



Agency Litigation Update and Agency Planning for Preparing to Exit COVID-19 Pandemic

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By Aaron Simon¹



While it is certainly too soon to declare the COVID-19 pandemic is over, it does appear the end is in sight and we can begin preparing for somewhat of a return to normal life. Given this, what has been the COVID-19 pandemic's effect on insurance agents and agencies as far as business and claims, and what can insurance agents and agencies expect moving forward?

Throughout the pandemic serious concerns were raised that COVID-19 litigation may have significant impacts on insurance agents. See:

“Agents Warned of ‘Creative’ Attorneys and COVID-19 Lawsuits” by Stephanie K. Jones – *Insurance Journal* - September 21, 2020.

<https://www.insurancejournal.com/magazines/mag-features/2020/09/21/583090.htm>

“2020 Could Make 2021 the Year of Insurance Agency E&O Lawsuits” by Andrew G. Simpson – *Insurance Journal* – January 21, 2021.

<https://www.insurancejournal.com/news/national/2021/01/21/598096.htm>

“Are Brokers in for a Tsunami of Pandemic- Related E&O Claims in 2021?” by Worldwide Facilities, an Amwins Company – *Insurance Journal* – April 27, 2021.

<https://www.insurancejournal.com/blogs/worldwide-facilities-llc/2021/04/27/611450.htm>

On the other hand, some reports have indicated “that the amount of litigation alleging that COVID-19 caused harm, both economically and physically, did not reach the stratospheric proportions once predicted at the start of the pandemic.”

See “A look back at 2020's COVID-19 insurance coverage lawsuits” By Amanda Bronstad –

PropertyCasualty360 – January 4, 2021. <https://www.propertycasualty360.com/2021/01/04/lawsuits-filed-in-2020-over-covid-19-were-diverse-but-limited-414-194049/>

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Although it may be a little too soon to cancel the alarm, we have not yet seen a “deluge” or “tsunami” of COVID-19 pandemic related insurance agent E&O claims materialize as of yet. It also appears that in most jurisdictions—outside of some isolated claims—the courts have not really embraced most COVID-19 related lawsuits.

Given this, agents and agencies should still remain vigilant in their E&O prevention matters and continue to work with their insurance customers to make sure their insurance customer’s expressed needs and requests are being met.

On the other hand, agency business and premium generation throughout the end of 2020 and the beginning of 2021 appears to be in most circumstances strong.

See “Travelers reports 22% Q1 profit gain despite cat losses” by Claire Wilkinson – *Business Insurance* - April 20, 2021. <https://www.businessinsurance.com/article/20210420/NEWS06/912341275/Travelers-reports-22-Q1-first-quarter-2021-profit-gain-earnings-despite-catastr>;

All in all, the outlook for insurance agents and agencies moving through 2021 should be cautiously optimistic.

In addition to representing professionals in litigation matters, Mr. Simon also represents agents and agencies (and other business owners) in transactional matters such as policies and procedures review, contract review, business structure, business sale and/or transfer, and related matters. This time of year is a great time to take a look at these things and make sure you are set up for success in the new year. Thus, if you have a legal question or need some legal transactional consulting advice please feel free to reach out to Mr. Simon at 612-386-4617 or asimon@meagher.com. Initial consultations are always no charge.

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