

Warning Signs of Potential Claims

Strained Relationships - This first warning sign may be subtle. It may range from an unexplained level of tension or discomfort between you and your client to full out disagreements over the representation. These issues are best handled through direct, frank conversation. Ask the client if his or her expectations of the representation have change. Engage in open discussion until both parties are clear about your respective objectives and objections. If you cannot come to a common understanding, it is better to part in a professional and cordial way than to allow the relationship to sour and problems to fester.

Of equal concern are strained relationships between your clients. Divorce or partnership disputes sometimes end badly for CPAs. It is not unusual for CPAs to be confronted with client claims of "conflict of interest". Partnerships and marriages require equal treatment of each partner by the CPA, regardless of ownership percentages or who is paying the fees.

Clients who don't Pay - When a client is unhappy with the services rendered, frequently they refuse to pay, or they are slow to pay. Clients who end up in arrears, regardless of the reason, may rationalize that filing a malpractice claim will help them avoid paying a large bill or at least reduce what they owe.

A failure to pay could signal other things. Sometimes clients don't pay because their business is failing. Either way, you need to discuss the client's lack of payment in a timely and professional manner. Whether you become a target because of perceived poor performance, as a means to reduce a fee, or because the client's business is failing, you are at elevated risk of a claim. The surest way to guarantee a claim is to sue your client for unpaid fees.

Clients with Poor Accounting Skills and Internal Controls - Clients with poor office skills and management styles tend to be uncooperative clients. That lack of cooperation is not just an annoyance; it can lead to big problems. Poor bookkeeping can lead to the late filing of tax returns causing the client to incur interest or penalties, which they in turn are likely to blame on the CPA instead of their own staff. Clients with poor internal controls are at a greater risk of embezzlement. It is not uncommon for clients to blame the CPA for not catching the embezzler even though the discovery of these acts is not covered by the CPA's normal scope of services.

Subpoenas - Risk can be high when you receive a subpoena. It is always recommended that you seek legal guidance before responding to a subpoena. Subpoenas are generally preprinted forms that attorneys can fill out, and generally are not court orders. Those unfamiliar with subpoenas may incorrectly assume that they are required to respond to these requests and voluntarily do so. And when an IRS auditor is the one making the request, it is understandable that CPAs feel compelled to comply. However, subpoenas must be properly issued with appropriate advance notice to the client and even then CPAs are subject to IRS and other rules that prohibit them from divulging confidential financial information absent a court order or client consent.

These sample engagement letters, checklists, and practice and consent forms are for illustrative purposes only. We recommend you use these letters and forms only after you have consulted with your attorney. Since your practice may be different than those described in the sample letters and forms, we recommend that you modify them to suit your individual practice needs. Use of these sample letters and forms is not intended to constitute a binding contract, does not constitute legal advice, and does not satisfy your obligation to do thorough research. © Gilsbar Specialty Insurance Services, L.L.C. and Date.