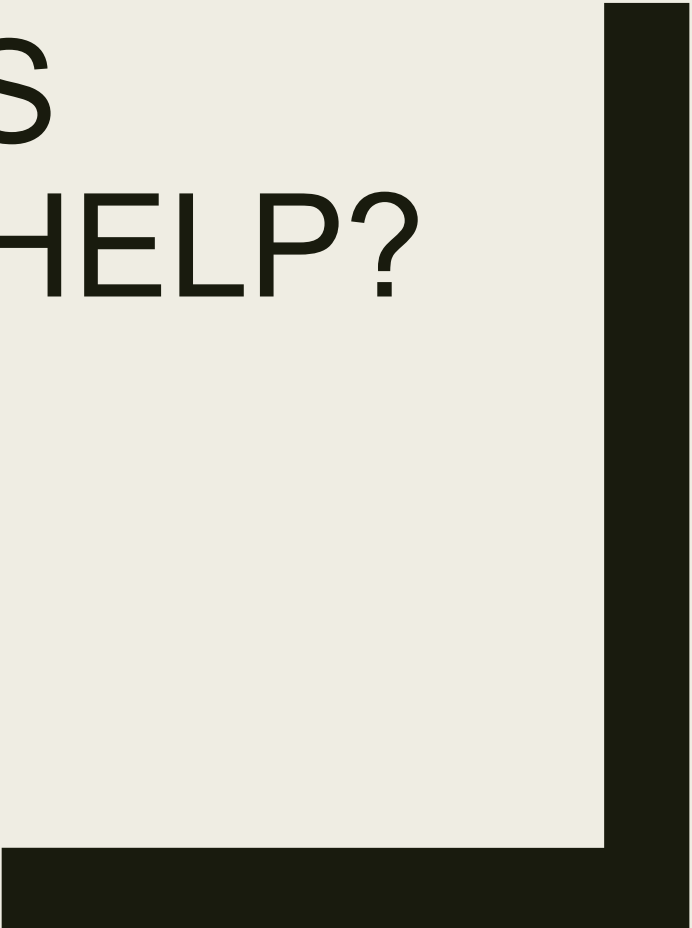




# DISCLAIMERS DO THEY REALLY HELP?

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# What Is A Disclaimer?

- Communication piece for the consumer that provides information about the limitations in the services and products offered.
- A statement outlining the responsibilities of an insured/prospect or agency.



# Why Include Them?



- Purpose is to reduce legal liability exposures.
- Disclaimers limits liability by making the responsibilities of the insured very clear.
- Can be very useful to have especially if they are signed.

# Why Don't You Include Them?

- I am trying to sell the policy.  
I don't want to include all these legal disclaimers.
- The prospect/client never reads them anyway.



# Where Do You Need Them?

- Communication
- Proposal
- Questionnaires and Checklists
- Marketing Pieces
- Excess & Surplus Lines
- Claims
- Contract/Lease Reviews
- Just to name a few



# When Did It All Start?



First record of disclaimers came from the 1400s. It was borrowed directly from the Anglo-French word “disclaimer”.

Basically it means to “disavow” or to “disown”

# What Is The First One You Remember?

- I am sure there were many others before this one but do you remember
  - Answering Machines
  - The famous disclaimer
    - “Coverage cannot be bound, modified or changed without talking to a licensed representative of the agency”
    - This was started based on a court case in Michigan all those decades ago.
    - Look where we are now

# Suggestions For Communications

- The previous disclaimer was the beginning for the communication disclaimers we do today.
- What started with an answering machine has now progressed to:
  - Voice Mail
  - Cell Phones
  - Emails
  - Faxes
  - Texting



# How Do You Handle All Of It

- The same disclaimer is still used but what about “texting and “social media”?
  - Texting – Some agencies may want to avoid it but many clients will choose to use this means of communication. The “dos” and “don’ts” must be communicated to the client. Information received via texts must be documented in the file. Procedures and training on how to accomplish this must be in place.
  - Social Media – Agency must educate their clients on proper protocol when using social media when communicating with the agency. Make sure they know the “dos” and “don’ts”; no policy changes, no key information and no binding.

# Suggested Disclaimer For Proposals

Information contained in the proposal is intended to provide you with a brief overview of the coverage provided for reference purposes only. It is not intended to provide you with all policy exclusion, limitations and conditions.

Specimen forms are available upon request.

Higher liability limits may be available.

