

Best's Insurance Law Podcast

[Common Cases Prevalent in Real Estate Errors & Omissions \(E&O\) Claims – Episode #233](#)

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Hosted by: John Czuba, Managing Editor

Guest Expert: Richard Rosenblum of [Richard Rosenblum, CFE, CFCS](#)
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John Czuba: Welcome to “Best's Insurance Law Podcast,” the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, manager of *Best's Insurance Professional Resources*.

Very pleased to have with us today expert service provider Richard Rosenblum. Richard is a licensed multi-state real estate broker. He provides litigation support and advisory services for all aspects of residential real estate.

As an expert witness for residential real estate agent- and brokers-related case reviews and testimony, Richard has extensive experience and knowledge of their standards of care requirements and expertise pertaining to negligence and malpractice.

Richard is a certified fraud examiner, certified financial crime specialist, and is a former federal agent.

Richard, we're very pleased to have you with us again today.

Richard Rosenblum: Thanks, John. If I can give a quick disclaimer, and that's that I'm not an attorney, and my comments and what we're going to speak about today should not be considered an expert opinion applicable to any one individual or specific scenario. It'll be all 30,000-foot view from above, John. I'm glad to be here and look forward to this.

John: Appreciate having you as well, Richard. Today's discussion is common cases prevalent in the real estate E&O space.

Richard, for our first question, what are real estate brokerages currently experiencing as their most prevalent E&O claims exposure risks?

Richard: John, what I'm seeing is failure to disclose material facts, a breach of fiduciary duty, negligence, failure to exercise due care, failure to properly advise and recommend to their clients, errors in listings and in advertising, breaches of contract, fair housing or discrimination issues, agency and commission disputes, and cyber and data breaches.

Those are the top-tier issues. Of course, there's more. There's plenty more issues out there, but those are the top tier.

John: Richard, what could be done to reduce the risk?

Richard: Best thing that agents and brokers can do is maintain written communications and documentation of everything and keep it clear. Verbal communication should be supported by emails or text to memorialize verbal communication.

Disclose, disclose, disclose. Everything and anything that needs to be disclosed should be disclosed early and often. Verify facts when questionable issues and red flags arise and use checklists whenever possible.

John: Richard, what are some other recommendations that are out there for brokerages that want to reduce their risk?

Richard: Invest more time and money in their compliance training and in their infrastructure. Computers can be used to systemize and save time and overall expense, if they have the right infrastructure in place and the right training tools.

John: Richard, what's most vulnerable at a real estate brokerage?

Richard: John, people are always the weak link in a system. That's where the focus should be on. You're going to hear that repetitively from me, and that's training, training, training, and people are the most vulnerable.

John: Richard, one final question today. In your opinion, what's the number one recommendation you have for brokerages interested in reducing their E&O claims exposure?

Richard: Recognize that there are many agents that are new in the business, and others that may be experienced but have not had the appropriate compliance training, perhaps, in many years.

Secondly, setting the tone at the top with regard to the importance of the standard of care and professionalism in the field. To put the importance and training on par with the degree of momentum and importance that they put on the sales training and not treat the compliance element as a second-tier importance.

John: Richard, thanks so much for joining us today.

Richard: Thank you, John.



John: You just listened to qualified member expert service provider Richard Rosenblum of [Richard Rosenblum, CFE, CFCS](#) in Washington, New Jersey, and special thanks to today's producer, Frank Vowinkel.

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I'm John Czuba, and now, this message.

Transcription by CastingWords

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