

# E & O Exposures for the Agency Working With Farm/Ag Accounts

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## What Is Your Farm Account Doing



Farming



Anything else that they can make money at



Have you asked...”Mr. Mrs. Farmer, what else are you doing in addition to your farming”



Have you actually visited the customer’s location to see for yourself

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## Does It Meet The Definition Of “Farming”

- **8.** "Farming" means the ownership, maintenance, or use of premises for the production of crops or the raising or care of livestock, including all necessary operations.
- "Farming" also includes the operations of roadside stands and farm markets maintained principally for the sale of the "insured's" own farm products, but it does not include other retail activities.

- AAIS GL-2 Ed. 2.0

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## Does It Meet The Definition Of “Farming”

- **8.** "Farming":
- **a.** Means the operation of an agricultural or aquacultural enterprise, and includes the operation of roadside stands, on your farm premises, maintained solely for the sale of farm products produced principally by you. Unless specifically indicated in the Declarations, "farming" does not include:
  - **(1)** Retail activity other than that described above; or
  - **(2)** Mechanized processing operations;
- **b.** However, “farming” does not include the operation of:
  - **(1)** Any “agritainment” on your farm premises; or
  - **(2)** Any retail activity or any mechanized processing operations performed, in whole or in part, for “agritainment”.
    - FL 00 20 04 16 (ISO)

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## “Agritainment” Defined

- **3.** “Agritainment” means an agricultural or aquacultural related activity or enterprise that is primarily operated on the “insured location”:
  - **a.** For the purposes of tourism or entertainments; and
  - **b.** Engaged in for monetary or other compensation.

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## “Insured Location” Means...

- **a.** The farm premises (including grounds and private approaches) and “residence premises” shown in the Declarations;
- **b.** The part of other premises, or of other structures and grounds, that is used by you as a residence and:
  - **(1)** Shown in the Declarations; or
  - **(2)** Acquired by you during the present annual policy period for your use as a residence;
- **c.** Premises used by you in conjunction with the premises included in Paragraph a. or b. above;

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## “Insured Location” Means...(continued)

- **d.** Any part of premises not owned by any “insured” but where an “insured” is temporarily residing;
  
- **e.** Vacant land owned by or rented to an “insured”
  
- **f.** Land, owned by or rented to an “insured” on which:
  - **(1)** A dwelling is being constructed for occupancy by:
    - **A.** An “insured”; or
    - **B.** An “insured’s” “farm employees” or “residence employees”; or
  - **(2)** A building or structure is being constructed for the use of an “insured” in “farming operations”;

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## “Insured Location” Means...(continued)

- **g.** Individual or family cemetery plots or burial vaults of an “insured”;
  
- **h.** Any part of a premises occasionally rented to any “insured” for other than “business” or “agritainment” purposes; and
  
- **i.** Any farm premise (including its grounds and private approaches) that you or your spouse acquire during the present annual policy period.

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## What We Often Discover Our “Insured” Is Doing

- Custom farming operations
- Weddings
- Overnight stays (AirBnB, others)
- Overnight stays in various farm locations & dwellings
- Weddings
- Harvest days
- Trail rides – guided or not
- Hunting leases & parties
- Seed dealers
- Pumpkin patches
- Haunted houses
- Corn mazes
- Hay rides
- Self-harvesting operations
- Canning & teaching thereof
- Repair operations – auto, farm implements, welding
- Trucking operations
- Anything that isn’t “Farming”

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## HOW Do You Discover This

- The hard way...the Monday morning phone call
- The easy you...you ASK
- Your powers of observation
- Checklists reviewed with the insured about their operations

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## So, What's An Agent To Do

Have	Have you actually spoken with them about what "farming" is
Have	Have you described for them what can occur without proper coverage
Have	Have you considered/offered a CGL for their disparate operations
Have	What have you documented...in writing

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## Farm Property Considerations

- Farmers are very self-reliant folks
- They'll often look at their property and figure that they could repair it themselves at some self-defined cost
- Have you discussed with them the increases in rebuilding costs that have occurred just in the last two years
- What about the catastrophic loss and its impact

