtaining a certificate of insurance from your engineering consultants and ensure that their limit per claim equals or exceeds yours.** Do not agree to limiting their liability in your agreements with engineers without consulting with us. Otherwise, you may be on the hook contractually for any shortfall caused by an engineer's errors, omissions, or negligent acts.

8. **When receiving reports from your engineering consultants, do not edit, re-write or "put in your own words" the recommendations in their reports, replies to RFI's or other directions provided.** Architects sometimes tend to do this in their cover letters. Stick to your own discipline and do not second-guess, embellish or try to simplify the

advice of your consultants.

9. **Do not confuse your role as a contract administrator with that of a lawyer.** For example, when asked whether a delinquent contractor is in “default” of its contract, this may constitute legal advice, which you are not qualified to provide. Rather, restrict your advice to supplying your client with factual information on the performance (or lack of) of the contractor and request that it consult with its legal counsel to make a determination of whether the level of performance or non-performance of a contract, as indicated by you, constitutes sufficient basis to determine whether a contractor has defaulted on its contract.

10. **Be cognizant of your limitations.** Most architects are not a code experts, building science experts, engineers, lawyers, or delay consultants. When you feel out of your depth, do not feel uneasy in advising that something is beyond your expertise. If warranted, retain the appropriate consultant to assist you or recommend that your client engage them.

11. **Keep a chronological log of all submissions and re-submissions to contractors.** Delay claims continue to plague the construction industry and are a source of claims against architects. One of the common allegations levelled against architects in such situations, whether true or not, is that the architect and its consultants contributed to delay due to late response times. One way to defend against this is to create a record documenting your responses times showing that they were made in a timely fashion.

12. If you find things may be heading off the rails or when in doubt, feel free to **contact Pro-Demnity’s Risk Services team for support and guidance.** Our services are part of your annual professional liability premium, and we are here for you to help you to better manage risk in your firm.

While site review may at times appear to be a minefield of risks, it also happens to be a great opportunity for architects to showcase their diligence and professionalism toward bringing their projects to successful completion.

For more personalized architectural practice risk management guidance, you may request a complimentary and confidential meeting to [Speak with an Expert](#), or [Report a Claim](#).

Our Contributor



Salvador Knafo, OAA, MRAIC, leads Pro-Demnity's in-house architectural team and provides an architect's perspective across all facets of the company, working with leadership, stakeholders, claim specialists, legal counsel and of course, directly with Ontario's Certificate of Practice holders and their architects. Sal's breadth of experience includes having worked in professional liability

claims with architects, construction dispute, as well as interacting with insurance underwriters in product development and other initiatives within the Company. Most importantly, Sal passionately services the profession of Architecture by providing consultation to architects on avoiding liability and minimizing risk. He is a licensed Ontario architect with over 30 years' experience at Pro-Demnity (previously the OAA Indemnity Plan).