

# LOSS PREVENTION LESSONS

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## The Fall

A construction worker had put in a grueling 10 hour shift and was exhausted from his long day. He was getting ready to pack things up and call it a day when suddenly he lost his footing and fell from the wood joist beam. The 12 foot fall he sustained resulted in serious bodily injuries and cognitive dysfunction, leaving a lasting impact that the man would never fully recover from.



To make matters worse, the agent's employer did not have workers compensation coverage in force at the time of the claim. Several months before the accident, his employer had contacted the agent to obtain workers compensation insurance. They left a check for the down payment to bind the coverage and had an arrangement where he would drop off checks at the agent's office and the agent would submit them to the carrier as premium payment.

One day, the check that was dropped off for the agent did not get forwarded to the carrier. The carrier issued a cancellation notice to the agent with a "No Reinstatement" clause, which advised the agent to inform the policy holder of the cancellation and its terms. Unfortunately, the letter was never forwarded on to the policy holder. Although the agent claimed that he had never received this cancellation notice, a fax confirmation provided evidence that it had been successfully sent by the carrier to the agency. Shortly thereafter, the employer was asked to provide proof of workers compensation coverage as they were beginning work on a new project as a subcontractor for another company. The agent's office issued a certificate of coverage with the contractor listed as a certificate holder, even though the workers compensation coverage had already been cancelled.



It is clear that that the agent's office misrepresented that coverage existed under the policy when clearly the policy had already been cancelled. However, this is an instance where there were multiple opportunities to prevent an E&O claim from occurring. Had the agent's office procedures been followed, one of the mistakes would have been caught long before it turned into an E&O claim. The fact that a check was received by the agent and not delivered to the carrier, then a cancellation notice was not forwarded to the client shines the light on issues with office procedures at the agency. Beyond those, this lesson should serve as a reminder that you should be very careful with your representations. If your agency issues a certificate of coverage and it turns out that no coverage existed, you have just created a situation which could easily result in an E&O claim. Therefore, it is a good idea to have office procedures in place that require verification that coverage is in force prior to issuing any new certificates.



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