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## Consider – NAHB Statistics

- Construction costs accounted for 64.4% of the average price of a new home in 2024 compared to 60.8% in 2022, according to NAHB's most recent Cost of Construction Survey.
- The latest finding marks a record high for construction costs since the inception of the series in 1998 and the fifth instance where construction costs represented over 60% of the total sales price.
- Broad inflation in the global economy since 2022 — particularly in building material prices — is largely to blame for the increased construction costs.
- The finished lot was the second largest cost at 13.7% of the sales price, down more than four percentage points from 17.8% in 2022. The average builder profit margin was 11.% in 2024, up from 10.1% in 2022.

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## More NAHB

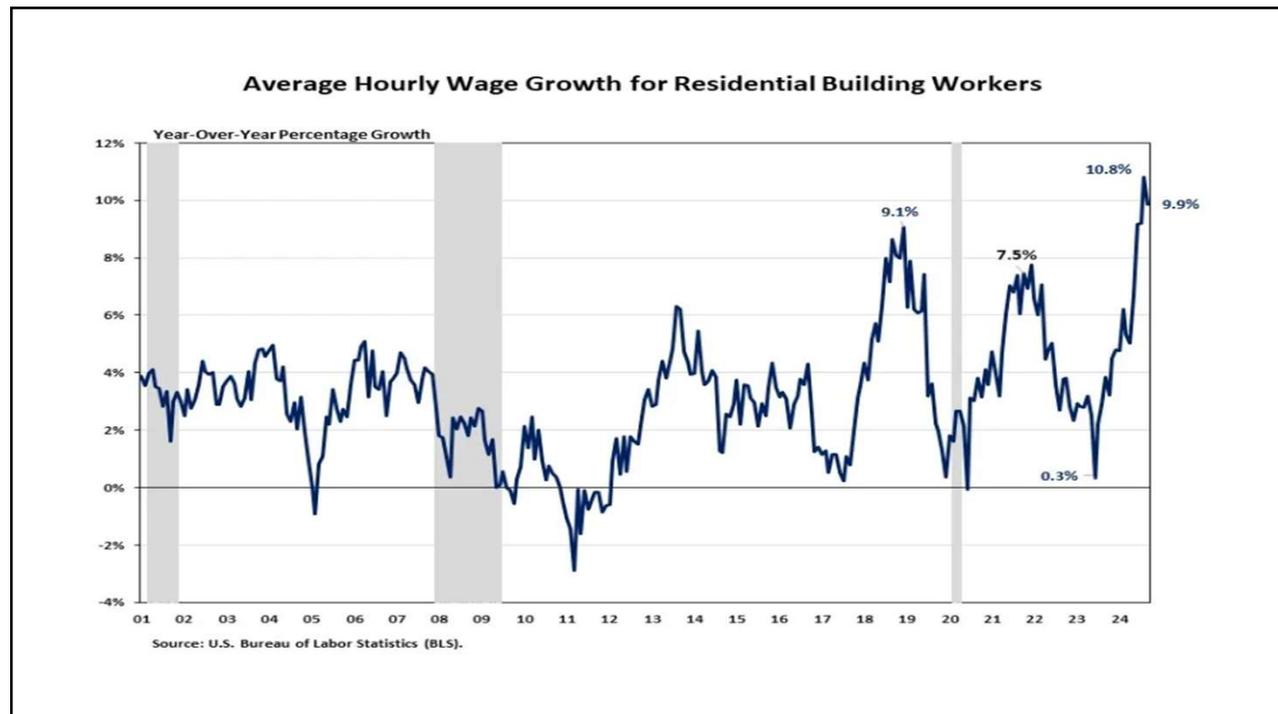
- The average construction cost of a typical single-family home in the 2024 survey is \$428,215 or about \$162 per square foot – the highest in the history of this series.
- The cost of construction per square foot was:
  - \$80 in 2011
  - \$95 in 2013
  - \$103 in 2015
  - \$86 in 2017
  - \$114 in 2019
  - \$153 in 2022

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## Labor Costs

- According to the Bureau of Labor Statistics report, average hourly earnings for residential building workers was \$33.51 per hour in September 2024
- Increasing 9.9% from \$30.5 per hour a year ago
- This was 19.2% higher than the manufacturing's average hourly earnings of \$28.12 per hour, 14.7% higher than transportation and warehousing (\$29.21 per hour), and 8.1% lower than mining and logging (\$36.46 per hour).

