

The Life of an E&O Claim

In some cases, the agency has really made a mistake, but in others the agency is a victim of circumstance and in hindsight would have behaved the exact same way. How you react and handle the situation, however, can ultimately determine the outcome and provide a basis for changes in the agency's operations that will prevent other, similar situations in the future.

About 50% E&O claims received by E&O carriers are closed with no payment. The remaining claims are split fairly evenly with 50% being handled in-house by the carrier's adjusters and 50% being sent to outside counsel. Having an E&O claim is a traumatic event in the life of an agency. It's like walking around for a year or more with a rock in your shoe. It irritates and annoys you, and no matter how hard you try to shake it, it sticks with you. What you can expect when an E&O claim happens is unwanted expenses, stress, and productive time lost for agency staff. Below is a breakdown of some of the time your agency can expect if involved in an E&O claim.

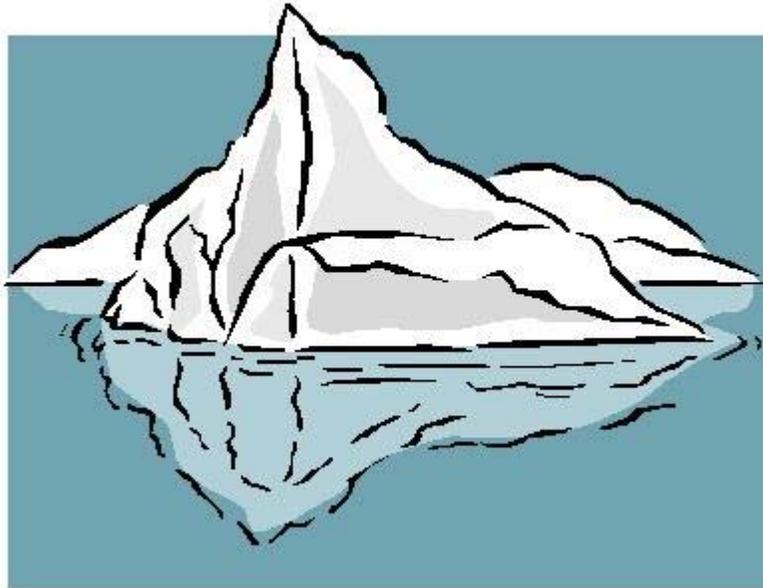
- Providing a notice of loss to the E&O carrier (up to 1 day)
- Producing documents (1 to 2 days)
- Completing interrogatories (1 to 2 days)
- Meeting with attorneys (2 to 3 days)
- Giving depositions (1 day to 1 week)
- Sitting in on witness depositions (1 day to 1 week)
- Going to trial or participating in settlement conferences (1 to 2 weeks)

Remember many agent's E&O claims involve non-coverage. Typically, the customer is alleging that you represented to them that there would be coverage for a certain situation either before or following a loss. The insurance company, however, is the final arbiter of coverage matters, and for whatever reason, they disagree. Your customer no longer remembers that you might have said "I'm not sure" or "In my opinion". All they know is that they didn't get what they thought they paid for.

Your customer has suffered a loss and in their desperation, they're looking for someone to help shoulder the financial burden. E&O claims are very fact-specific and it will take a long time to demonstrate to the customer (or a jury) that nothing you could have done would have changed the outcome for them. It's a very painful truth for them to hear.

An E&O claim can consume a huge amount of time for the better part of one or two years if it goes all the way to trial. Some claims can take eight years or more to fully develop. The amount of money actually spent on deductibles and increased premiums by the agency is really just the "tip of the iceberg". The other consequences of involvement in an E&O claim, such as public scrutiny and loss of employee morale, represent the real cost of a claim.

The Iceberg of Errors and Omissions Loss Costs



Direct Costs

- Deductible on E&O policy
- Loss of the account
- Loss of productive sales and service time

Indirect Costs

- Impact on agency morale
- Damage to Agency Operation
- Potential loss of E&O coverage
- Cost of replacing lost account
- Claim may not be covered by E&O policy