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## CUSTOMER SERVICE FOCUS

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# HOW TO AVOID E&O CLAIMS

*Follow this three-step process: document, document, document*

Once upon a time, if you were a knowledgeable, ethical insurance professional, you didn't have to worry overmuch about being sued by your clients. Or by the insurance companies you represented. In light of ongoing changes in the insurance industry and the volatility of the economy, insurance producers and CSRs these days are finding themselves increasingly vulnerable to errors and omissions claims.

Not only are the policy provisions and exclusions of our insurance agents' E&O policies changing (and not to our collective advantage), but the standard of care to which we're being held is changing drastically. I remember a time when policyholders were expected to read, or at least skim through, their policies. That time is long gone.

Since 2007, several national E&O carriers have shared details of their losses with me so I could provide up-to-date facts and statistics in the insurance continuing education seminars I conduct and the courses I write. Some of these stories are nothing short of outrageous. One client won a case against an agency because he alleged that the workers compensation audit provision wasn't explained sufficiently at the time coverage was written. The agency hadn't asked the client to sign a document stating that he understood the audit provision.

Another claim was settled against an agent because, although the policyholder signed a waiver indicating she understood that the uninsured motorist limits in her personal auto policy were less than her BI limits, the agency couldn't show

that the agent had offered higher UM limits, along with pricing.

Other claims are equally outrageous. In one case, a client called the agency and asked to remove two buildings from a commercial property policy because he couldn't afford the premium. The CSR deleted the locations without securing a signed request from the client. When the buildings were later destroyed in a fire and the client claimed he had never asked the CSR to delete coverage, the agency was shocked to receive an E&O claim.

In another case, a CSR received a request to issue a certificate of insurance showing general liability limits of \$3 million/\$6 million. The client's policy provided limits of \$2 million/\$4 million. What did the CSR do? She issued the certificate as requested, without offering or discussing an increase in limits with the client.

Some factors that give rise to E&O claims are never going to change: Agents and CSRs are human and make mistakes, and some people simply do things they're not supposed to do (usually without thinking or trying to cut corners). The single most significant factor that causes agents and CSRs to lose E&O claims is something that *can* be controlled: lack of documentation.

In the majority of E&O claims, regardless of other details—such as the line of business (commercial vs. personal) or the reason for the error or omission (e.g., failure to secure proper coverage, explain exclusions, or make requested changes),