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## Constructiondive.com

Producer Price Index Percent Change Inputs to Construction Industries  
November 2017 Through November 2025



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## Tools for Consideration

- CoreLogic information is a good tool (now Cotality)
- Gather information from local contractors
- Do not forget Law or Ordinance issues
  - EG: Some states use a biennial or a triennial code adoption
- Use real life examples – they are around all of us – to illustrate their risk and potential impact of losses
- Do not forget both Coinsurance and Insurance To Value

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## Underinsurance In The US

- **Widespread Problem:** Mutual Assurance reports that 64% of U.S. homes are underinsured by an average of 27%.
- **Rising Uninsured Rates:** The number of uninsured homes grew by 6.6% from 2023 to 2024, with significant increases in Florida, Louisiana, and the West Coast.

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## Underinsurance Challenges

- **Delayed Recovery:** Underinsurance creates significant hurdles for residents attempting to rebuild after disasters like wildfires, hurricanes, or floods, notes United Policyholders.
- **Financial Ruin:** If 27% underinsured, a homeowner could face a \$135,000 shortfall to rebuild a \$500,000 dwelling
- **Legal Battles:** Underinsured claims often lead to litigation

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Liability  
 Considerations  
 DO NOT  
 ASSUME That  
 You Know  
 What They Do  
**ASK THEM !!!**

SPRAYING - They all do it

What limits are you providing

- Not all carriers offer the same

Does it apply on their premises as well as off their premises

Does their umbrella provide additional limits for this exposure

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## Aerial Spraying

- **Key Considerations**
- Are they hiring a 3<sup>rd</sup> party with whom they have no financial interest in the business
- What Limits are you offering
  - \$1,000,000 availability
- No umbrella or excess limits available for the farm/ag operator
- What are you documenting
  - Your offer – the limits available – notice that \$1m is all there is

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Share and Ask

- If it ain't "farming" they've got no coverage under ISO/AAIS Farm forms
- What do they store on their premises
- What about the multiple vehicle and mobile equipment considerations
- What training do they undertake with employees

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DOCUMENTATION

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## The Who, What, When, Where, Why & How

- **WHO** asked – made the request?
- **WHAT** was requested?
- **WHEN** did the request occur?
- **WHERE** did the request occur?
- **WHY** did they make the request?
- **HOW** was the request made?

