

Burand's Insurance Agency Adviser

Resources and Information for the P&C Insurance Industry

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Hiring and Dealing with Attorneys

Over the years I have dealt with dozens and dozens of my clients' attorneys and the results, good and bad, of those attorneys' work. Here are some tips for hiring the best attorneys, testing whether the attorney you are considering is any good, and for monitoring the quality of work the attorney is doing because legal work, unfortunately, is just like the medical field. If you have an illness, you have to be an advocate for yourself rather than just trusting the medical community to take care of you.

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InsurTech, Transparency & Communism



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***Celebrating 25 Years as a SCORE
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"The Insurance Forum: A Memoir," by Joseph Belth

I recently read "The Insurance Forum: A Memoir," by Joseph Belth. I enjoy Mr. Belth's blog with his focus on life insurance and LTC policies. I do not have as much knowledge or experience in life and LTC as in P&C and benefits so his blog and book have been beneficial to me.

I believe many subscribers also focus on P&C. Between reading his book and conversations I have with mostly P&C agencies, it is clear to me that most P&C people do not know enough about the nuances of the life/LTC world to serve their clients well. Mr. Belth's book will assist you

The title alone may elicit anger, bewilderment, curiosity and who knows what other emotions. The reason these movements and cultures are similar is they promise regular people some advantage based on an obvious current disadvantage. But then they take advantage of these same people.

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Virtually every company/agency contract has the same clause regarding agents advising clients on claims. It states something like this, "Agent shall notify Company immediately of all claims or potential claims."

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Interested in spending a few days in the Colorado Rockies while networking with Agency Leaders?

Then I'd like to invite you to attend the **2019 Keystone Agency Management Meeting**, Feb 28 - Mar 1, 2019 in Keystone, CO!

This opportunity consists of a small group of agency professionals who meet only during the morning. The group discusses critical agency management topics, as well as attendees' ideas, roundtable topics, successes, questions and concerns.

The schedule leaves the afternoons free for skiing and enjoying the breathtaking Colorado Rockies. The registration fee for this two day meeting is \$575 per person. Please contact me at chris@burand-associates.com to learn more. **We have very limited space available so if you're interested, don't wait!**

Important Perspective of Insurance Agents

By pure chance, at a completely non insurance event, I found myself seated next to a deputy commissioner of insurance for a prominent state. This deputy commissioner, when he learned through the pleasantries of exchanging minor personal information around the table that I consulted for insurance agencies, let me know in no uncertain terms that he thought agents were mostly scumbags.

It was a wonderful way to embark upon a two hour dinner with strangers. His perspective was that he saw so many cases of agents selling the wrong coverages, purposely selling inadequate coverage, and leading clients to believe they had far more coverage than they had. Honestly, through all the E&O work I do, I cannot disagree. It happens every single day. I do not know that I agree agents do so from an unethical basis as much as an incompetency basis based on my E&O audits, but nonetheless, the issue is real. And I understand from a department's perspective that only sees the problems and never hears about the good outcomes (how many insureds call their department of insurance to exclaim how great their agents are?) that their perspective would be highly biased. I get that and I do understand it.

considerably in what you need to understand about life/LTC.

One of the most important reasons to learn more is to gain a better understanding of how insurance policies read and what to be careful of relative to policy language. In the P&C world policy language is obviously important, but some of the nuances in the life/LTC policies strike me as nefarious. He also does a great job of explaining of how to compare the cost of different types of life insurance policies and addresses life insurance sales practices.

In talking to many P&C agents through the years, they feel that some practices are deceptive but do not know enough to advise their clients of caution. This book will help you help your clients.

YouTube Video: "Why I Secretly Love Coverage Disputes"

Interesting review of "When Words Collide," by Bill Wilson:

www.youtube.com/watch?v=lfnil7efDHA

The examples are plentiful. One example is an industry newsletter that often lists new E&O cases. A recent list included cases for a multi-million dollar coverage shortfall, failure to disclose a major exclusion, an agent arguably not providing realistic client expectations, and for advising a client they didn't need more than \$x liability limits. A separate recent list of E&O claims following a natural catastrophe and, while the data I reviewed was limited, it still suggested strongly that most of the situations were caused by agents not selling the right coverages and/or coverage limits. Some of the situations were truly massive incompetency on part of the agent. An example might be something like advising someone flood was not necessary when the house was on the water or that they had coverage for a business in the home when the policy specifically excludes such coverage unless the endorsement was purchased. I am not suggesting these are the claims but these are the types of claims.

