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# Legends and Myths: Unicorns, Big Foot, and Complete Submissions

By Mark Harris and Karen Harris

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These days, a thorough, timely, and complete submission can seem as elusive and unobtainable as a mythological creature. The submission and underwriting process have transformed over the years — some in good ways and some not as desirable. One thing is certain — we all want our quotes and we want them now.

Years ago, a noon lunch with a facultative (fac) underwriter was a customary venue for an underwriting meeting. Over a leisurely meal, we covered various topics concerning the account the underwriter had reviewed earlier. The level of the discussion and the likelihood that we would reach a viable deal was based in large part on understanding the risk and being able to answer the fac underwriter's questions. Both parties took copious notes at the lunch table — typically on the restaurant's cocktail napkin.

The underwriting submission back then rarely included the structure of today's submissions. Applications generally are much better now — they organize information in one place and request all the supplementary exhibits needed

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to formulate a good decision. Sure, there will be some underwriting questions, but these applications can remove a lot of the guesswork and streamline the underwriting, rating, and policy modification to fit the insured's situation.

Logically, with a more comprehensive application should come a better and more thorough submission. Maybe that lasted a nanosecond, because somewhere along the timeline from notes on napkins to all-inclusive applications, we seem to have lost our way. Not too long ago, one of our producers got a submission on a law firm seeking E&O coverage. The person completing the application clearly had issues with some of the questions, like loss information. Upon review, we noticed "NOYB" as the response, and as the app went on, it got more frequent — all handwritten and barely legible. We asked the producer, what is "NOYB?" The response that came back was:

"none of your business." Guess you could say an opportunity for a favorable first impression based on the application was wasted; the account in question was declined.

## A good submission tells a story

While sitting on a panel at a producers' conference in Texas several years ago, the topic turned to applications and the difficulties that were popping up even then. The market was soft, but by today's standard, we didn't know what soft was. A fellow panel member pointed to the application as the reason why some buyers were not getting the pricing and terms they desired. One person in the audience asked "Why don't we recommend they have their broker do the application for them?"

Brokers must complete apps all the time, especially when there is an accord app available, but for larger P&C accounts and almost all management or professional lines, this is fraught with danger. No doubt the agent or broker needs to be involved, but the responsibility lies with the insured. Having an outsider as a substitute risks losing the passion and internal knowledge that only the insured can supply. An occasional exception are the diligent agents and brokers who know quite a bit about their clients and know how to best represent them.

The application and submission package is the insured's chance to tell his or her story, but often applications are missing the details that can best tell that story. Underwriters appreciate reception of a legible, complete submission and value working with the agents and brokers who go the



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extra distance to help provide complete and thorough submissions. Arch VP and underwriter, James Schibuk concurs. “Experienced brokers understand the incredible importance of a good relationship with the carrier and the value it brings to their clients. Carriers value brokers that encourage full transparency and understand the importance of the underwriting process.”

### **Important components of a good submission**

While all sections of the application are important, some carry more weight and exposure depending on the class and coverage. These pieces add the detail that an application on its own cannot always tell.

**Narrative** — It is very helpful to have a narrative in the insured’s words describing what the business does. It is surprising how

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many websites don’t really give this information. Alternatively, the website may list myriad services that are not on the application and that the insured may or may not be performing now or in the future. Brochures can be useful too.

**Organizational Chart** — It is important to understand organizational relationships, services and ownership. Nothing does it better than a visual aid such as an org chart. That way you will have more certainty that the correct entities are being provided with cover — or not. Failing to get this right could restrict coverage when a schedule of insureds is deployed.

**Warranties** — Many applications have warranty questions, but their importance is not always understood. For the most part, management liability lines excepted, these warranties need to be answered, and since most applications are deemed attached to and become part of the policy, these warranties need to be considered carefully. Many of those same policies contain material misrepresentation clauses that can be triggered by what is known versus what is in the application and what has been warranted. This is an area where utmost good faith on the part of the buyer needs consideration.

