



OPUS
Owner's Protective
Professional Indemnity






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Executive Vice President,
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- Licensed architect with 36+ years in practice
- PM, Market Leader, Contract Officer, CFO, Director of Practice Management
- Member of the AIA Documents Committee 2003-2017, LFRT Legal Committee 2000-2010, ACEC Risk Management Committee



Diane P. Mika
Senior Vice President,
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Berkley Alliance Managers

- 25+ years in loss prevention education for A/E professional liability insurance
- Certified Instructional Designer
- Has led in-depth claims studies to understand A/E risks and has translated that into meaningful education programs



Edward L. Sheiffele, Jr.
Executive Vice President
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- Nearly 30 years of experience underwriting construction professional and environmental liability insurance
- Authored several construction professional and environment liability articles

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What is OPUS?

- First party indemnity insurance policy that covers a broad spectrum of professional and pollution exposures on construction projects
- Sits excess and difference-in-conditions of the professional liability policies of the design and construction professionals on a construction project
- Owner is the named insured and usually has privity of contract with designers and in U.S. may be the only entity legally entitled to recover loss
- Drops to dollar one cover if there is no underlying insurance
- Significantly more cost effective than A&E replacement insurance (PSPL)

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Pushback from Owners

Why should I worry about coverage (or additional) for the design firms—they showed me certificates?

I bought a PSPL dedicated for the design team— doesn't this address my exposure?

I'm buying a construction Wrap Up and added the design team as insureds under the policy

I'm buying a Builders Risk policy and have added the LEG3 endorsement

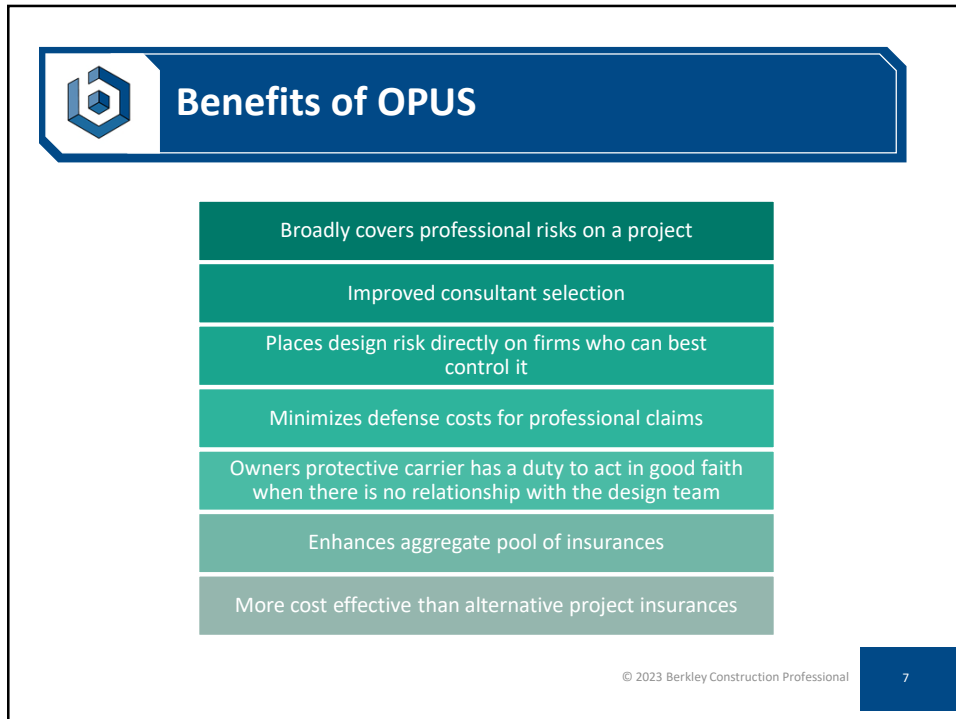
I don't want OPUS— my design team has warned me it is a bad policy

This looks like a lawyer's dream come true and tons of finger pointing

With integration of design and construction management liability, isn't it better to have one single policy approach?

