

# Utica National's Errors & Omissions

## RISK MANAGEMENT ALERT

We KNOW  
for Insurance Agents



## Agency Producers: We Need Your Total E&O Commitment

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**Agency sales producers are “the key” for an agency to have a solid commitment toward preventing possible errors and omissions (E&O) claims. This means having a 100% buy-in from every producer, every day.**

Insurance producers are at the heart of most E&O claims – essentially, one out of every two E&O claims alleges an “error or omission” from the ranks of the insurance producer. Here are some vital issues for producers to be aware of:

- **Listen.** In many, if not all, states, an insurance producer (agent/broker) has a common-law duty to obtain the coverage the client specifically requests within a reasonable time period. Thus, listening to the words of your client/prospect is extremely important. Since there may be situations where the producer can't secure the coverage requested, they also have a further duty to inform the client of the reason why the coverage cannot be secured.
- **Take notes.** As producers interact with customers, taking notes of the discussions should be a practice. When clients make decisions on the coverages they want and don't want, producers are typically requested to get the clients' signature. While putting this information in the file or agency management system is a positive step, it is just as important that these conversations and the decisions made be “memorialized” back to the customer.

For example, if the client calls to advise they are not interested in a proposed coverage, the best approach is to send the client a note recapping the discussion. The goal of this extra step is to ensure there is no misunderstanding between the parties. The extra time spent on documentation may very well determine the direction of the next E&O claim.

- **Document.** While producers may possess a very good skill set, including strong technical knowledge and solid sales skills, one thing they seem to struggle with is documentation. The lack of quality documentation is a major issue in E&O claims. Documentation is the one critical piece that may determine the agency's success in prevailing in an E&O matter.
- **Don't rely on your memory.** Let your documentation tell the story. It is not uncommon for the courts to take the position that, “if it's not in the file, it didn't happen.”
- **Sell what you know and know what you sell.** Producers must possess strong technical knowledge for interactions with prospects and customers. Keeping up with that level of knowledge is critical due to the evolution of our industry. Current issues such as drones, cyber, and others require the producer to commit to learning.
- **Be honest with the carriers you use.** Providing the markets with a full and accurate disclosure of the risk is critical when completing applications. The relationship between your carriers and your agency is built on trust. Being totally honest is an integral part of that relationship. The downside of being “less than honest” is extremely significant and is not a place you want to be.
- **Watch your words.** Due to the tremendous pressure to sell, producers may be inclined to position themselves and their agency in the best favorable light. While various marketing “puff” may enhance the ability to be successful, producers must be careful and deliberate in the words and phrases used for promotion. Avoid stating you are an “expert.” Also avoid phrases such as “we make sure you are properly covered” or “this coverage is definitely better than what you have.”

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