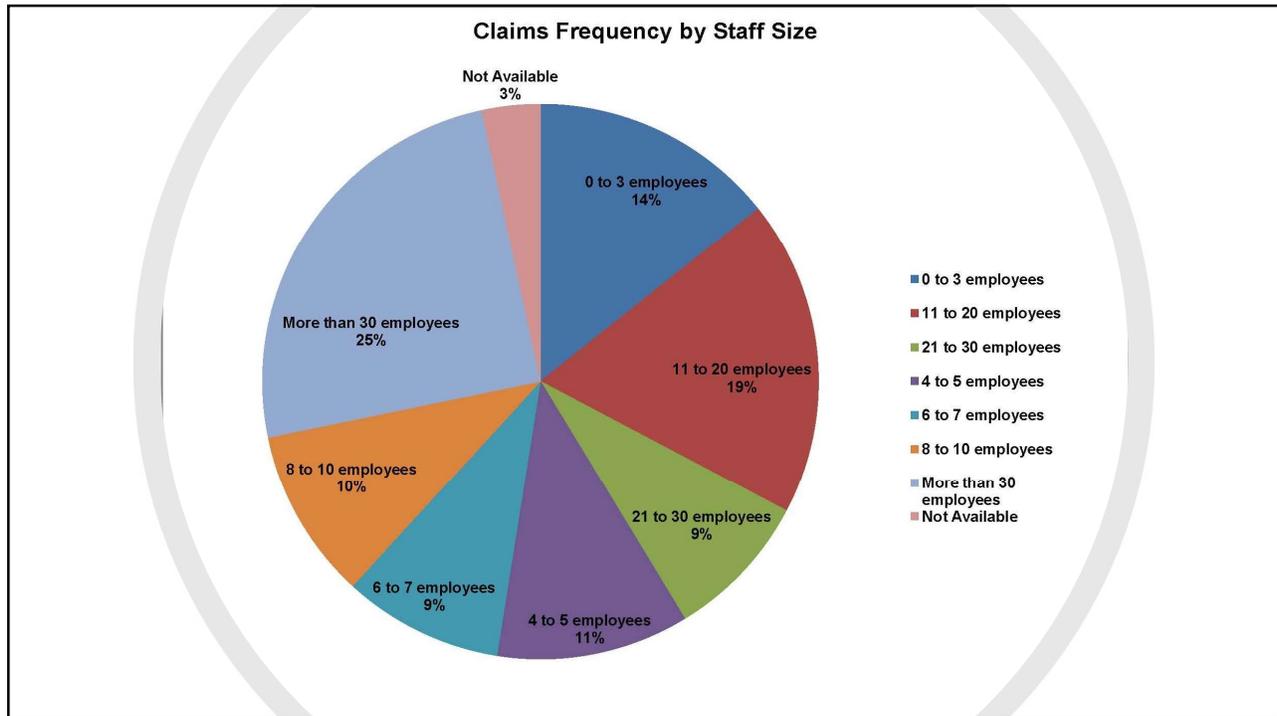
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## What MUST I Document ?

