

Section 2: Common Allegations Made Against Agents

An allegation is an assertion made by a party that must be proved and supported with evidence. Allegations can be made on “information and belief” if the person is not sure of all the facts. It’s important for agents to remember that until each statement is proved it is only an allegation. Just because you have a claim made against you doesn’t mean you did anything wrong or breached your legal duty. We also surveyed the panel counsel attorneys from Swiss Re Corporate Solutions for their thoughts on what the most common allegations against agents. Based on the claims data that we consistently review there were really no surprises. However, this information can be very useful for agencies from a risk management perspective as they give direction on agency procedures that can be reviewed to make sure the agency is doing everything they can to avoid exposing themselves to the potential claim. Share these with your staff and ask them to keep in mind that if you’re not doing your job properly and following agency procedure one of these allegations could come in a lawsuit. And remember the customer’s file will tell the story, so document thoroughly.

I DID WHAT?

Most Common Allegations Against Agents

- ☛ Failure to procure appropriate coverage or adequate limits
- ☛ Failure to advise of policy exclusions or limitations (coverage gaps)
- ☛ Negligent determination of inappropriate property values
- ☛ Failure to advise about coinsurance penalty
- ☛ Negligent misrepresentation of coverage
- ☛ Failure to handle claims properly causing carrier denial
- ☛ Breach of fiduciary duty
- ☛ Exceeding binding authority or binding an unacceptable risk (Carrier claim against agent)
- ☛ Failure to properly handle coverage for additional insureds and certificate holders
- ☛ Holding themselves out as an expert or risk management specialist
- ☛ Failing to explain audit provisions in policies