I can understand the insurance department thinking agents are scumbags although I truly prefer thinking these agents are just incompetent. Idiocy feels better to me than the connotations of a scumbag.

Insurance departments have a role in this because, as one Michigan judge ruled not long ago, the licensing requirements for an agent are less than that of a beautician. Insurance departments could always raise the licensing standards.

Insurance associations and their members are at fault too. I have heard for decades how agents want to lower the standards of care so they are less likely to be sued and if sued, more likely to win. I have heard E&O attorneys and instructors pound into agents' heads to not increase their standards of care. This is truly the epitome of cutting off one's nose to spite their face. If agents want licensing standards far less stringent than someone that paints nails (I am not saying painting nails is not a difficult profession that requires considerable training to avoid injuring a client's fingers or toes) and if agents and their associations want standards of care so low the agent is basically not responsible for much of anything, then in reality who needs a licensed insurance agent? My conclusion is: Absolutely no one.

Which brings me to two new legal developments. The first is proposed legislation whereby only "natural" persons will be required to carry a license but non-natural persons, i.e., artificial intelligence computers selling insurance, will not be required to carry a license. This is real and likely to pass. Think about this just for a moment or more. The computer will have no standard of care because it won't be licensed and with no offense, though it may be offensive, an incompetent but licensed human cannot compete with an unlicensed supercomputer that actually probably is fairly competent.

Another development is a recently passed law that requires insureds to "understand" their insurance. How any reasonable person could vote for a law that requires a consumer to "understand" their insurance is beyond me. That is an impossible standard but it negates a standard of care for agents and companies. In fact, it makes agents mostly irrelevant because companies can then sell whatever to consumers and the consumer loses the middleman agent, the good ones of which are fantastic protectors of clients from insurance companies and incompetent and scumbag agents.

That law might be applauded by agents who want no responsibility for selling clients the coverages they truly need. It probably is being applauded by certain companies, especially those who like to cut corners. (As an aside, I wanted to ask the deputy commissioner about his department's efforts to prohibit some companies' filings of policies that actually provide almost no coverage, but that seemed pointless.)

I hate it that insurance commissioners and others think of agents as scumbags. These perspectives make it so hard to create trust for those that do their job well and with pride. Someone else at the table asked me if all agents are scumbags and I explained that in my interactions with thousands of agents over 30 years, a large percentage of agents are absolutely the best. They take to heart their clients' coverage needs. They are extremely well educated in the coverages clients need. They work hard to protect clients from companies, especially when a company is not interpreting coverage correctly after a claim. These are good, hard-working, ethical people that make a positive difference in people's lives.

The high road is always the hardest road. By definition, the high road means climbing, working against gravity, and working hard. The low road goes downhill. You know what rolls downhill. With the new laws being passed and

promulgated, with many companies working to push aside agents, with the "scumbag" perspective many important people have of agents and the industry, with how InsurTech and AI is working to replace agents in some venues, understand all these forces are aimed at eliminating incompetent agents. Incompetent agencies are paid too much and their extinction creates a cost savings. The low road leads nowhere good.

The high road is the ethical, positive legacy, and financially beneficial road. If you want to learn more about the high road and if you do not already know where that road is and how to counter all the negatives, let me know. I have created a special path for those wanting to develop a high road that makes their clients' lives better and ultimately rewards them financially and in their hearts.

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Smart Leak Detection Devices can Reduce \$10 Billion Annual Claims from Burst Pipes, by Dan Sterling

Water damage claims from burst pipes have long been one of the leading P & C claims at about 30%. Insurance industry statistics from 2011 pointed to the fact that 93% of burst pipe claims were avoidable¹ with then existing leak detection devices. The problem was these devices cost \$2,000 to \$3,000 and had limited functionality, so relatively few were installed.

