



Errors & Omissions Insurance for Real Estate Agents, Brokers, Appraisers, Property Managers, Consultants & Auctioneers.

Ten reasons that a Real Estate Agent or Broker might be sued.

1. **Failing to Disclose.** A majority of lawsuits arise out of agents knowing about a material fact that affects the value or desirability of the property and failing to disclose that fact to the buyer. For example, agents knowing about, but failing to disclose, improvements without permits, construction defects, and roof leaks, and water leaks, cracking, noise or nuisances.
2. **Failing to Recommend Inspections.** Buyers' agents frequently fail to recommend appropriate inspections, such as pool, chimney, general home inspection, roof, septic, structural or soils.
3. **Failing to Identify Potential Issues.** Agents occasionally fail to identify red flags, which could indicate more serious issues such as cracking in walls, which may be signs of a structural or drainage defect.
4. **Failing to Properly Advise on the Terms of a Contract.** When an agent prepares or reviews a contract, the agent does not identify issues, explain the terms or discuss problematic clauses.
5. **Exaggerating Features of the Property.** Agents sometimes exaggerate or over-emphasize features of a house with statements that border on untruths. Buyers will move into the house and learn that the house was not what they believed it to be.
6. **Failing to Explain the Significance of a Disclosure Issue to Buyers.** A buyer learns of a defect during the inspection period, but fails to understand its significance. They generally blame the agent for not explaining it or recommending further investigation.
7. **Making Promises You Cannot or Do Not Keep.** Agents sometimes promise their clients or another party that they will do something and then fail to do it. Keep your promises, do what you say you are going to do, then keep the client informed.
8. **Failing to Explain the Significance of a Disclosure Issue to Sellers.** A seller fails to disclose a material fact and when the buyer makes a claim, the seller claims that the agents did not properly advise the seller to disclose the issue.
9. **Failing to Comply with the Time Frames in the Contract.** Generally, real property purchase agreements contain time frames in which the parties are to perform certain obligations. If the time frames are not followed, a party may cancel or terminate the agreement. If this occurs, the agents may be held liable.
10. **Representing Clients in Unfamiliar Geographical Areas.** Agents frequently represent clients in unfamiliar geographical areas. Many times, the area has particular characteristics or requirements of which the agent is unaware. When the issue is not identified and the buyer learns of it later, the buyer generally blames the agent.

For More Information Contact:

The Herbert H. Landy Insurance Agency is the National Administrator for the Real Estate Agents & Brokers Errors & Omissions Insurance program

Reprinted with the permission of Shannon B. Jones, Attorney and Real Estate Litigation Expert. Shannon B. Jones is a California Attorney/ broker who has been defending real estate agents for 15 years.