No Silver Bullet

Meeting old challenges with new technology

By Barbara Rocco

Technological innovations have dramatically changed our everyday lives, both at home and at work. But in addition to boundless savings in time and money, they can also lead to inconsistencies and confusion.

Consider e-signatures, which can enhance an agency's defense in the event of an errors & omissions claim. In one real-life case, an agency pro-cured a commercial property policy for a new client. The producer reviewed the application over the phone with the client and discussed each question before inputting the answer.

The client responded "no" to the question regarding whether he had filed bankruptcy in the past five years, and the producer recorded that response on the application. The producer then uploaded the completed application into an online e-signature service, tagged where signatures were required and sent it back to the client. The client e-signed, the application was processed, and a policy was issued.

A few months later, a fire engulfed the property, burning it to the ground. After completing an investigation, the carrier discovered that the client had filed for bankruptcy less than a year before the fire, and rescinded the policy based on material misrepresentation in the application.

Facing a significant loss with no money coming from the carrier, the client pursued an E&O claim against the agency for inputting incorrect information on the application. The client swore up and down that he told the producer about the bankruptcy, and that he never actually signed the application.

But in most jurisdictions, e-signatures are both legal and binding to the same extent as a "wet" signature. The producer had ample evidence containing relevant details such as location, time, date and IP address of the e-signing party—information that bolsters the legitimacy of an e-signed document if a dispute over the authenticity of the signature arises.

This is a perfect example of how technology can work to an agency's benefit. But it can also do the opposite.

In another real-life case, an agency procured a homeowners policy for a client living in Florida and added a screen enclosure endorsement—not unusual in the state. After policy inception, the client requested an increase in building limits. The producer got signed approval from the client, accessed the carrier's website and inputted the increase in limits. The carrier approved the change request and increased the limits.

When Hurricane Irma made landfall in September 2018, it caused only minor damage to the client's house, but completely destroyed the pool cage. When the carrier began adjusting the loss, they notified the client that she had no coverage for the pool cage.

How could that be? Screenshots from the carrier's website showed that the Screen Enclosure endorsement box was unchecked at the same time the producer entered the limits increase request—he must have inadvertently clicked that box.

Direct access to a carrier's system can facilitate the process of placing or renewing coverage and reduce the time it takes to make policy changes. But inadvertent changes can also have significant negative ramifications for your client and, ultimately, your agency.

The simple message here: Technology will never be foolproof.

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