Thankfully, that's changing. Fast-forward to 2018, where we now have next generation Smart Leak Detection devices. These Internet connected, smart phone controlled whole-house leak detection devices have much greater functionality at 1/4 the price. Plus they provide real-time water usage data, delivering bonus savings for many homeowners on their water bills.

"We now have an opportunity to **prevent** our customers from experiencing a burst pipe catastrophe. At the same time, agents make more money as they reduce claims on their policies written. Everyone wins...the customer, the agent and the carrier," says Chris Paradiso, owner of Paradiso Insurance in Stafford Springs, CT. He adds, "It also gives us and our carriers more opportunities to engage with our customers. They love these smart devices. They love saving money on their water bills. They love the peace of mind knowing that their home is protected. I know first-hand, because I have the Water Hero[®] Smart Leak Detection device installed in my home and love it!"

Here's how Smart Whole House Leak Detection devices work. The hardware components consist of a smart, digital water meter in line with a motorized ball valve shut off. The electronics consist of a local, onboard computer that controls the system, as well as a WiFi chip that allows you to wirelessly connect the device to your home broadband Internet, just like a WiFi Thermostat. If a pipe breaks in your house, the device will automatically shut off your water and send you a text and/or email message. The device is controlled using the browser on any computer or a smart phone application. So you can get text and/or email alerts and can turn your water on/off remotely from anywhere in the world you have connectivity. The user can easily custom configure the alert and shut off triggers to suit their household's needs using any web browser or the app. They can see real-time water usage, historical water usage and real-time ambient air temperature at the smart meter from any browser or smart phone anywhere they have connectivity, providing great peace of mind that everything is OK when away from home. The system has a 4-day backup battery, so if power is out or the Internet is down, your home is still protected. With all this powerful functionality and remote monitoring and control, it's no wonder homeowners love these devices.

Smart, proactive agents like Chris Paradiso are leading the charge to push the adoption of Smart Leak Detection devices. His agency has developed a five-part program that should be a best-practice for every agency:

1. **Get the word out to your customers.** Include flyers and brochures for these smart devices in your mailings, email blasts and on social media.

2. **Incent your employees to install these devices in their homes** so they can know first-hand the power and importance of these devices, making them evangelists for these devices.
3. **Incorporate these smart devices as part of a comprehensive coverage plan to truly protect your customers**, new and old. Everyone knows the value of fire protection devices. Facts: Water damage happens 7 times more than fire damage, so prevention needs to be a part of any comprehensive coverage. 1 of 55 homes will have a burst pipe incident every year. If the home is unprotected, these incidents can be nightmares for your customers, causing significant damage and months of disruption.
4. **Reach out to your carriers for premium discounts and incentives** for your customers that install these Smart Leak Detection devices. Some carriers already offer premium discounts of 5% to 15% for Leak Detection Devices. A few even offer low temperature freeze alert premium discounts for devices like Water Hero® that also provide low and high ambient air temperature alerts.
5. **Post your customer testimonials and success stories on your social media pages** to reinforce the benefits and maximize adoption. Here's an example:

"I'm in Love! The Water Hero you recommend I install just saved the day. It automatically shut the water off within a minute of a washing machine hose rupture and sent me a text message alert. I was out of town at the time, so the damage would have been extensive. And viewing our hourly and daily water usage helps me and my family save on our water bill. A big thanks to Paradiso Insurance for bringing this great product to my attention and having my back!"

Smart agents recognize the opportunity to use Smart Leak Detection Devices to differentiate from their competitors. It shows your agency is pro-active and truly committed to protecting your customers. And many customers will thank you for the peace of mind and bonus water savings they realize from having a smart leak detection device in their home.

These smart leak detection devices are also powerful water conservation tools, so they demonstrate your commitment to protecting one of our country's most precious resources. They attack a major, growing problem in this country: US Households currently waste 6 trillion gallons of clean, processed water every year. This waste is overtaxing currently outdated municipal water infrastructure, and water rates are projected to see major increases over the next 20 years if we fail to conserve. Today, the average home leaks 10,000 gallons of clean water annually, with 10% leaking 90 gallons or more daily.² Real-time water usage data and remote on/off capability are game changers that address these problems, allowing homeowners the ability to quickly identify costly water leaks and wasteful behavior.