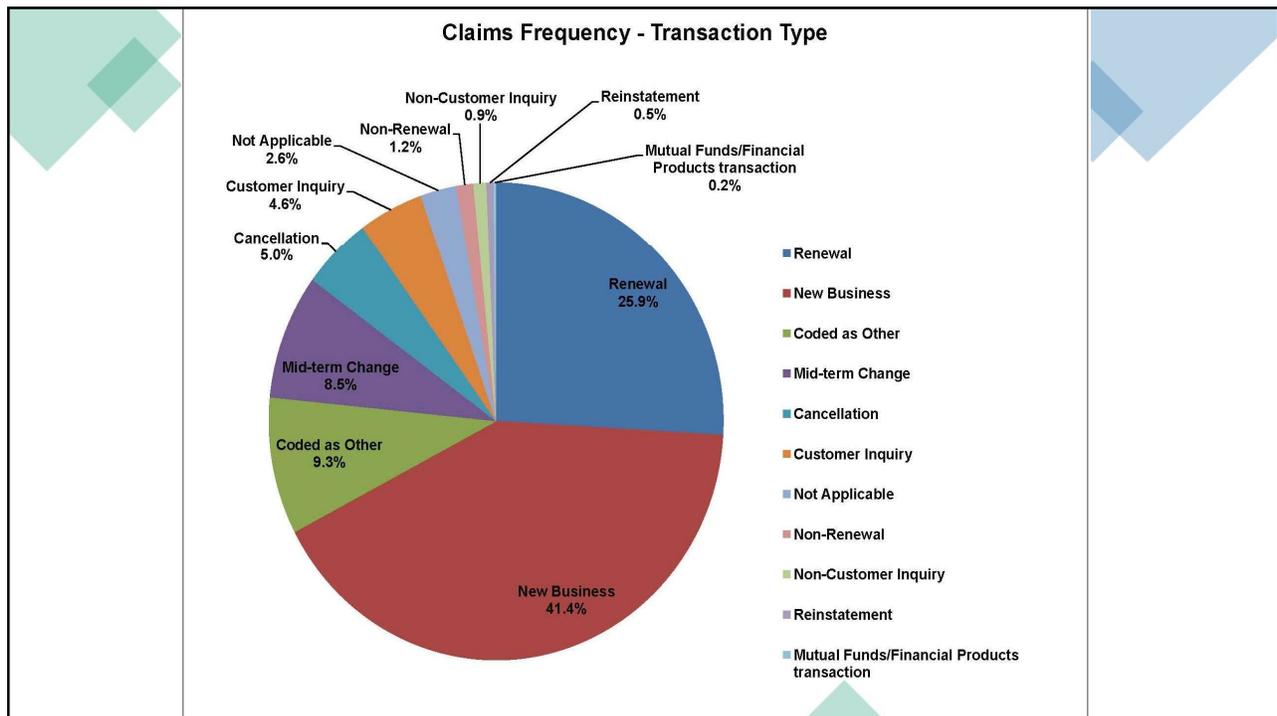
### • **EVERYTHING**

- **A “NOTE IN YOUR FILE” IS NOT DOCUMENTATION**
- **WRITTEN COMMUNICATION FROM YOU TO YOUR INSURED IS**
- If it is not properly documented – it never happened

