

Claims Examples

Errors and Omissions Insurance Brokers

1. Error in the Type of Policy Issued Results in a Denial of Coverage

The insured insurance broker was mandated by his client to obtain an errors and omissions policy for his employees (nurses) who worked as case managers for insurance companies. Instead, the broker provided a policy which covered nursing services only. After coverage was denied by the insurer, the client commenced a lawsuit for \$5 million alleging the broker failed to provide the proper coverage. ENCON retained a lawyer to defend the broker. It was determined the broker was exposed to liability for overlooking his client's description of services and failing to recommend proper coverage. A settlement was reached and ENCON paid \$55,000 in legal costs.

2. Failure to Explain Coverage

The insured insurance broker provided a commercial package policy to the client. The client suffered a fire loss that resulted in a four-month closure of the business. The policy in place included blanket coverage for multiple locations. After the loss, it was determined that the client had misunderstood the policy coverage and thought the limits provided were per location and not blanket coverage. The client issued a lawsuit alleging negligent misrepresentation. ENCON negotiated a settlement and incurred a total of \$32,000 in legal costs.

3. Failure to Submit Application

The insured insurance broker obtained personal and vehicle information from the client for the purpose of obtaining a new auto policy. However, the broker failed to submit the application to the auto insurer and subsequently, a policy was never issued. The client was involved in a motor vehicle accident that resulted in physical damage to the vehicle and injuries to the passengers. The auto insurer denied coverage to the client as an insurance policy was never purchased or issued. The injured passengers sued the client, who then initiated the claim against the broker, alleging breach of duty in failing to obtain coverage. ENCON negotiated a settlement at mediation given the broker's exposure to liability. Legal costs incurred by ENCON totaled \$47,000.

4. Failure to Provide Adequate Coverage

The insured insurance broker obtained a commercial auto policy with cargo coverage for the client. The client's application indicated that 5 per cent of their business was from transporting alcohol. The client suffered a theft of one of his transport trucks and its contents, which were cases of alcohol. The insurer denied the contents portion of the claim, as the

policy carried an exclusion for alcohol and tobacco. The client commenced legal action alleging that the broker failed to provide adequate coverage and failed to properly assess the risk. A negotiated settlement ensued and resulted in the broker and insurer equally contributing, as it was clear that the client required coverage for the transportation of alcohol. Legal costs incurred by ENCON totaled \$145,000.

5. Error in Providing a Certificate of Insurance

The insured insurance broker issued a certificate of insurance to its property manager client. Previously, the insurer received the application from the broker but required financial information to bind coverage. The client provided the premium payment to the broker; however, the financial information was not forwarded by the broker to the insurer. A slip and fall occurred on a site the client was managing. The injured party sued and the property manager in turn sought coverage for the lawsuit. Coverage was denied as there was no insurance in place. The client sued the broker alleging breach of duty and negligent misrepresentation. ENCON negotiated a settlement with the client. Legal costs incurred by ENCON totaled \$132,000.

6. Failure to Advise Client

The insured insurance broker obtained motorcycle insurance for his client. The client suffered a single vehicle accident that resulted in catastrophic injuries. It was determined that the limits available for accident benefits and loss of income were insufficient. The client alleged that he was never offered enhanced benefits. A lawsuit was commenced against the broker for the difference between the enhanced benefits and the issued policy limits. ENCON negotiated a settlement at mediation. Legal costs incurred by ENCON were \$64,000.

These Claims Examples are for illustrative purposes only. Please remember that only the insurance policy can give actual terms, coverage, amounts, conditions and exclusions.