



Documentation!

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“Document. Document. Document.” Anyone that has gone to an errors and omissions (E&O) class in the last 20 years has heard this. Many of the E&O classes dedicate the major part of the session to this topic and rightfully so. Documentation is one of the foremost issues that agency staff need to focus on to truly minimize the potential for an E&O claim to occur.

But what does, “document, document, document” really mean? Twenty years ago, it would probably have meant that when you have a conversation with a client (or a carrier, wholesaler, etc.), be sure that the agency file, whether paper or electronic, reflects the essence of that discussion. While that may have been adequate before the turn of the century, it no longer is. Sure, putting the essence of the discussion in the file is better than nothing, but today more is needed.

One of the primary areas where documentation needs to be at a higher level is when clients are looking to delete some element of coverage or to reduce their limits. This scenario occurs often in most, if not all, agencies. Cost is certainly the main driver but the issue could also involve the client feeling that he or she is over-insured.

When the client sends you an email or letter requesting a reduction of some type, this will typically serve as a strong defense for the agency if a problem occurs down the road and the client tries to allege that they never requested the reduction. In fact, many agencies will not reduce coverage without an official request from the client. An email is an acceptable form of communication since it is coming from a known address (email address) with a specific party signing the email. The potential for a problem is certainly much greater when the client request is made either during a face-to-face meeting or through a phone conversation.

Let’s take the scenario of a client calling the agency to request a reduction of coverage. If the agency staff member were to simply note the conversation in the agency system, this is no longer adequate. If the client were to have a loss that was now not covered, he or she would allege that what is noted in the agency system is not accurate. This will come down to he said, she said, which you shouldn’t count on winning.

What the agency staff member should do is either advise the client to put the request in writing or advise the client that you will be sending him or her an email or letter memorializing the discussion to ensure there are no misunderstandings. Client accountability should be a goal of every agency. The written communication should look something like:

“Per your request, we are deleting collision on your 2012 Toyota [effective date]. If this is not correct, please contact the agency immediately.”

In regard to producers, when they are in a client’s business and the client requests a reduction, the producer should essentially follow the same approach. Either advise the client to send an email or the producer should send the client an email memorializing the discussion. Another approach for a producer is to advise the client to call the agency staff member that handles the account and provide that person with the request.

If the request for a reduction is made, based on an agency proposal, it is highly suggested that the producer either verify or memorialize the request in writing back to the client or produce a revised proposal indicating the limits the client is agreeing to. Then have the client sign accepting the proposal as presented.

There have been a number of E&O cases where the agency staff member was led to believe that he or she was being requested to reduce coverage and then made the request to the carrier for an endorsement. Without the proper documentation, after an uncovered loss occurred, the client took the position that he or she was only thinking about reducing coverage but did not remember officially making the request. In some of the cases, the client actually received a check from the carrier for the reduction. Who won the dispute? In most cases, the client.

The bottom line is, the request should be in writing either from the client to the agency staff member or vice versa, essentially memorializing the request. Also, all agency staff members should have a signature line similar to what is used for voicemail, such as, *“Please note, coverage cannot be bound or amended without written verification by an agency representative.”*

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