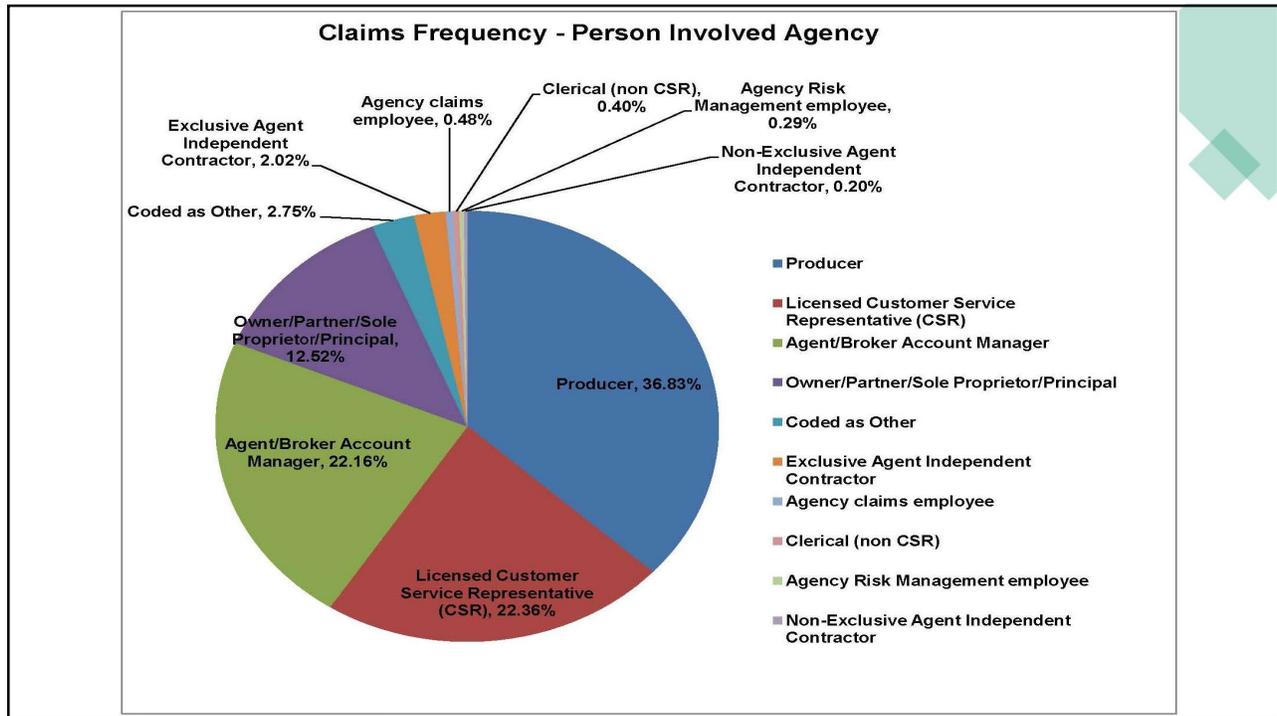
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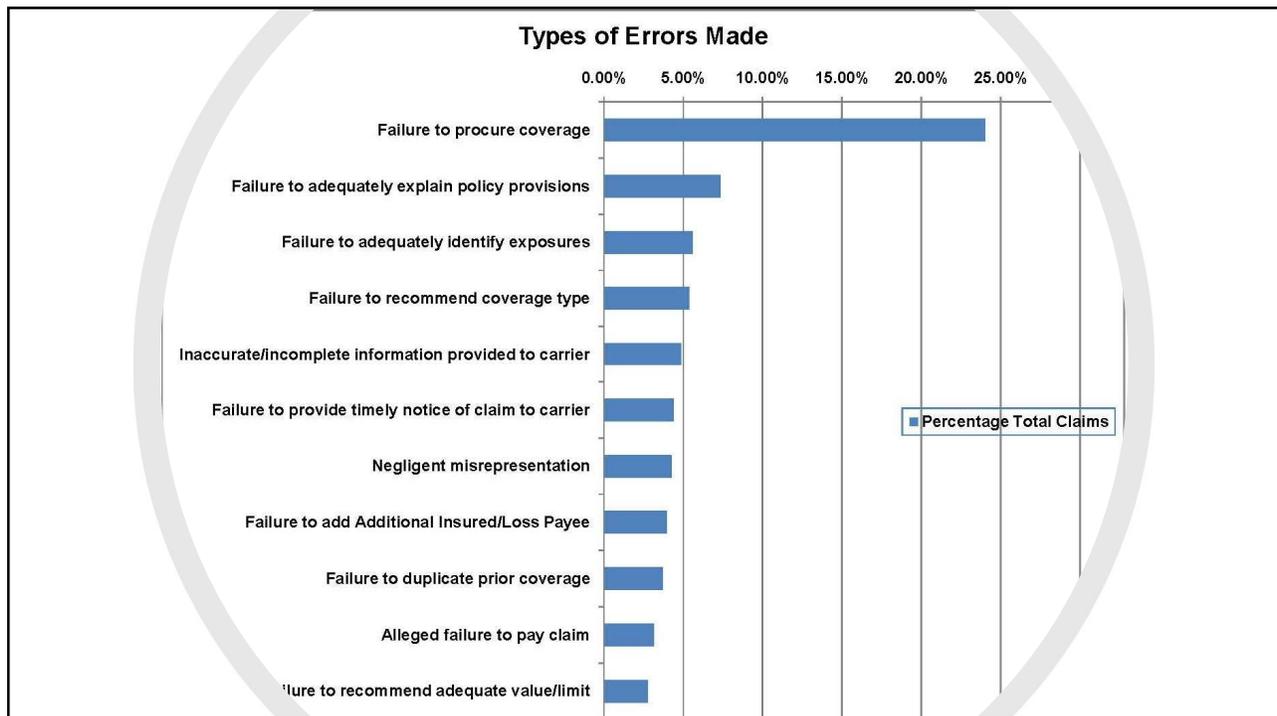
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## What Does Your Marketing Say About You

- Website
- Printed Materials
- Letters
- Emails
- Voicemails
- Texts

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## Key Nebraska Case Law Decisions

- Hansmeier v. Hansmeier, 912 N.W.2d 268, 275-76 (Nebraska Court of Appeal 2018)
- Dahlke v. John F. Zimmer Ins. Agency, 515 N.W. 2d 767, 771 (Nebraska 1994)
- Custom Auto Body Co. v. Prosocki, No. A-96-1034, 1999 WL 14492, at \*10 (Nebraska Court of Appeal, Jan. 12, 1999)
- Flamme v. Wolf Ins. Agency, 476 N.W.2d 802, 806 (Nebraska 1991)

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## Want To Chat More About This ?



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