

Utica National's Errors & Omissions

RISK MANAGEMENT ALERT

We KNOW
for Insurance Agents



“I am going to sue you!”

We all hope that clients appreciate how hard agency staff works in providing a high level of customer service. Hearing “thank you,” “great job,” “your agency is the best,” and similar phrases can bring out some positive emotion and a tremendous degree of pride.

While it would be great to always hear these praises, the difference you make in a client’s life may not always be positive. For example, perhaps you just told them that they don’t have any coverage for the flood loss they just suffered, or their liability limits are not enough.

These conversations can be difficult and emotional. As a result, instead of hearing “we love your agency,” the six frightening words “I am going to sue you” may be spoken. Knowing how many E&O claims have happened over the years, there is a good chance that **words threatening legal action have been said more than a handful of times.**

Be Prepared

It is vital to understand that because someone threatens to sue you does not mean you did anything wrong. The client is emotional, and may simply be venting. In fact, a significant number of E&O cases are settled with no loss payment (yet possibly some defense costs). So, when you have a customer threatening a lawsuit, it is best to stay calm

Getting on top of these issues is critical, so promptly report these scenarios **to the designated person in your agency who handles them. Don’t take the approach of “they probably didn’t mean it.”** Be prepared to provide information pertaining to your client, including name, address, phone number, and a detailed description of the claim or incident. Provide as much detail as you can, including dates that the error allegedly was made and the client’s specific coverage in question. It is suggested this be done in one-on-one sessions. Don’t send an email to your boss saying “I think I messed up” as this type of communication has the potential to be admissible in the court of law. **Take direction from your manager/designated internal E&O contact person to determine any next steps and, to reiterate, stay calm.**

What NOT to Do

- **Do not provide any recorded or written statements** concerning the alleged error involving your agency.
- **Do not make any admissions of liability.** You will probably feel bad, but do not admit that your agency made a mistake even if that is what you believe.
- **Do not make or commit to a payment.**
- **Do not alter or make changes to the account/file in question without authorization from management. Changes made after the “I’m going to sue you” notification may be revealed, which will not position your agency well.**
- **Do not discuss the matter** with anyone other than your manager/designated internal E&O contact person. In addition, **do not allow the inspection, copying, or removal of your records without approval from the E&O carrier.**

Errors & Omissions claims happen. It is key to stay calm, report the matter to your manager/internal E&O contact person, and then let them do their job.

This information is provided solely as an insurance risk management tool. Utica Mutual Insurance Company and the other member insurance companies of the Utica National Insurance Group (“Utica National”) are not providing legal advice, or any other professional services. Utica National shall have no liability to any person or entity with respect to any loss or damages alleged to have been caused, directly or indirectly, by the use of the information provided. You are encouraged to consult an attorney or other professional for advice on these issues.

© 2024 Utica Mutual Insurance Company

5-R-1476 Ed. 07-2024

Utica National Insurance Group

| Utica Mutual Insurance Company and its affiliated companies New Hartford, NY 13413