

*As team members, interior designers are subject to real and imagined claims from a number of directions; many . . . from actions undertaken (or omitted) by another team member.*

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## LIABILITY FOR COST ESTIMATES

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Often, clients claim that designers failed to prepare a design within the owner's budget. If a design professional miscalculates the anticipated costs of a project, he may face liability to the owner. In determining whether the designer is liable for cost-estimating claims, courts will seek to assess whether the designer lived up to the reasonable standard of professional skill. If the court finds that the designer did not live up to the reasonable standard, it may hold the designer responsible for damages to the client, and in addition it may deny the designer compensation for services rendered. However, the court will not usually infer liability simply because the cost discrepancy is greater than usual.

Design professionals should think carefully about employing a common protection against such claims: incorporating a clause in one's agreement which limits liability for cost estimates. Such a limitation of liability shifts the responsibility for estimating costs away from the designer. The AIA has sought to insulate architects from providing cost estimates for projects by placing responsibility for cost estimating with the owner. This position, however, will often backfire, and cause an owner, especially a sophisticated one, to lose faith in the designer. Historically, design professionals gained stature in the eyes of their clients by delivering designs that matched project budgets established by the client. By retreating from this standard, designers have painted themselves into a corner. They provide design services with only limited construction involvement and thereby lose control over the contractor and the project costs. In such circumstances, designers are often unable to protect the client from overcharges by contractors. In the end the client loses confidence in the entire process.

The other approach to cost estimates is to work more closely with the owner and other members of the team involved in the project. By agreeing to work closely with the owner, a cost estimation consultant, or with a construction manager, designers can play a more significant role in a project without increasing liability. Those concerned about risk can minimize exposure with a specific contract provision that recognizes the designer's responsibility to make design changes to meet the project budget, at no cost through the design development phase. Once the owner approves the design development docu-