

# ERRORS & OMISSIONS

## RISK MANAGEMENT ALERT

### Are Your Clients Carrying Adequate Limits?

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Most E&O carriers report that 6-8% of all E&O claims involve the issue of inadequate policy limits. This article focuses on liability limits, including umbrella coverage for personal and commercial clients.

There are two E&O claim buckets: one filled with the issues that will be part of your agency's defense, and the other filled with the issues the plaintiff's attorney will use to find your agency negligent. Your goal should be to have a strong defense that protects your agency.

#### DOs AND DON'Ts

Benchmarking data is available for many commercial industry classifications and indicates what clients of a certain size (revenue, sales, etc.) are carrying as policy limits. While this has benefits, exercise caution – this data does not mean that the limits noted are appropriate for your client. The following tips can help you address limits – and can be included in your “defense bucket” at the time of an E&O matter:

**DO NOT simply duplicate the coverage a new client currently has.** Make a concerted effort to better understand your client and determine the potential liability issues and ramifications. Discuss “what’s your typical liability claim” as well as “what’s the worst that could happen.”

**DO include additional limit options (such as additional umbrella limits) or a statement like “higher limits are available upon request” in your proposal if the client states “just give me the same limits I have now.”** Require the client to sign off on the limit they are choosing and those limits they are rejecting. This “customer accountability” can be a strong element of your agency's defense.

**DO NOT recommend a specific limit!** Recommending a limit implies to the client that this limit will be adequate if they have a claim.

**DO NOT assume the client does not need higher limits or an umbrella.** There are many stories involving agency staff that did not address having an umbrella because they did not believe the client had the assets worth protecting. A common misconception is “they can't sue you for what you don't have.” But they can and will – and this may include garnishing wages for years to come.

**DO include language about limits in your cover letter to the client.** Include wording such as “Please note that the policy limits are those you have chosen, and we cannot guarantee they will be sufficient at the time of a claim.”

**BOTTOM LINE:** Predicting the size of a liability claim is virtually impossible. Following a few best practices can play a key role in your agency's defense if a problem develops.

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