These devices are coming to your neighborhood soon and will only grow in popularity. Make sure your agency is proactive, is a leader and in front of the Smart Leak Detection Wave! You owe it to your customers, your agent bonuses and agency bottom-line...everyone wins!

¹ Up to 93 percent of the cost of water damage could have been prevented or minimized if an automatic water leak detection and shut-off system had been present in the homes, according to a 2011 ACE Private Risk Services study. <http://investors.chubb.com/investor-relations/media-center/press-releases/press-release-details/2014/Homeowner-Damage-from-Frozen-Pipes-this-Winter-Largely-Avoidable-says-ACE-Private-Risk-Services/default.aspx>

² EPA Water sense statistics. <http://investors.chubb.com/investor-relations/media-center/press-releases/press-release-details/2014/Homeowner-Damage-from-Frozen-Pipes-this-Winter-Largely-Avoidable-says-ACE-Private-Risk-Services/default.aspx>

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Hiring and Dealing with Attorneys

Over the years I have dealt with dozens and dozens of my clients' attorneys and the results, good and bad, of those attorneys' work. Here are some tips for hiring the best attorneys, testing whether the attorney you are considering is any good, and for monitoring the quality of work the attorney is doing because legal work, unfortunately, is just like the medical field. If you have an illness, you have to be an advocate for yourself rather than just trusting the medical community to take care of you.

#1: Hire the best. How do you know who is best? See the tips below. Another tip is price. The best usually charge the most although this is not always true.

#2: Avoid the attorney that practices all forms of legal work. The lawyer that can do divorces, estate planning, business law, and criminal is a jack of all trades and master of none.

#3: Hire specialists. This recommendation goes far beyond hiring a business attorney instead of one that mostly does DUI's and some business law. Choose an attorney that specializes in particular types of business law. Here are some examples that are problematic:

- Estate attorneys that do not stay current with estate taxes, valuation law, and especially reasonable compensation rules.
- Business attorneys that do not know anything about valuations but write buy/sell agreements anyway.
- Business attorneys that are not employment practice specialists that write employment contracts and handbooks.
- Tax attorneys that are not specialists in ERISA/409A tax law but give specific advice anyway.
- Business attorneys that do not ask the question: What else has to integrate into this contract? For example, buy/sell agreements integrate with corporate documents, executive compensation plans, life insurance, disability, and much more. Rarely are contracts stand alone islands.

#4 Can they work with other experts? My clients' attorneys do not often know much about insurance or business valuation but it seems many cannot admit this. They create generic agreements that do not fit. They ask my clients for their opinion but they do not know the language or law to use. But the attorneys will not ask experts in the field.

The best attorneys will admit they do not know it all and they will work with experts in a particular field to build contracts that are actually specific to the client.

#5: When you have an attorney that never litigates write your contracts, have someone that is familiar with litigation review the contracts because when litigation ensues is when you need a great contract. The attorney that never litigates is not going to see the same holes that a litigator will see.

#6: Can they keep a schedule? Attorneys, especially litigators, seem to like to rush everything at the last second. One reason is to pressure the sides into settling but preparation need not be rushed. Another reason they rush is that many attorneys are simply incapable of managing their schedules. Their competency should not cause you stress. Ask up front that they keep a reasonable schedule and not wait to the last second.

#7: Depositions: I have found this to be a particular weakness. A good defense attorney will control the environment, even in depositions. I have acted as an expert witness enough to have experienced attorneys that are fantastic at countering every point the other side seems to score. For example, let's say one side scores a point by asking a question in a particular way. The defense then asks a follow-up question to provide the proper context. On the other hand, I've seen defense attorneys that never even attempted to provide the required context leaving the expert and their client hanging. When testifying, one may need to limit their responses so it is the job of the defense attorney to provide the context.

#8: Contracts are always cheaper than litigation. Therefore, spend the extra money to get your contracts written correctly by the very best.

#9: Contracts are crucial but they have to be reasonable. I have read contracts that were so incredibly tight no question existed of finding holes when litigated. But they were so tight, no reasonable person would sign them. Contracts need to be reasonable, which may mean they are not perfect, so that people will sign them.

