

# E&O Risk Management Newsletter

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We KNOW  
for Insurance Agents

E&O

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## The Problem of Insufficient Property Limits

Commercial Property and Homeowners/Dwelling Coverage are two of the most frequent sources of E&O claims – and these claims often involve disputes over insufficient property limits. Every agency likely has clients with property limits insufficient to cover replacing the property, which means your agency is potentially exposed to a claim issue in the event of a loss.

**Navigating a discussion of property values with your clients can be challenging.** Clients will often look to you to tell them their limit is adequate. *It is vital to be clear that you are not qualified to determine the replacement value of their property.* Clients should choose their own property limits.

**Following these practices can help you protect your agency** if a client suffers a loss that is not adequately covered and pursues an E&O claim against you:

- **Document, document, document.** Document any discussions involving limits in writing in your file. This is particularly important when you have verbal discussions with a client as these can turn into “he said, she said” scenarios if there is an E&O claim. Memorialize verbal communications in writing to the client. Whenever possible, have the clients confirm they believe their limit is adequate.
- **Note coinsurance clauses to clients.** This is a commonly overlooked and misunderstood aspect of property coverage by clients. See [this flyer](#) about the importance of property values that can be provided to your clients.
- **Communicate to clients that they should contact you if changes are made to the property** or if they believe the limits may no longer be adequate.
- **Obtain an annual signed statement of values for commercial property accounts that includes a disclaimer. Here is sample disclaimer language:**
  - *The signature above acknowledges that: (1) the values listed were provided by the signatory, based upon the knowledge of the signatory or an independent appraisal obtained by the signatory; (2) the agency has not provided the values listed above and has made no representations regarding the values listed above; (3) the failure to provide accurate values may reduce or eliminate insurance coverage; (4) higher limits may be available upon request.*

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- **Keep in mind that insurance-to-value tools may be outdated and are sensitive to the data entered into them.** Ideally, your clients will advise you of the limits they need. However, you may need to utilize these tools. Clients must understand that replacement cost estimates generated by these tools may not be adequate in event of a claim.
  - The following is an example of disclaimer language that can be used if providing a replacement cost estimate to your clients:
    - *The information outlined in the Replacement Cost Worksheet is an estimate of a dwellings value based on information provided by the policyholder. This replacement cost figure was evaluated using industry standard software which calculates replacement cost values. The actual cost to rebuild or replace a dwelling may exceed the limits outlined in the Replacement Cost Worksheet. This estimate is used for information purposes only and the agency does not guarantee that the policy limits provided will be adequate to rebuild the structure. The policyholder has the option of retaining a professional appraisal if there is a question as to whether the replacement cost number is adequate.*

### **E&O TIP: Handling Claims-Made Policies**

Professional Liability Coverage – also known as Errors & Omissions Coverage – is typically written on a claims-made basis. Claims-made coverage is unique in that it requires claims to have occurred on or after the retroactive date of the policy and to be submitted during the policy period or an extended reporting period for there to be coverage. Claims from these policies typically involve issues surrounding retroactive dates and extended reporting period coverage. To help avoid these types of claims, the following is advised:

- **Maintain retroactive dates when moving claims-made coverage to a different carrier.** The client loses coverage for all activity prior to the retroactive date when a retroactive date is not maintained. Check your quotes and policies carefully to ensure the correct retroactive date has been established on the policy. Carriers are unlikely to accommodate modifications to the retroactive date once a claim has been submitted.
- **Explain the negative impact to their coverage if your client wants to use a new retroactive date to save money because they believe they have no past exposure.** If they choose to proceed, have them confirm in writing that they understand the ramifications of using a new retroactive date and would like to proceed.
- **Advise the client of the need to purchase an extended reporting period to cover past business** in instances where you are moving coverage from a claims-made to an occurrence policy form.
- **Advise clients in writing about the available extended reporting period options and the length of time they have to make the purchase in the following scenarios:**
  - They do not renew coverage through your agency, even if you believe they have secured coverage elsewhere.
  - The business is sold or dissolved.
  - Coverage is cancelled and new coverage cannot be secured with a continuous retroactive date. *Note: Consult the policy form as the reason for cancellation may impact whether an extended reporting period can be purchased.*

- **Advise clients to purchase the maximum amount of time available** if they ask your opinion on the length of extended reporting period they should purchase.

Following these tips can help your agency avoid claims related to claims-made policies.

## WEBINAR RECORDING: Artificial Intelligence in 2024

Jump Suit Group recently presented a webinar – *Artificial Intelligence in 2024: How Agents are Using AI to Optimize Their Agency, Improve Efficiency, and Generate Leads* – enabling E&O policyholders with the Utica National Companies to learn more about the tools agents are using to implement artificial intelligence into their agencies.

 [View Webinar Recording](#)

## Risk Management Resource Highlight – DISCLAIMERS

Disclaimers can be a vital tool in the agents' toolbox to help you protect your agency against E&O claims. Our risk management website features a section of suggested disclaimers. Access the site by logging in to our [Customer Care Center](#) and clicking the risk management link.

 [View Customer Care Sign-Up Instructions](#)

Having trouble accessing your Customer Care account? Contact Tabitha DeGirolano at [tabitha.degirolano@uticanational.com](mailto:tabitha.degirolano@uticanational.com).

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