

E&O Risk Management and the Coronavirus (Covid 19)

By Swiss RE Corporate Solutions

You are all very aware of the events of the last several weeks and the Coronavirus. We are not health experts and there are many others more qualified to give you that advice. We CAN, however, give advice regarding how to reduce the likelihood of an errors and omissions exposure as a result of this event. We have already become aware of some attorneys who are trying to take advantage of this situation for monetary gain against insurance agents. Our advice during this event is no different from what we have said in the past. If your agency has developed good practices, you will be better positioned to avoid problems. Here are the practices of a good insurance agency:

- DON'T MAKE CLAIMS DECISIONS! Let the insurance carriers do that.
- DON'T ADVISE YOUR CUSTOMERS IF CORONAVIRUS related claims are COVERED OR NOT! Let the insurance carriers do that.
- If a carrier takes the position that losses arising from the Coronavirus are not, or may not be covered, do not engage in advocacy asserting that "**We** thought it was covered..." That will simply be used by your client to prove that you **knew** the client wanted coverage for perils like the Coronavirus, but you failed to procure coverage.
- Report all claims and potential claims to EACH AND EVERY CARRIER that could potentially have a policy that could apply. This includes CGL, Personal lines, Umbrella, Excess, Workers Compensation, Specialty and any other policy in place for your customers.
- USE THE RESOURCES PROVIDED TO YOU BY THE IIABA. Follow this link to the [Coronavirus webpage](#). It is a valuable resource for you, your staff and your agency that provides many sources of information.
- Be empathetic, but don't tell anyone that something is covered or not. You can continue to tell them you feel sympathy for all affected by the Coronavirus, but customers MUST report a claim to their insurance carrier to determine if there is any coverage for the event.
- Remember, if you executed an agency agreement with one or more insurance companies, you MUST report all claims or potential claims as required by that agreement, even if your customer tells you not to do so.
- Maintain vigilant contact with your insurance carriers to determine what action THEY want you to take.
- DOCUMENT DOCUMENT DOCUMENT!!! This continues to be the foundation of sound E&O risk management. DOCUMENT EACH AND EVERY TELEPHONE CONVERSATION, EMAIL, TEXT, TWEET, OR ANY OTHER TYPE OF COMMUNICATION WITH YOUR CUSTOMERS!
- Assume that any telephone conversation with your customers or carrier claims representatives ARE BEING RECORDED. While some states prohibit recording of telephone conversations without advising that they are doing so, IT DOESN'T STOP SOME PEOPLE FROM DOING SO.
- If you use social media for your business, make sure it is up to date! Do not make any promises that something may or may not be covered by insurance companies and policies.
- DO NOT GIVE ANY STATEMENTS, RECORDED OR OTHERWISE, WITHOUT FIRST CONTACTING YOUR E&O PROVIDER. The Swiss Re Corporate Solutions/Westport Insurance Company/First Specialty Insurance Company claims staff are available if you have any questions about any communications you receive.
- If you have a conversation with your customer that leads you to believe they may be fishing to make a claim against you, DO NOT HESITATE to contact our claims department.

- DON'T MAKE CLAIMS DECISIONS! DON'T ADVISE YOUR CUSTOMERS IF SOMETHING IS COVERED OR NOT! Let the insurance carriers do that. We know this was stated before, but it must be ingrained in your mind.
- If the Coronavirus ends up being declared a "catastrophe" by the ISO Property Claims Service, you may be eligible under your Westport policy for "Cat Extra Expense" benefits:
 "CATASTROPHE EXTRA EXPENSE. We will pay up to \$25,000 per catastrophe subject to a per POLICY PERIOD aggregate limit of \$50,000 for the actual extra expenses incurred by you as a result of a catastrophe during the POLICY PERIOD beginning on the date of a catastrophe and for thirty (30) days thereafter. The extra expense incurred must be incurred by you only to assist in the insurance claims processing needs of your customer(s) who have been affected by the catastrophe. The catastrophe must be a declared catastrophe by the Property Claims Services. A \$500 deductible for each catastrophe shall apply. Limits provided by this paragraph are part of and not in addition to the limits provided by this POLICY."

We hope that this will help you as this event progresses. If you should have any questions, please let us know.

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