#10: Legal vs Strategic: I personally want an attorney that can think strategically when negotiating/litigating. For example, I have seen many instances where the attorneys could not recognize the other side was out of cards. They had nothing left to play. Therefore, their side could be aggressive or in some instances, the attorneys had fears relative to this or that contractual clause which in the real world, had absolutely no value. Great opportunities were lost because all the attorney could see was the contract in front of them and none of the context. The other angle is true too. They only see the circumstances and not the contract with that great phrase, "They'll never enforce the contract."

#11: Client confidentiality. I am positive the following requires a law degree to assess but I am confused how some attorneys create additional client/attorney privilege when building a case while others seem to dilute this privilege. In particular, I have had attorneys work with me as their expert consultant and/or as their expert witness (different privileges may extend based on what attorneys have told me). Some are quite controlling how data flows and others do not seem to institute any controls.

I am a fan of good controls and a strategic conversation of how to best preserve and protect client/attorney privileges.

It may seem like I am recommending the perfect attorney that does not exist. I have learned the best attorneys can think strategically and legally. They manage the deposition process better. They reach out to experts in other legal and professional fields. The best truly appreciate the need to review contracts from a litigation perspective. No attorney, or human, is perfect but the best attorneys are less rare than I find most agents think.

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InsurTech, Transparency & Communism

The title alone may elicit anger, bewilderment, curiosity and who knows what other emotions. The reason these movements and cultures are similar is they promise regular people some advantage based on an obvious current disadvantage. But then they take advantage of these same people.

In his writings, Marx analyzed the serious disadvantages existing then that extremely few people could ever break through to achieve a decent life. People were actually shrinking in size, physically becoming smaller, because their disadvantages were so great in the early- to mid- 1800's in much of the Western world. Analyzing the situation correctly, down to the willingness of many in the moneyed class to use violence to keep people in their "place" gave hope to followers of socialists and communists. They hoped the leaders of these movements had solutions for decent lives. These leaders then used the populace's desperate desire for a solution to do a bait and switch. Over the next 100 years, the bait and switch resulted in 30-40 million people in these countries dying, usually starving, but sometimes being massacred by their own government.

Believe it or not, that is a history lesson that applies to insurance. The populace does not trust this industry. They do not understand their insurance contracts even if they ever read them (and neither do many people with insurance licenses). The populace sees insurance as totally opaque. Their feelings are fed by the advertisements of attorneys promising the need of their skills to make sure claim settlements are fair. Their feelings are fed by rejections of medical claims and skyrocketing premiums. Their feelings are fed when a clearly uninsured driver fails to observe a stop sign resulting in severe injuries but the UM claim is denied because the injured driver was possibly a tiny bit at fault (this is a true claim that I witnessed). That claim should be paid even if the driver was

somehow, for sure, a little at fault because the spirit of uninsured motorist coverage is to provide coverage when the other driver is inadequately insured and at fault, and a 98% at fault is a legitimate UM claim.

Insurtech firms have analyzed consumers' feelings toward insurance with far more precision and insight than any agents' association, carrier, or market research firm previously. Then these firms actually listened to the research results rather than proclaiming, "That's just the way it is!" The key element is transparency of pricing, claims, and coverage. I am all for transparency. Transparency is definitely needed on many levels in this industry, including agency compensation.

However, some insurtech firms have maybe done a communistic bait and switch. On the one hand, they promise transparency. On the other hand, I saw a policy that had almost no coverage. The price was cheap. People want to believe the party that analyzed the problem has an ethical answer so they fail to initially question the new preacher. Meanwhile, the preacher provides transparency (pricing) while obscuring the offset (less coverage). Not having quality coverage after a large claim can bankrupt (starve) a client.

Another example is financial wherewithal. I saw a traditional carrier with an A+ rating compared against a nontraditional carrier rated an A-. The agent did not even take the time to learn the latter was not technically an insurance company. Alternative forms of insurance are not the same as insurance companies and while they carry benefits, they carry extra risks that needs to be disclosed.

This is all kind of like airline pricing. A ticket is \$100 but if you want to take a bag it is \$100 more and if you want a seat it is \$300 and if you want a seat that fits, the price is another \$700. But if the advertisement says \$100 versus one that includes everything advertised at \$700, the \$700 seat is at a disadvantage. Firms like this have discovered they can make what they are selling appear much more transparent than it really is, and what comes later is anything but obvious to the consumer.

