



Brown & Brown of California, Inc.
dba Cita Insurance Services

DOCUMENTATION

The Best E&O Claim Defense

The outcome of many E&O claims against insurance agents' hinge upon resolving credibility when the agent and the client tell different stories about what happened. How do discrepancies get resolved? Sometimes an adjuster who investigates the E&O claim seeks the truth to resolve them. Sometimes a jury that listens to both sides resolves them. In either case, documentation will be extremely persuasive evidence.

While documentation procedures, consistently followed, cannot completely relieve insurance agents of their professional responsibilities or guarantee that E&O claims will be settled in their favor, they will provide a better defense than might otherwise be possible. As the old saying goes, a stitch in time saves nine.

Here are some tips regarding good documentation

- ♦ Use two part message phone pads to create a historical record of all incoming phone calls. Include the date and time the call was received, the name of the caller, and the name of the individual called.
- ♦ Summarize every client/agent conversation and meeting, including phone calls to the client. Keep this documentation in the client file.
- ♦ Telephone conversations with insurance company personnel such as claim adjusters and underwriters should also be documented and kept in the file.
- ♦ Keep a log of the coverage prospects have and what they ask for. Do they want the same coverage or different coverage?
- ♦ When a prospect or client asks you for your advice, make notes of the discussion including a summary of the advice you provided.
- ♦ Use follow up letters, especially when a client requests a reduction in coverage. Consider sending letters by certified mail in those instances where coverage is being reduced against your advice. Better yet, request the client to sign one copy of the letter and return it to you.
- ♦ All documentation should be accurate. Contemporaneously prepared documentation is best. But if you have no documentation when an E&O claim is made against you, prepare a summary of your recollections and put a current date on it.



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