

E&O Risk Management Newsletter

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We KNOW

for Insurance Agents

E&O

Be Aware of the E&O Implications of Statements on Your Agency Website

It is common in today's errors & omissions (E&O) litigation for statements made on an insurance agency's website to be used as evidence against the agency that it failed to live up to standards promised on its website.

For example, in one recent lawsuit, the insurance agent was alleged to have failed to place sufficient underinsured motorist ("UIM") coverage for a client. The client suffered a serious motor vehicle accident and the UIM limits on the client's Auto policy were insufficient to compensate the client for the damages. During the deposition of the agent, the client's attorney read statements directly from the agency's website that suggested that the agency's mission is to deliver tailored insurance and financial solutions that protect the assets of the agency's clients. The client's attorney then attempted to get an admission from the agent that he had not, in fact, lived up to the representations on the company's website. While the claim was ultimately settled, the use of agency website statements by the client's attorney was one avenue of attack in attempting to prove that the agent was negligent.

Generally, statements on websites like the example above likely do not create a duty on the part of an agent to his or her individual clients. **In most states, an agent's duty is to procure the coverage requested within a reasonable time, or to otherwise inform the client of the inability to do so.** However, website statements do create fodder for use by plaintiffs' attorneys in E&O litigation against agents. More concerning are the regular efforts taken by plaintiffs' counsel to attempt to expand the duties owed by an agent to a client based on statements made on an agency website.

As a result, it is important for insurance agents to be mindful of the level of service and expertise they are marketing on their websites. Before you advertise it, ask yourself, do you actually do it?

Insurance agents should also be careful about website statements representing expertise in a particular area. Some agencies tout expertise in certain coverages, such as flood, life insurance, or cyber insurance. Other agencies market themselves as experts in certain industries, like restaurants or lumber yards. Before you do

that, make sure you really are an expert. **Agents that advertise expertise in a certain type of insurance or industry may be susceptible to an E&O claim that the client relied on these statements in placing business with the insurance agent and that due to the agent’s advertised expertise, a higher standard of care was owed to the client.**

Marketing is important for any agency that wants to grow and be successful. Always be mindful that statements contained on your agency’s website may be used against you in future E&O litigation. They should always be accurate and reflect the level of service offered by your agency.

E&O TIP: Water & Sewer Back-up Coverage

To help you avoid a potential errors & omissions claim, discuss and offer the Water and Sewer Back-up Endorsement to all of your Homeowners policyholders. Remember the following tips that can help prevent a “sticky situation”:

- **Ensure** everyone at the agency is aware of the water exclusion on a typical Homeowners policy and that they inform the clients.
- **Recommend** adding the Water and Sewer Back-up Endorsement on all Homeowners policies.
- **Provide** a copy of the endorsement to read during the application process. Seeing it in black and white drives home the necessity of having it on the policy.
- **Get** a rejection in writing. A checklist requiring the client to initial rejected optional coverages is helpful in the event of a future dispute.
- **Provide** clients with a clear understanding of a water and sewer back-up claim and what the endorsement covers (as opposed to a flood claim).

RISK MANAGEMENT RESOURCES: Sample Agency Procedures Manual

An agency procedures manual is a document that covers the policies and procedures your agency will follow in handling your day-to-day operations – everything from how to answer the phone to processing insurance applications ... and much more.

It’s a vital tool for every agency, large or small – and consistently following your policies and procedures can help reduce errors and omissions exposures, is a great training tool for new employees, and a source of ensuring that you can provide the highest level of service to your customers.

CLICK HERE to access and download the sample agency procedures manual.

Ready to Help

Are you looking for risk management guidance on a particular topic? Reach out to Tabitha DeGirolano of our E&O team for help at tabitha.degirolano@uticanational.com.

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