

E&O Risk Management and COVID-19

Today, as we continue to navigate this new normal in the wake of COVID-19, we would like to offer some guidance on reducing the likelihood of an errors and omissions exposure because of the ongoing events. Our advice during this time remains consistent with what we recommended in the past. If your brokerage has developed good practices, you will be better positioned to avoid problems. Those practices include the following actions and precautions:

- Avoid making claims decisions! Let the insurance carriers do that.
 - Do not advise your customers whether COVID-19-related claims are covered or not! Let the insurance carriers do that.
 - If a carrier takes the position that losses arising from COVID-19 are not, or may not be covered, do not engage in advocacy asserting that “We thought it was covered...” That will simply be used by your client to prove that you knew the client wanted coverage for perils such as the current pandemic, but you failed to procure such coverage.
 - Report all claims and potential claims to each and every carrier that could potentially have an applicable policy. This includes CGL, Personal lines, Umbrella, Excess, Workers Compensation, Specialty and any other policy in place for your customers.
 - Refer to the Insurance Bureau of Canada and Insurance Brokers Association of Canada websites for additional information.
 - Be empathetic, but don’t tell anyone that something is covered or not. You can continue to tell them you feel sympathy for all affected by the situation, but customers **MUST** report a claim to their insurance carrier to determine if there is any coverage for the event.
 - Remember, if you executed a brokerage agreement with one or more insurance companies, you **MUST** report all claims or potential claims as required by that agreement, even if your customer tells you not to do so.
 - Maintain vigilant contact with your insurance carriers to determine what action they want you to take.
 - **DOCUMENT, DOCUMENT, DOCUMENT!!!** This continues to be the foundation of sound E&O risk management. Document every telephone conversation, email, text, social post or any other type of communications with your customers.
 - Work with the assumption that all telephone conversations with your customers or carrier claims representatives are being recorded.
 - If you use social media for your business, make sure it is up to date! Do not make any promises on what may or may not be covered by insurance companies and policies.
 - Do not make any statements – recorded or otherwise – without first contacting your E&O provider. Our claims team is available if you have any questions about any communication you receive.
 - If you have a conversation with your customer that leads you to believe they may be fishing to make a claim against you, **DO NOT HESITATE** to contact our claims department.
 - Again, do not make claims decisions. Let the insurance carriers do that. We know we said it already, but it is critically important to stay away from any speculation on what is covered or what isn’t.
- As always, should you have any questions, please contact your broker.

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