

It Only Takes One

Edward Smith was the captain of one of the most famous ocean liners of all time—the Titanic. At age 13 he left school and began working his way up to an illustrious command. By all accounts, he was a very skilled seaman and an excellent leader. He took his first command in 1887, on *The Republic*, and his last in 1912 on the RMS *Titanic*. Everything had been going well for Smith and his career—which was spotless until the *Titanic*. Can he be faulted for not seeing it coming?

Like Captain Smith, many agencies don't see an E&O claim coming until it is too late. And just as it took a single iceberg to sink the *Titanic*, it could take just one claim to ruin an agency.


When agents talk about their E&O claims experience they often hear: "We have been in business for 30 years with no issues" or "Why should we worry about this now, since we have been ok so far?" Think about Captain Smith and the *Titanic*, and the many years of experience he had with no issues. Yet it only took one accident and one iceberg to sink the *Titanic*. Taking a positive and proactive approach to agency E&O risk management can help an agency avoid E&O claims and allow it to become more profitable and efficient at the same time.

Legitimate E&O claims arise generally as a result of the breakdown in a process somewhere in the agency or perhaps the lack of a process being there in the first place. The trick is to make sure everything that needs to be done in order to protect yourself is firmly embedded into the routine that your agency follows—in each and every case.

Protecting yourself from an E&O claim is not rocket science. True protection comes from the painstaking analysis of everything that has to be done from end-to-end, every time to ensure a client is properly protected against risk. This analysis must then be followed up by the implementation of "grass roots, desk level" procedures that: ensure compliance; are easy to follow and manage; are developed in conjunction with your staff and are designed to work in the real world. Why does this work? It works because taking this approach allows an agency to:

- Identify potential points of failure;
- Establish "E&O effective" workflows that make sense in the real world;
- Get understanding, commitment and buy-in from all staff;
- Work with staff to get them involved in the development and implementation of the proper workflows;
- Ensure that everything an agency does is well documented;
- Monitor and manage compliance easily;
- Train new people consistently and thoroughly;
- Demonstrate, when you are called to, that your agency always follows set procedures in the course of its business
- Create a strong culture around E&O avoidance

You can look at a procedural review from the negative viewpoint of avoiding a lawsuit, or you could look at it, positively as making sure you and your staff are doing the right thing every time for all of your clients. In today's world, you can be sued whether you did something wrong or not, but the payoff is that if you have great processes in place and you still get sued, you will be in an excellent position to win the lawsuit.

The good news is that getting it right doesn't mean it's going to cost you money—quite the opposite. The overall impact of this is a happier client group, higher retention and more opportunity for profitable growth. Additionally, most of the processes put into place to avoid an E&O claim will result in higher effectiveness and efficiency, and just having a standard way of doing everything will drive higher operating efficiency. 

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