**Supplements** — Including the management team’s bios or CVs, their significant qualifications, areas of specialty, achievements, and even the background of key outside directors can showcase the insured’s business model and project confidence and professionalism.

Underwriters appreciate a thoughtfully completed submission and typically reward it — with a speedy and, when possible, favorable response. The information in the submission may serve as a checklist to demonstrate the rationale behind the underwriting and can be pulled up if there are questions or if a claim arises.

### **Potential claims fallout**

Where there are past or current open claims, the application process takes on added importance, especially with claims that frequently can end up costing in the high six figures or more just to defend. Unfortunately, submissions still are sent with scant details on claims. On the front end (underwriting, rating, quoting and binding) what should take a day or two, can drag on for weeks, with endless exchanges to get underwriters comfortable with a risk.

Underwriters typically need the following:

- Currently valued loss runs
- Provide the pleadings, if available, or details on each claim (what happened and when)
- What has been paid and by whom along with best estimate of settlement value
- What is the plan to prevent the same situation from happening in the future (preventive actions)

In the end, missing information in the application/submission can cause multiple future issues which no one can predict. Leaving information out of a submission or failing to take the appropriate time to complete a submission properly can lead to instances of “claims declination” and/or “misrepresentation.” Failing to disclose information about a new operation or subsidiary, without omnibus “who is an Insured” wording in the policy, is going to lead to questions if a claim is presented on an undisclosed operation. Further, what about a new professional service not reported? Again, questions are likely to be asked when the claim materializes. In some cases, the answers to these questions might be serious enough to lead claims attorneys to issue a reservation of rights letter or, if the situation is eminently clear, a declination letter.

Many policies may also contain a material misrepresentation clause. These clauses carry repercussions which can lead to policy cancellation for intentional acts or fraud. Its root cause is non-disclosure in the submission. Frankly, utmost good faith is a two-way street, and everyone in the insurance world knows insurers are held to acting in good faith. Do insureds think about their own responsibility to act in utmost good faith when completing an application? If not, they should.

According to London broker, Anthony Green of AssuredPartners London, “In today’s marketplace whether in London or domestically, we must try and gain factual insight and detail on a client’s exposures and history when presenting an opportunity.

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Any unclear or misleading details in a submission, which we accept in ‘utmost good faith,’ but down the line (and perhaps after an incident is reported) prove to be incorrect, would be detrimental to any relationship.”

### Where do we go from here?

The advent of new algorithms has enabled insurance companies to underwrite with limited information, insight into where the insured’s business model is headed, or understanding of the insured’s procedures and controls in place to manage the business and thus the insured’s risk. While this type of underwriting is mainly limited to small risks deemed less hazardous, the claims that can develop have the potential to be anything but small. Will companies compensate by further narrowing and limiting coverage because of new underwriting and time constraints?

Even in the lines of business that require detailed and specific information for underwriting, there is increasing pressure to quote more with less (and for less). In our view, the insured jeopardizes losing its ability to showcase itself, provide a submission which offers a concise narrative, clarity of the exposures, complete information, and to request options which might be germane to their needs. According to James Schibuk, VP at Arch Insurance Group, “As part of the overall softening market there is a growing trend of reducing the amount of required underwriting information. Ultimately insureds are responsible for ensuring that they provide full and accurate representations and it is in their interest to do so or they risk losing the coverage they paid for.” So, regardless of easier, faster quotes, the burden still falls on the insured.

There is no clear, untangled path to improve the submission or underwriting process. The prism of the past gives a perspective that may be flawed in today’s insurance world. In time, this may work itself out, but in our view, the risk to both parties in the interim is actually larger than the time-

honored exchange that allowed both sides to make more informed decisions concerning the risk and its transfer. Without a crystal ball, it is impossible to predict what the process will look like in the future. Notwithstanding underwriting notes on cocktail napkins, perhaps artificial intelligence will one day provide a platform that combines the best of both the current and past systems. 

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