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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