In evaluating your exposures to loss, we have depended upon information provided by you. If there are other areas that need to be addressed prior to binding coverages, please bring them to our attention.

It could be a combination of bulleted point items that your agency decides would be the most beneficial for the client and the agency.

# Another Suggestion For Proposals

## Important Notice

- ❖ This proposal contains a brief description of coverages offered. It neither modifies nor supersedes the insuring agreements, terms, conditions and exclusions of the policies referenced, which constitute the sole agreement between the insurer and the insured.
- ❖ The abbreviated outlines of coverage used throughout this proposal are not intended to express any legal opinion as to the nature of coverage. They are only visuals to a basic understanding of coverages proposed. Please be advised that no insurance coverage has yet been procured. All coverage summaries are for proposal purposes only.
- ❖ Please refer to the actual policies for specific terms, conditions, limitations and exclusions that will govern in the event of a loss. Specimen copies of all policies are available for review prior to the binding of coverage, upon request.
- ❖ This proposal is based upon underwriting information provided by the client. If there are other underwriting areas or loss exposures that need to be evaluated prior to binding coverage, please bring these areas to our attention. Should any of your exposures change before or after coverage is bound, please let us know immediately so proper coverages(s) can be discussed.
- ❖ We suggest that you carefully review your coverage limits and applicable conditions. We are pleased to assist you with your own final determination of the values you decide to insure.
- ❖ Higher limits of liability and/or optional coverages may be available. Please let us know if you would like a quote.
- ❖ All exclusions shown in this proposal are highlighted for discussion purposes only. The policy is not necessarily limited to only those exclusions. Please refer to the actual policy for all policy exclusions.

# Another Suggestion For Carrier Issued Proposals/Quotes

- This is only a quote, not an offer of coverage, and no coverage is provided until the customer enters into a contract with the insurance carrier. Please consult the actual policy/s for specific terms, conditions, limitations, and exclusions that will govern at the time of a loss.
- The price of the policy may change if additional information about the customer or the object being insured is discovered.
- Higher limits or optional coverages may be available. Please advise if you would like a quote.



# Acknowledgment of Rejected Coverage

I understand and acknowledge that the following insurance policy/policies have been offered to me and that I have decided not to purchase the coverage at this time:

Type of policy/policies

The potential financial impact of not having these important coverages has been explained to me and I realize that my rejection of these options may result in the denial of claims in the future.

Signed \_\_\_\_\_

Date \_\_\_\_\_

(This is only a suggested form of coverage rejection and should be adapted to your agency and reviewed by your attorney prior to use)

# Approval to Bind Letter

Having received a proposal presentation from \_\_\_\_\_, on \_\_\_\_/\_\_\_\_/\_\_\_\_ for \_\_\_\_\_, \_\_\_\_\_, as an authorized representative of the above mentioned firm, instruct \_\_\_\_\_, to proceed with placing all coverages as presented in the proposal, including schedules, subject to the changes noted below or on the following attached pages.

Sign, title and date

This could be used if signatures are not obtained on applications. Signed applications are still the best defense.

# Mid-Term AOR or BOR

## Agent or Broker of Record Letter

Company Name and Address:

Attention:

Re:

Effective date and time please recognize name of agent as the agent (or broker) of record on the above named policies.

We recognize and agree that your agency name, as the succeeding agent (broker) of record, has not had sufficient opportunity to make a thorough review and analysis of our insurance exposures prior to becoming our agent (broker) of record. It is our understanding that we may request an analysis of our policies at any time during the remainder of the policy period.

