

Section 6: Prevailing When It Happens to You

After A Claim – Top Things An Agent Can Do To Prevail:

We asked the panel counsel attorneys from Swiss Re Corporate Solutions the top things an agent can do to prevail if an agent does have an E&O claim. Their responses are below but many were universal stressing to be honest, to preserve all documentation associated with the customers file, to fully cooperate with defense counsel, and to avoid discussing the claim with anyone outside of the agency.

- ✓ Involve your E&O carrier early and as soon as you become aware of an incident that could potential give rise to a claim
- ✓ Never give a deposition without contacting your E&O carrier and being accompanied by the agreed upon attorney
- ✓ Immediately write a chronology of events or summary of facts leading up to the claim
- ✓ Identify all people in the agency that may have relevant information on the underlying claim
- ✓ Make sure that agency staff do not talk to the customer, customer’s counsel, or other outsiders regarding the claim, refer them to your E&O carrier
- ✓ Fully cooperate with and take advice offered by your defense counsel
- ✓ Don’t withhold or delete any communications
- ✓ Make your best efforts to gather, assemble, and preserve all documentation and information relating to the claim and thoroughly learn the file
- ✓ Be truthful
- ✓ Work with defense counsel to thoroughly prepare for depositions
- ✓ Testify persuasively and politely to make a positive impression
- ✓ Do not discuss the case with anyone other than your E&O carrier or defense counsel
- ✓ Remain calm and let your attorney do the worrying for you

