



Southern Nevada CCIM Chapter

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President's Message

Paul Chafee, CCIM

2023 Southern Nevada CCIM Chapter President



It's hard to believe that 2023 is almost over! I look forward to finishing the year strong as I prepare to pass the President's baton to Roy Fritz, CCIM. To say that the 2023 Wine Soiree was a huge hit would be an understatement! Special thanks to Carol Browning and the Wine Committee for stepping up the event again this year with a Master Sommelier who did two private tastings for the attendees. Also, a huge thank you to all of the Sponsors that made the event possible! If you won a raffle item, don't forget to use it in the next year!

We have a couple more events to look out for before the end of the year. On November 2, 2023, is the Designee & Sponsor event. We will start the evening at the Flight Club in the Venetian. Then, we'll head over to the long-anticipated Sphere Las Vegas for an immersive experience. On December 15, 2023, we will host our annual end-of-the-year holiday lunch. During the holiday lunch, we will do the annual "changing of the guard" of the Southern Nevada CCIM board. This event also allows us to spotlight our local charitable partners.

I look forward to seeing you all before the end of the year. Keep doing deals, and keep having fun!

Check out our SNCCIM YouTube channel and playback a few of our programs 2023 <https://www.youtube.com/@ccimsouthernnevada6426>



For more photos of the CCIM Annual Wine Event, go to: <https://dragonflypd.smugmug.com/Other/CCIMLasVegas/CCIM-Wine-on-the-Greens-Oct-2023/>



Legal Corner

Be Wary When Switching E&O Insurers

by Scott A. Marquis, Esq., Marquis & Aurbach

Despite your best effort, if you sell real estate for your career, you are very likely to get sued at least once, and it can easily occur on multiple occasions through no fault of your own. There are several business practices that can increase or decrease the probability that you will be sued, but you can never reduce the probability to zero. For this reason, most real estate brokerages invest in Errors and Omissions Insurance ("E&O Insurance").

E&O insurance provides brokers and agents with valuable coverage in case they are sued for an alleged breach of statutory or contractual duties. It is valuable protection that we encourage licensees to obtain as protection from potential liabilities, including litigation. The cost to defend yourself in litigation (i.e., the sums you pay attorneys, expert witnesses, court fees, court reporters, etc.), will almost always rise to five-digit figures, and can easily rise to six-digits if litigation is lengthy, complex or contentious. In addition, you often have little control over how long your litigation will last, and unless you are willing to pay the opposing party's often ridiculous initial demands, you must continue paying to litigate. Finally, if a judgment is entered against you, you could also be forced to pay the other party's damages, attorneys' fees and costs.

E&O insurance generally allows you to avoid the financial devastation that litigation can create for you and your agents. Paying for E&O Coverage is usually well worth the expense, even if you only use it once in your career. Unfortunately, you may think that you have been covered by E&O coverage continuously, only to find out that were not covered at the time you got sued. Oftentimes, this occurs when brokerages switch E&O insurers.

E&O Insurance is generally provided on a claims-made basis. This means that the insurer providing your insurance at the time a claim is made is generally responsible for that claim, regardless of whether the events that caused the claim occurred earlier when you were covered by another carrier. Therefore, even if the alleged misconduct occurred years

before a lawsuit was filed, the E&O insurer covering you at the time you submit the claim is responsible for paying the expenses relating to that claim. However, there is an exception to that rule, and it is one you should be aware of whenever a switch is made in E&O insurers.

The exception occurs when you know or should know that a claim is reasonably likely to arise from past events but fail to inform your new insurer of those circumstances before the new policy becomes effective. Every E&O insurer will ask you to provide a list of potential claims that exist as of the anticipated effective date of the new policy so that they can determine their potential exposure as your new insurer and calculate the premium they will charge.

[Continued on page 19](#)



Avece Higbee, Phil Aurbach, Terry Moore, Scott Marquis, Jordan Peel
(David Alleman and Lance Earl - not pictured)

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This is not the same situation that frequently occurs where there is a delay in reporting a claim. In those cases, the insurer must show that your delay in reporting the claim prejudiced their ability to defend the claim. No such showing is required in the case of a potential claim that was not disclosed prior to the issuance of the E&O Policy. Your failure to inform the E&O insurer prior to the effective date of the new E&O policy is automatically detrimental to the insurer because it could not use that potential claim to charge you more for your insurance or deny you insurance altogether.

Thus, if you fail to inform your new insurer of circumstances that may lead to a claim, it is a near certainty that they will deny coverage because it is easy to assert that a claim was foreseeable in hindsight. Likewise, your former insurer will deny the claim because its policy had already expired. In essence, you will be caught between two policies, one of the few unlucky enough to have an uncovered claim despite continuous E&O Coverage. Do not let this happen to you. Ensure that you and each of your agents report all cases that may have

a chance of ending up in litigation, even if your insurance premiums may increase slightly.



Scott Marquis is a shareholder with the law firm of Marquis Aurbach ("MAC"). He can be reached at (702) 382-0711 or by visiting the firm's website at www.maclaw.com



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JOHN TIPPINS

702.333.4455

john@northcap.com

License: NV B.0057269.LLC

DEVIN LEE, CCIM

702.369.8618

devin@northcap.com

License: NV BS.0047546