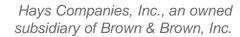
Brown & Brown

Insurance Company Professional Liability

Current Trends in Claims, Litigation and Placement

Presented By:
Brown & Brown Executive Risk Team





Presentation Agenda



- 1 Claim Trends and Issues
- 2 Litigation Environment
- Policy Placement Issues in the Marketplace
- 4 Q&A

Panelists





Aaron Stone Brown & Brown, Moderator



Scott Stence Brown & Brown, Panelist



Stuart Turner Brown & Brown, Panelist



Stacy Broman Meagher & Geer, Panelist



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Claim Trends and Issues

LEGAL REQUIREMENTS FOR CLAIMS

Common Law

- Varies by State
 - » Regulatory Limits on Claim-Handling
 - » Principles of Contract Interpretation
 - Choice of Law
 - » Duties Imposed by State Law
- Breach of contract vs. Tort
 - Improper or Incomplete Performance
 - Failure to Perform with reasonable care and competence
- Benefits due under policy were withheld
- Reason for withholding was unreasonable

Statutory

- Unfair Claims Practices Acts
 - » Varies by State but generally similar
 - Prohibited acts are per se violations









COMMON TYPES OF CLAIMS

- **Bad Faith Claim Handling**
 - Failure to Settle

» Wrongful Denial of Coverage



Other Acts of Bad Faith

Underwriting Errors

- Misunderstandings
- Clerical Errors
- Failure to Disclose
- Missed Deadlines
- **Breach of Agency Relationships**
- **Financial Advice**
 - Life Insurance
 - Suitability Issues
 - Sales and Marketing practices

Remedies

- **Statutory Penalties**
- Punitive Damages
- Attorneys' Fees





Common Practices that result in Claims

- Failure to settle
- Wrongful denial of coverage
- Beware of the bad faith setup- time limited demands

Common Practices to avoid Claims

- Maintain and document claim files
- Reasonable, prompt, investigations
- Adhere to contractual and regulatory timelines
- Proper and timely reservation of rights
- Communications



- Coverage Issues
 - » Notice
 - » Defense
 - » Covered Loss/Allocation
- Social inflation
 - » Rising litigation costs
 - » Higher settlements and "nuclear" verdicts
 - » Longer claim resolution timeline
- Jurisdictional issues
- Claim resolution issues
- Other issues
 - » COVID-19
 - » EPL



Litigation Environment

Litigation Environment

- Increased volume of Claims
 - » By Type of Claim?
 - Auto
 - » By Jurisdiction?
 - Traditional difficult jurisdictions
 - Emerging challenging jurisdictions
 - » Aggressive plaintiffs' bar
- Impact on settlements and verdicts
- Litigation funding





03

Policy Placement Issues in the Marketplace

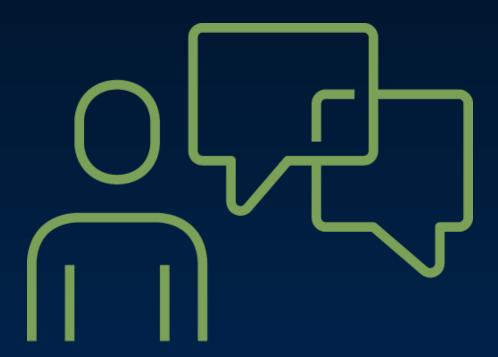
Placement Issues

- Carrier response to Claim Trends and Losses
 - Impact on Premium
- Actions to reduce UW scrutiny and premium increases
- Terms and Conditions negotiations
- Other policy language issues
 - **Exclusions**
 - Limitations
- Challenges in building larger programs



04

Questions and Answers





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