

Section 13: Emotions During the E&O Claims Process

Swiss Re Corporate Solutions to Your Emotional Rescue

Consumers typically can't wait to 'open the box' of a typical purchase. Not so with insurance. Insurance can be a frustrating product for consumers. It's no different for insurance agents purchasing professional liability to insure their business. On average about 1 and 7 agents will report a potential claim. A little more than one-half will not develop into a claim, and will simply close with no further action. The end result is that roughly 1 in every 15 agents have a claim requiring the carrier to defend the agent or post a claim reserve in a given year. Keep in mind that claims against insurance agents tend to mirror the insurance market cycles - fewer claims against agents in the soft market, and increasing claims frequency in the hard market. Also consider that more and more claims involve carriers suing their agents for liability generated from perceived agent errors. It's not at all unlikely that your agency may be involved in an E&O claim during the life of the agency's operations.

Remember, just because a carrier contract requires the agency to carry a certain E&O limit doesn't mean those limits meet your agency's actual level of exposure to loss. As you compare coverages offered by different E&O carriers, treatment of defense costs is key. Nearly 33 cents of every dollar paid in the handling of an E&O claim is for defense. To have the same level of protection of a policy with \$2M limit with defense outside the limits you actually need a defense inside the limits policy with \$3M limits, to compensate for the cost of defense.

The unfortunate reality is that plaintiffs seek deep pockets. The agency's E&O policy is an attractive source of limits, whether or not a mistake was truly made. Interestingly enough, a number attorney's compared the emotions to those of grief: denial, anger, bargaining, depression, and acceptance. While you're not going to die from an E&O claim it is important to have proper limits and a carrier that will mount a knowledgeable and aggressive defense. You worked hard to grow and prosper and adequate E&O insurance is a prudent way to help protect your investment. If a claim is made against you or your agency, here are some of the emotions that the panel counsel for Swiss Re Corporate Solutions observed from the agents involved.

✓ Anger	✓ Frustration	✓ Anxiety	✓ Depression
✓ Denial	✓ Irritation	✓ Sense of Injustice	✓ Embarrassment
✓ Self-doubt	✓ Acceptance	✓ Relieve	✓ Fear
✓ Stress	✓ Indifference	✓ Inadequacy	✓ Helplessness

“Certainty of settlement normally beats taking a case to verdict and not knowing the end result.”

“If you sell big policies, you have big E&O exposure, and should have big limits.”