



Lit Lessons - Volume 1

Bickmore's Litigation Management team will periodically be issuing "Lit Lessons" to help our clients navigate through the often murky, seemingly contradictory, yet profoundly essential world of Contractual Risk Transfer (CRT). In these short bulletins, we'll explain the concepts behind the language, identify traps and red flags, and sometimes just tell a story showing how a properly executed CRT approach can have a positive effect on your agency.

Contractual Risk Transfer

Contractual Risk Transfer, as most of us know it, is primarily about shifting liability for claims from one party to another. That is the driver and the purpose of the process, certainly, but how do we ensure the other party is doing their part? Here is a real scenario where a tragic claim became messier than it had to get, simply due to a lack of follow up.

- 14-year-old bicyclist swerves around two garbage cans and into the path of a VW Jetta.
- Medical costs exceed \$2,000,000; injuries include long-term mental capacity challenges.
- Plaintiff sues city.
- Based on very clear contract requirements, the city's disposal contractor (Garbage Grab, Inc.) carries city as Additional Insured on its general liability policy.
- City tenders suit to Garbage Grab.

All is as it should be, correct? Not so fast...

The contract with Garbage Grab renews annually, but during the policy year of this bike accident, Garbage Grab failed to issue the additional insured certificate and endorsement! So, Garbage Grab's carrier denies the claim. Breach of contract may be the remedy, and indemnity will likely be awarded to the city down the line, but defense costs are significant and continuing to mount.

Lesson learned: Have a system in place to track and check all outstanding additional insured endorsements.

How to address: Assign staff to collect, input, and track all additional insured endorsements in place with your vendors and contractors. If you already have a system in place, periodically pull certificates to ensure vendor policies are current and in compliance with your contract terms. There are many programs available to assist with this, as well. [Contact us](#) to discuss some of the options.

Did You Know?

[Bickmore's Litigation Management](#) team offers a contractual risk management consulting package designed to evaluate and revise endorsements, waivers and contractual language

utilized by each of your departments. We will also construct a Risk Transfer Strategy to address the unique needs of your contractual relationships. Contact [Joe Costamagna](#) for details.



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