Agents and companies do need to become more transparent. From this perspective, the disrupters may be providing the best motivation for the existing players to greatly improve. Here are a few, simple steps for transparency:

Agents: Always offer at least three quotes. Offering only one quote provides zero transparency toward your efforts to go to the market to find clients the best deal. They only see one quote. How do they know you even went to the market? How do they know differences in coverages and options exist if you only provide them with one quote?

People want to be in charge of their buying decision and if you only give them one quote, you are giving them a take it or leave it option. That is not a good option. If you give them three options with short summaries, your hit ratio is likely to improve because you are giving them a choice. Otherwise they have to create their choice, which means finding two other quotes from other agencies. Give them three quality quotes and they win and you win.

Next, use claim surveys. People buy insurance to protect against claims. So when they have a claim, ask them how they feel about how their claim was handled and settled. Track timeliness. Build a database that you can use to steer clients toward the companies that are best at claims, even if they charge a little more. Their satisfaction increases and you have the opportunity to easily show that not all companies are created equal. Everyone in the industry reading this knows which companies they would prefer in a claims situation. Let's help clients gain some of this knowledge too.

Read forms to make sure coverages apply. Anyone can sell the wrong or inadequate coverages. Do-it-yourself buyers will also make this mistake. A professional will know the forms.

At the extreme, if you want to be really, really good, you will ask clients about their real exposures. I hear so many producers and CSRS quote what someone wants, and that's it. They call it good. Clients may know superficially what they want, but the reality is they want great coverage. They attest to this in E&O suits all the time. Great coverage is not necessarily limited to an HO or GL policy. The homeowner wants coverage with full RP coverage, flood, etc. The same goes for GL. They want business income, an umbrella, etc., especially after uninsured loss. A pro knows the coverages the client likely needs so offer those coverages rather than only the coverages requested.

Communism and its bait & switch cost tens of millions of lives. Don't be a victim of entities doing the same in insurance. Don't let your clients become victims either.

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Being a Claims Advocate While Not Breaking Your Company Contracts

Virtually every company/agency contract has the same clause regarding agents advising clients on claims. It states something like this, "Agent shall notify Company immediately of all claims or potential claims."

It goes, or should go, without saying, this implies (and other provisions are often explicit) the agency is not to advise clients claims will or will not be paid. Most agents get this part clearly.

What most agents in my experience have difficulty understanding is how the agent is not to advise clients they have the option of turning in the claim after the insured has already told the agent of the claim! The agent is to turn in ALL claims as soon as reasonably possible. The carrier contracts require agents do this.

Why do agencies forego reporting claims when clients ask them not to?

1. The ostrich: "I have never read the agency/company contract or at least not informed my employees so these clauses do not apply to my agency. We are free to tell clients claims can be reported to us and we won't report them unless the client tells us to."
2. Sgt. Schultz: A few readers may remember this character from the old "Hogan's Heroes" television show. He was famous for his line repeated in most episodes, "I hear nothing. I see nothing. I know nothing." I do not "know" a claim happened because it cannot be a claim unless the loss is turned in and besides, I do not know really the details of the claim so I do not have anything to turn in.
3. Some agents take the hard opposite position of not giving any advice whatsoever to clients but still know nothing. They stick to their interpretation of the contract and advise, "I do not have any idea and cannot give you any idea of, if, when, how much will or will not be paid no matter what. I am turning in this claim, about which I know nothing, no matter what."

If that perspective was 100% true, the agency person is likely quite new or ignorant or so risk adverse they really should find another occupation.

Another example of this attitude is, "So, you have a claim and you want to know if you should turn it in. You say it is a small property claim. I would not turn it in but then again, I never heard you say you actually had a real claim."

