

# Risk Management

for Real Estate Appraisers and Appraisal Firms

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# Introduction

The purpose of this book is to provide practical guidance to real estate appraisers about how to manage liability risk associated with their professional work and the operation of appraisal firms. This book is not an academic treatise or a guide for lawyers defending (or bringing) claims against appraisers. Rather, the goal of this book is to provide appraisers and their firms with realistic, effective suggestions for how to manage their risk. I also hope to keep the content interesting by discussing real-world claim situations. To that end, the first case we'll discuss relates to the appraisal of a luxury resort hotel property. Someone left an appraisal report behind in an empty room at the subject hotel. In Chapter 2, we'll find out what happened when a housekeeper found the report.

## How to Use This Book

Part I of this book, *Key Tools for Managing the Risk of Appraisal-Related Claims*, introduces the essential concepts for managing risk related to appraisal work. The guidance provided in this part of the book applies to all types of appraisal assignments. Chapters 1 through 10 lay out the fundamental building blocks of risk management for appraisers. We'll discuss what appraisers get sued for, what the elements of those claims are, and the appraiser's best tools for reducing liability risk.

Part II, *Managing the Risk of Specific Assignments and Situations*, focuses on unique issues relating to specific types of work and particular scenarios. Once you understand the fundamentals laid out in Part I, you can skip ahead to individual chapters in Part II to read about the specific kinds of assignments that you perform or special situations you encounter. However, keep in mind that it's crucial to first understand the building blocks covered in Part I before focusing on the specifics covered in Part II.

Part III, *Additional Liability Considerations for Appraisal Firms*, addresses several special risks relating to the operation of appraisal firms that have arisen in recent years. These problems have caught many appraisal firms and their owners by surprise. The discussion in this section addresses such matters as the extent of the protections offered by forming an appraisal firm as

a limited liability type of business, the propriety of treating “staff” appraisers as independent contractors, and the use of non-compete clauses in employment agreements between firms and employee appraisers.

## Cases Discussed in This Book

In writing this book, I have chosen to summarize and distill the important points from claim situations and cases rather than burden the reader with pages of quotes from published court opinions. My goal is to provide succinct, actionable liability prevention suggestions distilled not only from published court opinions but also from thousands of real-world claim situations that didn’t result in published decisions or didn’t even make it to court.

Citations are provided when the discussion concerns a published court opinion. Full cases are available for free through Scholar, an online resource created by Google (<https://scholar.google.com>). On this site, you’ll find virtually every recent published legal opinion from every federal district, appellate, tax, and bankruptcy court, in addition to published state appellate court opinions. Finding a cited case on the Scholar site is very much like conducting a regular Google search. To find a cited case, type the name and citation in the search box and select “case law” as the search type. Scholar is a powerful research tool for any appraisers wanting to undertake informal legal research on their own.

## A Note About the Contents of This Book

Because the topics in this book expressly concern legal issues, I want to emphasize the Appraisal Institute’s regular advisements. This book is educational material; it is not legal advice. If you are seeking legal advice, please consult your own attorney.

The suggestions presented in any section of this book are also only the opinions of their respective author—either myself (Peter T. Christensen, Esq.) or contributing author Claudia L. Gaglione, Esq. They are not the suggestions or opinions of the Appraisal Institute or any insurance providers, companies, or firms with whom we are affiliated. The contents of this book should not be construed as admissions of fact or law in any specific case and are offered without prejudice to any legal position or defense of any party. With respect to insurance coverage issues, it also should be noted that the topics in this book cover a wide array of legal issues, some of which are beyond the coverage of professional liability insurance policies and which may only be covered (if they are covered at all) by additional types of insurance, such as general liability, employment practices, and cyber liability insurance.