



**Lowenstein Sandler's Insurance Recovery Podcast:
Don't Take No For An Answer**

Episode 3 - Brokers: Party of 1, or Party of 5?

By [Lynda A. Bennett](#) and [Michael D. Lichtenstein](#)

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- Kevin Iredell:** Welcome to the Lowenstein Sandler podcast series. I'm Kevin Iredell, Chief Marketing Officer at Lowenstein Sandler. Before we begin, please take a moment to subscribe to our podcast series at [lowenstein.com/podcasts](https://www.lowenstein.com/podcasts). Or find us on iTunes, Spotify, Pandora, Google podcast, and SoundCloud. Now let's take a listen.
- Michael Lichtenstein:** This is Michael Lichtenstein and my partner, Lynda Bennett, and welcome to our insurance recovery podcast, Don't Take No For an Answer. On today's episode, we're going to dive deeper into the broker relationship and ask the question, should it be a party of one or a party of five? What do you think, Lynda?
- Lynda Bennett:** Well the answer there is, it really has evolved over time. It used to be that our clients had the good fortune of buying one comprehensive general liability policy, that was back in the '50s and '60s. And that policy covered all business risks that any company in any industry would face, and everything was covered unless it was excluded.
- Michael Lichtenstein:** And did that change at some point, Lyn?
- Lynda Bennett:** It did. As companies started to experience and be exposed to very big ticket claims, like asbestos and the emergence of product liability in the '70s and '80s, and then eventually environmental liabilities, the carrier said, "Timeout here. Hold on. We don't want to cover all of this in one policy form." So they started to develop absolute exclusions that they put on this comprehensive general liability policy.
- Michael Lichtenstein:** So now that they excluded these coverages from these general policies, did they start to come up with policies that were designed to cover just those specific risks?
- Lynda Bennett:** They did. But you have to remember that insurance is about risk transfer. And so what typically happened was when they experienced these very large claims, there would be no coverage available for a period of time and the absolute exclusion got put on the CGL policy. And then when the insurers got more comfortable with pricing that risk and understanding how to underwrite it, they developed a new and separate standalone policy that would cover that. So

many of our clients today have a dedicated employment practices policy. Many of our clients that are in the environmental space have a dedicated pollution legal liability policy.

Michael Lichtenstein: Did that give rise to specialization from insurance brokers?

Lynda Bennett: It did. We really started to see that in the environmental space in particular, we started to see brokers that were specializing in just those types of policies back in the late '90s and early 2000s, and that has now continued to develop in the insurance space. The two most complicated policy forms on the market today are cyber policies and D&O policies. And for cyber policies, I'll tell you, it's the Wild West, and if you don't have a broker that is living and breathing those forms every day, you are not going to get the best and broadest coverage for the best price. You really do need to have brokers that are living that day in and day.

Michael Lichtenstein: So how do policyholders go about finding a broker that has that sort of deep specialization in either cyber, D&O, or environmental?

Lynda Bennett: So believe it or not, if you have a really good relationship with your core broker that's placing your core policies, many of them will acknowledge their limitations in these specific niche areas and they will refer you to those specialized brokers. Obviously, when we speak with our clients and we see that they're using a one-stop shop for their broker, and we review a D&O form for them or a cyber-form that doesn't make sense for their business model, we certainly have the networking capability to refer them out to those folks.

And then there's this other wonderful tool called Google. And if you put in cyber or D&O and specialized broker, that will certainly lead you down that path. But like any other good relationship, you're going to want that to come through a referral.

Michael Lichtenstein: So, Lyn, I can see why it's really important to have a specialized broker when you're buying the policy, but what about when you present a claim? I mean, do you need a specialized broker for that or can you go to a more general broker?

Lynda Bennett: I'm going to go back to my cyber example to answer that question and tell you that these policies are incredibly complicated. The definitions alone go from letter A to ZZZ, and then we can talk about the 43 exclusions that are on those policies. And the brokers who are involved in placing these policies are also heavily involved in getting these words manuscripted, and understanding how the definitions and the exclusions and the coverage grants are intended to work together. So they will be in a very good position to advocate on your behalf once the claim comes in.

Michael Lichtenstein: Lyn, you used a word called manuscripted. Could you just tell our listeners what that means?

Lynda Bennett: So manuscripted policy means that the terms and conditions of the policy have been heavily negotiated. Many of you have heard the phrase, off the shelf, that's like your homeowners policy or your auto policy, there's no negotiation, you take it, you leave it. Cyber policies, D&O policies, and rep and warranty policy is another one we haven't talked about yet, where there are also brokers that specialize, these are highly customized policies and can and should be negotiated. Getting back to your claims question, that's where the broker who was involved in negotiating those words will be able to remind underwriters what the intent was behind specific wording, if need be.

Michael Lichtenstein: All right, Lyn, so let's get back to our topic sentence here, party of one, party of five. Now that I have a main broker and I have two specialized brokers, are you telling me they can all play well together in the same sandbox?

Lynda Bennett: They can and they do. The specialized brokers are really happy to stay in their lane and to add the value to the insurance program, and they're generally not looking to eat the lunch of the broker that's placing all of the baseline coverages for the clients.

Michael Lichtenstein: Thanks, Lyn. I think that was really, really good advice on the issue of specialization of brokers. I want to thank our audience for listening to today's episode.

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