

Management and Professional Liability Claim Scenarios

Miscellaneous Professional Liability

Business Consultant

- **The Facts:** A foreign company wanted to establish a manufacturing facility in the United States. Having no experience in this country, the company's board of directors retained a business consulting firm. The company requested that the firm provide recommendations concerning all aspects of the proposed facility, including plant locations, suppliers and employees. The firm provided its recommendations, which were followed by the company. The facility began to experience problems shortly after it opened. The facility was located in an area which lacked a skilled labor force. Costs associated with labor also exceeded the consultant's projections. In addition, many suppliers identified by the consultant could not fulfill the company's needs. The company retained counsel and demanded that the consultant pay compensation for its allegedly inaccurate advice. The consultant responded by blaming the company for providing inaccurate information concerning its proposed facility. Litigation was thereafter commenced in which the company alleged that the consultant had made numerous misrepresentations and was negligent in its provision of recommendations.
- **The Bottom Line:** After incurring \$60,000 in defense costs, settlement was reached shortly before trial in the amount of \$475,000 which represented a portion of the financial losses the plaintiff suffered as a result of the consultant's recommendations.

Computer Consultant

- **The Facts:** A computer consultant was retained by a company in order to update its inventory control software. The consultant adapted its existing, licensed software to the company's needs. Installation of the new software took longer than anticipated. Thereafter, the computer system crashed on several occasions, which required the company to implement manual inventory tracking. Once the system was back on-line, the company continued manual tracking to ensure that the new software was working properly. Comparisons of the system's results with those generated by the manual process revealed that the new software had an inaccuracy rate of 35%. The company terminated the consultant's services and

demanded compensation for the software's failures, including profits allegedly lost while the system was down. Discovery and investigation revealed that there were inherent problems with the software which did not become apparent until it was installed. Despite this, evidence indicated that the company's alleged damages of \$500,000 were inflated.

- **The Bottom Line:** The case settled after court ordered mediation for \$175,000. Defense costs totaled \$125,000.

Executive Search Firm

- **The Facts:** The CEO of a corporation retired. The corporation retained an executive search firm to assist with finding a replacement. The firm was provided with a list of qualifications for the new CEO. The corporation insisted that all candidates for the position have knowledge about its type of business, which was the manufacture of component parts for aviation communication equipment. The firm began to seek candidates. Thereafter, the firm supplied the corporation with a list of candidates. The corporation eventually hired one of the candidates from the firm's list. The candidate stated that he had experience with the corporation's line of business. After he was hired, the corporation learned that the CEO knew nothing about aviation communications. The new CEO was terminated and litigation ensued. The corporation alleged that the firm was negligent in providing candidates for the CEO position and did not check their backgrounds. The firm asserted that, based on the information supplied to them, each candidate, including the one eventually hired, was qualified for the position. Discovery revealed that the firm had checked the candidate's background and that they had found he was on the board of a company which manufactured aviation equipment.
- **The Bottom Line:** The case was resolved at a courtordered settlement conference for \$50,000 which represented the amount likely to be further expended in defending the case as well as a portion of the damages the plaintiff suffered in having to search for and retain a new CEO. Defense costs incurred by the firm totaled \$40,000.