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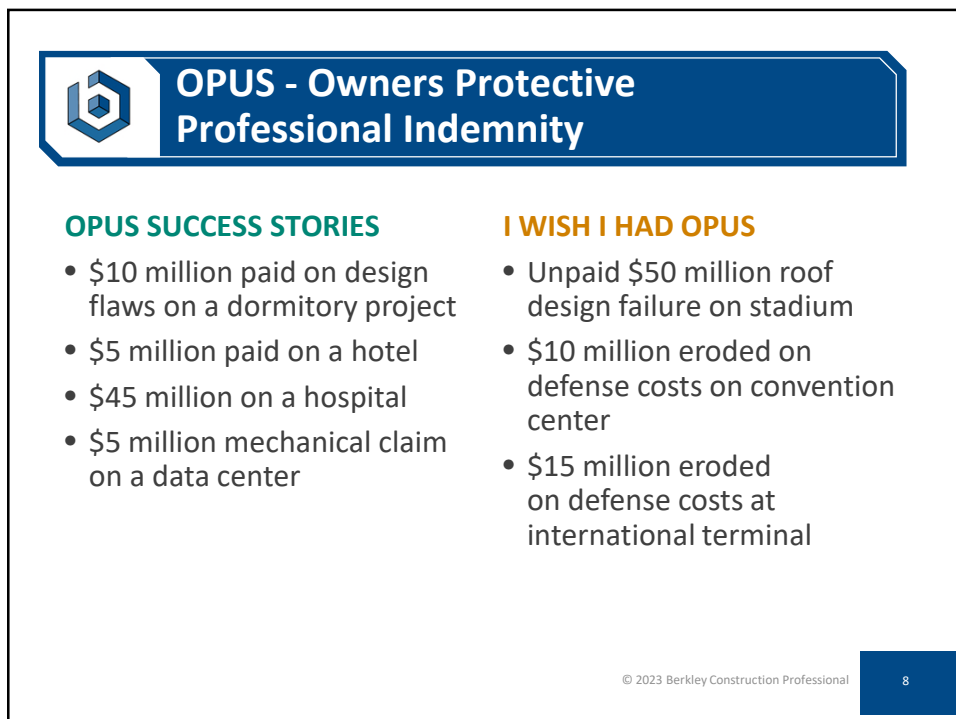
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Benefits of OPUS

- Broadly covers professional risks on a project
- Improved consultant selection
- Places design risk directly on firms who can best control it
- Minimizes defense costs for professional claims
- Owners protective carrier has a duty to act in good faith when there is no relationship with the design team
- Enhances aggregate pool of insurances
- More cost effective than alternative project insurances

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OPUS - Owners Protective Professional Indemnity

OPUS SUCCESS STORIES

- \$10 million paid on design flaws on a dormitory project
- \$5 million paid on a hotel
- \$45 million on a hospital
- \$5 million mechanical claim on a data center

I WISH I HAD OPUS

- Unpaid \$50 million roof design failure on stadium
- \$10 million eroded on defense costs on convention center
- \$15 million eroded on defense costs at international terminal

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OPUS Innovations



- Proactive coverage
- 1st dollar cover
- Cover during operating and maintenance phase of P3 projects
- Design cover when owner not in direct contract with designer
- Professional services when performed by the contractor
- Professional services extension to delegated design
- Employed architects
- Portfolio approach

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Best Practices for Placing Coverage

- Difference in Conditions (DIC)/Difference in Limits (DIL)
- Other insurance clause
- Are all design professionals covered?
- Construction management – extend to CM agency and CM at risk
- Know your limitations (of liability)
- Make sure policy and minimum insurance requirements match
- Avoid material variation wording and endorse unintentional failure to report conditions
- Be transparent avoid commissions grab



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 **Questions?**

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