Design Professionals Special Series Recap: Professional Liability Risks and Insurance Considerations for Design Professionals Involved in Data Center Projects

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On June 30, 2026, MG+M The Law Firm hosted the second installment of its Design Professionals Special Series, focusing on Professional Liability Risks and Insurance Considerations for Design Professionals Involved in Data Center Projects.

Building on our May 6 session, this program featured Colin O'Neil, Group Lead, Architects & Engineers Professional Liability, HDI Global Insurance Company, and David Hatem, Partner, MG+M The Law Firm, who examined key risk management considerations, potential professional liability exposures, and insurance-related considerations impacting these rapidly evolving projects.

Key Takeaways

+ **Data center risk is concentrated and atypical compared to conventional projects**. Scale, mission-critical operations, mega-project characteristics, and heavy reliance on performance specifications combine to create a professional liability profile that's elevated well beyond what design professionals typically see.
+ **Performance specifications change how liability is evaluated**. Data centers rely heavily on performance-based requirements (uptime, power density, cooling, connectivity speeds) rather than purely prescriptive standards. This shifts evaluation from "did you follow the right process" to "did the outcome actually work"—meaning a design professional can meet the standard of care and still face liability if the performance requirement isn't achieved.
+ **A defined "design freeze" is essential to fair evaluation**. Without a clear milestone fixing the basis of design, designers risk being judged against a constantly evolving target rather than the conditions and information available when the work was actually performed.
+ **"Future-proofing" language can create unintended warranties**. Anticipating future adaptability, scalability, or obsolescence is good design practice, but contract and spec language describing it should avoid implying a guarantee of future performance or technological relevance.
+ **Design fragmentation is a structural risk on these projects**. Multiple parties—often without direct contracts with one another—contribute to design. An architect/engineer "of record" may have to certify a system relying on work product they don't fully control, raising real exposure around indemnification and standard-of-care application.
+ **Design delegation needs explicit guardrails**. Clear scope, documented qualifications, and carefully worded review language (not a generic shop-drawing stamp) are necessary when relying on delegated designers—especially given how common this is on data center projects.
+ **Commissioning, testing, and certification duties can quietly expand liability**. Design professionals should scrutinize these contract provisions closely, since they can pull designers into responsibility for construction work or proprietary equipment performance entirely outside their control.
+ **External risk factors compound the internal ones**. Misaligned expectations between developers and ultimate end-users, insufficient power/water infrastructure, fast-track schedules running design and construction in parallel, and weather/site-data gaps all add risk layers largely outside the designer's control—but still shape how

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their work is judged.

+ **Insurance capacity hasn't caught up to project scale**. Global P&C premiums (~$2.65T) are dwarfed by projected 2030 global data center spend (~$7T)—the industry is being asked to insure risk many multiples larger than the market itself.
+ **CPPI/OPPI policies are not a substitute for your own PSPL**. These owner/contractor protective indemnity policies sit excess of the design professional's own professional liability coverage—being named as an additional insured doesn't reduce your own exposure if your underlying PSPL isn't adequate.
+ **A strong PSPL primary layer is the foundation, not a luxury**. Recommended target is $20–30M (not $5M) so CPPI/OPPI towers can sit cleanly on top without coverage gaps—cited the Miami Signature Bridge as a cautionary example of what happens when the underlying PSPL isn't adequate.
+ **Insurance needs to be reframed as protecting the design professional, not just the project**. Given exposures now reaching into the hundreds of millions, treating PSPL purchase as merely an owner-imposed checkbox leaves design firms significantly underinsured relative to actual risk.
+ **Liquidated damages and OCIPs are increasingly common—and not always disclosed**. Developers are requiring liquidated damages tied to delays/performance failures, and exploring owner-controlled insurance programs, sometimes without informing design professionals; contractual liability caps are often written to exclude insurance proceeds from the calculation.

MG+M attorneys regularly advise design professionals nationwide on liability, insurance, and contractual risk issues arising from complex projects, including data center development. We work closely with clients to assess project specific exposures, navigate evolving regulatory and technical demands, and develop practical risk management strategies—helping firms make informed early stage decisions while maintaining defensible professional practice.

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