



Professional Services Exclusions: Are You Actually Covered?

Why Law Firms Must Read the Fine Print in Their E&O Policies

You've secured errors and omissions (E&O) coverage for your law firm. You've reviewed the limits, the retroactive date, and maybe even added cyber and EPL riders. But here's a question many managing partners never ask until it's too late: **What exactly does your policy exclude under "professional services"?**

The professional services exclusion is one of the most misunderstood—and potentially dangerous—parts of a law firm's insurance program. Why? Because it can silently carve out exactly the kind of work you thought was covered.

If your firm has never reviewed this section closely, you could be exposed to significant risk—without even knowing it.

What Are "Professional Services" Anyway?

At a glance, "professional services" might seem obvious. For law firms, that typically means:

- Giving legal advice
- Drafting legal documents
- Representing clients in litigation or transactions
- Negotiating on a client's behalf

But modern legal practice is more complex. Lawyers today wear many hats:

- Acting as mediators, arbitrators, or fiduciaries
- Serving on nonprofit or corporate boards
- Advising clients on business strategy
- Providing services through affiliated consulting or real estate entities

If your E&O policy narrowly defines "professional services," any of the above activities could fall outside coverage—even if done in your capacity as an attorney.

The Hidden Risk in the Exclusions Section

Most law firm E&O policies contain exclusions that limit coverage for specific acts, services, or roles. These often include:

- Fiduciary or trustee services not performed as part of legal representation
- Business pursuits or investment advice
- Real estate transactions involving firm members or their relatives
- Board participation or directorships for outside organizations
- Contractual liability, particularly when the firm takes on obligations beyond typical legal services

Even routine engagements—like helping a client structure a new business or drafting an opinion letter—can raise red flags under these exclusions if the services drift into financial advice or business consulting.

Some policies also exclude **"dual capacities"**—meaning that if an attorney is acting as both legal counsel and something else (say, a real estate broker or financial advisor), coverage may be denied entirely.

Take a look at this real-world scenario where a firm finds itself excluded:

An attorney helps a client launch a venture and becomes a minority stakeholder. Years later, a dispute arises, and the attorney is sued for breach of fiduciary duty. The E&O insurer denies the claim—citing a professional services exclusion for business activity.

These aren't edge cases—they're increasingly common exposures for today's law firms.





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How to Audit Your Policy for Exclusion Risk

Managing partners and legal administrators should work with their broker to closely review:

- **The policy's definition of "professional services"**—Is it broad enough to cover all the roles your attorneys play?
- **Specific exclusions** for outside business activity, fiduciary services, or financial advice
- **"Dual capacity" clauses**—do they negate coverage when attorneys serve more than one role?
- **Whether the policy includes carve-backs** or endorsements that restore some excluded coverage

Also review how the policy treats acts of non-lawyers—many firms employ paralegals, consultants, or administrative staff who may also be involved in client-facing work.

Final Thought for Law Firm Leaders

E&O coverage gives firms peace of mind—until it doesn't. Professional services exclusions can turn that protection into a false sense of security. Don't wait until a claim is denied to find out where your policy draws the line.

Is your E&O coverage built for the work your firm actually does?

At IMA, we specialize in insurance for professional services firms—especially law practices with complex roles and exposures. Contact us for a deep-dive analysis of your professional services exclusions and risk profile.

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