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The Long-Term Impact of Pandemic-Forced Changes to Handling Professional Liability Claims



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Handling Professional Liability Claims

- Basic Approach
 - Claim is asserted.
 - Carrier is notified.
 - Claims Representative is appointed.
 - Insured and Claims Representative select counsel.
 - Initial investigation conducted:
 - Initial calls or meetings with insured's project team to investigate facts.
 - Collect and review pertinent project documentation.
 - Conduct site visit.
 - Identify consultants.

Handling Claims: Pre-COVID Approach

- Hands on and in person.
 - In person site visit.
 - In person client meetings.
 - In person witness interviews.
 - In person depositions.
 - Airplanes, hotels, rental cars.
 - Conference Calls.
- Formal Dispute Procedures.
 - Litigation – in person trials.
 - Arbitration – in person hearings.
 - Mediation – in person conferences with lawyers, key project participants, consultants and any other necessary parties to the dispute.

Handling Claims: Pre-COVID Approach

- If it is an important meeting or activity, it would be much better to do it in person, where you can be most effective.
 - Develop relationship with the parties.
 - “Read” or “size up” the participants.
 - Be more persuasive.
 - Gather more information, such as reading body language, etc.
- Zoom, Teams, GoToMeeting, Join-In, Webex, etc.
 - We all had access to these platforms but:
 - We rarely used them.
 - We were afraid of them and not very proficient with their use.
 - We were ignorant of their capabilities and features.

A Paradigm Shift in the World of PL Claims

- March 2020 – April 2021
- Basic Approach – the same tasks had to be accomplished without travel or in-person contact
 - Nothing happened in person.
- Formal Dispute Procedures
 - Litigation – in-person hearings and trials postponed and/or cancelled – virtual hearings
 - Arbitration – became more popular – virtual hearings
 - Mediation – virtual platforms become the standard
- Technology and telecommunications formed our lifeline to the world for business and claims management

The Transition from the COVID Seclusion to a Post-COVID Environment

- It will take longer to transition out of remote locations and “silos” than it took for use to get into them.
 - Domestic disputes will transition sooner than international disputes.
- Benefits of leap in technology in communication.
 - Virtual platforms are cost effective and allow flexibility.
- In-person meetings still have benefits but will take several years to creep back up.

The Transition from the COVID Seclusion to a Post-COVID Environment

- Claim Investigation
 - Virtual platforms allow for greater and continued participation from Claims Representatives.
 - In-person site visits must resume to properly evaluate claims.
 - Virtual platforms will allow us to continue to share information in a clearer and more effective manner.
- Formal Dispute Procedures
 - Litigation – negative impact to in-person trials through 2021.
 - Arbitration – in-person hearings likely to resume - virtual platforms will be used to streamline process and control costs.
 - Mediation – in-person mediations likely to resume - virtual platforms will be used more frequently.

The Transition from the COVID Seclusion to a Post-COVID Environment

- The downsides of continuing in a remote environment
 - Mentoring and training
 - Quality of Work Product
 - Cyber security
 - Human interaction
 - Necessity