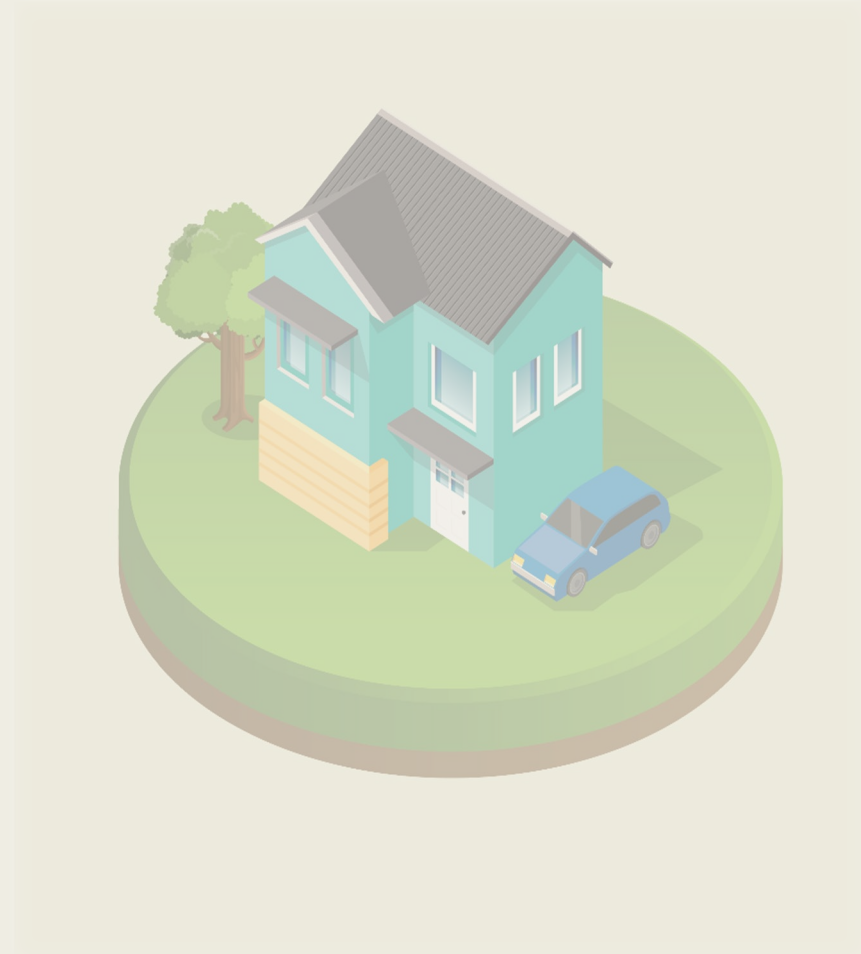
We agree that your agency name is not responsible for any deficiencies on the present program and your agency name will not assume any responsibilities until your agency name has had the necessary time to review the program and provide suggestions to be considered.

Date:

Name of Insured

# Disclaimer For Annual Review

- If questionnaire/checklist is not returned, coverage will be renewed based on the current information in the file that was provided by the client.





# Suggested Disclaimer Letter For Reviewing Contracts/Leases For Insureds

SHOULD BE REVIEWED BY YOUR AGENCY'S LEGAL COUNSEL PRIOR TO ACTUAL USE

Our agency has, upon your request, reviewed the contract indicated above. Specifically, we reviewed only the insurance requirements as contained in Section\_\_\_\_\_, Page\_\_\_\_\_.

The scope of our review was to determine if the current insurance program, which you have placed through our Agency, addresses the types and amounts of insurance coverage referenced by the contract. We have identified the significant insurance obligations, and have attached a summary of any changes required in your current insurance program to meet the requirements of the contract. Upon your authorization, we will make the necessary changes in your insurance program.

In performing this review, our Agency is not providing legal advice or a legal opinion concerning any portion of the contract. In addition, our Agency is not undertaking to identify all potential liability that might arise under this contract. This review is provided for your information, and should not be relied upon by third parties.

Any descriptions of insurance coverages are subject to the terms, conditions, exclusions and other provisions of the policies and any applicable regulations, rating rules or plans.

# Or Would You Rather Say?

We have reviewed your contract/lease for insurance purposes only. We have based our review on the coverage/s you have in force at the time of the review. We disclaim any and all liabilities arising from this review and any final contract language.

We suggest that you have your legal counsel also review this contract.



# Disclaimer For Websites



- Information provided in the website is not a guarantee that insurance will be provided or that the agency is obligated to procure insurance for the website visitor.
- Any misstatements or omissions of relevant information by prospect or client can lead to price variation or even declination or rescission of coverage.

# Other Issues For Websites

- “The following list is not all inclusive”
- “We will assist you in keeping you protected”
- Watch the words used. Using words like “may” instead of “can”, “suggest” instead of “recommend”, “some” instead of “all”, “a policy to fit your needs” instead of “best”



# Accounts Placed With An Excess & Surplus Lines Carrier

Lets write one

- What does the client need to know



# So, Back To The First Questions

What Are They And Why Do We Need Them?

- Disclaimers protect your business against potential legal actions or claims.
- Disclaimers notify prospects/clients that you will not be responsible for certain things.
- Remember, they have been around a long time.

