

ERRORS & OMISSIONS

RISK MANAGEMENT ALERT

COVID-19 Pandemic: How Agents and Producers Should Respond to Coverage Questions

by **Thomas Casella, JD, MBA, SCLA**
Senior Risk Management Representative, Utica National Insurance Group

The Coronavirus (COVID-19) pandemic is an unprecedented event in world history. Federal, state and local governments and businesses of every type – small and large – are grappling with how to respond to this crisis.

During this time of crisis, it is imperative that insurance agents and producers do not make any statements or representations to their clients regarding the potential coverage of a claim. If a client submits a claim to you, the best practice is to simply report the claim to all relevant carriers for that client, and document that the claim was timely submitted. Refraining from making any statements or representations regarding insurance coverage may help an agency mitigate the risk of becoming involved in litigation.

Other E&O mitigation measures:

- **Review renewal accounts to determine if any new exclusions, i.e., a virus and bacteria exclusions, have been added to the coverage.** This is particularly important in the non-standard market.
- **Event Cancellation Coverage should include Communicable Disease Outbreak and Civil Authority coverages.** If you have clients that schedule events and fundraisers, it will be imperative that you offer Event Cancellation coverage at various available limits. If a client declines such coverage, document their declination in a writing signed by the client. If you are unable to bind Event Cancellation Coverage with the Communicable Disease Outbreak and Civil Authorities coverages, make sure you document this in writing sent to your client.
- **Business Interruption Coverage is being challenged by the Plaintiff's Bar.** Litigation has already been initiated regarding BII and the interpretation of physical damage to the insured property. As stated above, DO NOT make any statements or representations on whether a BII claim is covered. Simply tender all information as provided by the client to the carrier and request that the carrier provide its coverage determination in writing.

From an E&O perspective, the challenges presented by the COVID-19 pandemic are no different than other large scale catastrophe events, such as a hurricane. Agents and producers should be ready to timely submit claims to carriers on behalf of their clients. Carriers will make coverage determinations based on the nature of the allegations and the terms and conditions of the policy in place at the time. Taking the steps outlined here may help mitigate the potential for E&O claims based on failing to report or commenting on potential coverage of a claim.

This information is provided solely as an insurance risk management tool. Utica Mutual Insurance Company and the other member insurance companies of the Utica National Insurance Group ("Utica National") are not providing legal advice, or any other professional services. Utica National shall have no liability to any person or entity with respect to any loss or damages alleged to have been caused, directly or indirectly, by the use of the information provided. You are encouraged to consult an attorney or other professional for advice on these issues.



Utica Mutual Insurance Company and its affiliated companies, New Hartford, NY 13413
www.uticanational.com • 1.800.598.8422