The professional agency would capitalize on this opportunity foregone by its lesser competitors. They would:

- Educate clients upfront about claims and deductibles. This is only a partial solution but progress. Then, fewer clients will call asking if they should turn claims in and agents would not be squeezed between a rock and a cliff.
- Have procedures for those insureds who call and have a clear claim that must be turned in. The procedures should dictate the claim be turned in and include how to talk to insureds regarding why they have to turn it in, why it is likely in the insured's best interest, and what the insured should expect in the claims process.
- For those clients who call with a claim in the grey area of whether they truly need to turn it in, a compromise between true, small, developed strictly property losses (not property claims per se because a property loss and a property claim are not necessarily synonymous) and all other claims is required. This is the middle ground many agents try to manage. For example, someone calls with a windshield claim and it is a true

windshield claim where a rock from an unknown vehicle cracks the insured's windshield (as opposed to the claim I saw where the insured reported a windshield claim but failed to report the rest of the vehicle was totaled -- it truly pays agents to ask many questions about "simple" claims). In these cases with the fully developed data, maybe an option can exist at times.

I know this is not the textbook answer, not a straight answer, but it is more aligned with reality. So many insurance companies are taking, without question, unrealistic underwriting positions relative to reported incidents. They have forced the creation of a grey area in many minds.

- Most of the time, the agency and the insured simply did not believe much of a claim existed. The examples I have are mostly of innocence and naivety. A few are, in my head at least, pure fraud on the part of the insured or the third party. Either way, the professional agency will develop the information upfront. For example, the simple bumper claim. Find out what they actually hit. The bumper might not have all that much damage but the light pole that crashed probably did have considerable damage. Or the broken window caused by the neighbor kids that turned out to have been caused by a burglar who stole considerable expensive jewelry that was only discovered later. In other words, a professional agency will not just take the insured's simple explanation at face value.

Another reason to turn in the claims is because if an agency does not turn in a claim after learning about it, some insurance companies may take the position of paying the claim and then subrogating against their own agency for violation of the contract. I have many examples of where they have done this.

Professional agents will be true advocates when claims are turned in. Being an advocate may not offset situations where companies take unfair positions, but having an agency advocate at least partially offsets the pain. By "advocating" I mean the agency will explain to the client what to expect. They will explain that they will follow the claim and if they see the adjuster is not responding timely, they will contact the company to learn what is happening. If they think the adjuster is interpreting the policy incorrectly, they will discuss the interpretation with the company without indicating to the insured the agency's opinion of whether the adjuster is correct.

Professional agents earn their money when a client incurs a claim. It is important to adhere to the company contract without using it as cover to abandon the client when they need you the most. Be an advocate for helping them through the painful claim process.

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Chris Burand is president and owner of Burand & Associates, LLC, a management consulting firm that has been specializing in the property/casualty insurance industry since 1992. Burand is recognized as a leading consultant for agency valuations, helping agents increase profits and reduce the cost of sales. His services include: agency valuations/due diligence, producer compensation plans, expert witness services, E&O carrier approved E&O procedure reviews, and agency operation enhancement reviews. He also provides the acclaimed Contingency Contract Analysis® Service and has the largest database and knowledge of contingency contracts in the insurance industry.

Burand has more than 30 years' experience in the insurance industry. He is a featured speaker across the continent at more than 300 conventions and educational programs. He has written for numerous industry publications including *Insurance Journal*, *American Agent & Broker*, and *National Underwriter*. He also publishes *Burand's Insurance Agency Adviser* for independent insurance agents.

Burand is a member of the Institute of Business Appraisers and NACVA, a department head for the Independent Insurance Agents and Brokers of America's Virtual University, an instructor for Insurance Journal's Academy of Insurance, and a volunteer counselor for the Small Business Administration's SCORE program. Chris Burand is also a Certified Business Appraiser and certified E&O Auditor.

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Burand & Associates, LLC is an advocate of agencies which constructively manage and improve their contingency contracts by learning how to negotiate and use their contingency contracts more effectively. We maintain that agents can achieve considerably better results without *ever* taking actions that are detrimental or disadvantageous to the insureds. We have *never* and would not ever recommend an agent or agency implement a policy or otherwise advocate increasing its contingency income ahead of the insureds' interests.

A complete understanding of the subjects covered in this newsletter may require broader and additional knowledge beyond the information presented. None of the materials in this newsletter should be construed as offering legal advice, and the specific advice of legal counsel is recommended before acting on any matter discussed in this newsletter. Regulated individuals/entities should also ensure that they comply with all applicable laws, rules, and regulations.

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