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Disputation on the power and efficacy of claims

Collaborating with adjusters to improve results and the practice


Cooper

By Miles B. Cooper

The lawyer thought about the engagements people sometimes had with adjusters. The interactions could, at times, be quite difficult. Who was to blame? The carriers, of course. Long ago, the carriers decreed that there would be adjusters, and their treatment would be anything but just. Pilloried, demeaned, and occasionally demoted from above. Snapped at and sneered at by lawyers and those claimants unfortunate enough to have to deal with them directly. It's a thankless job.

"When I grow up, I want to be an unappreciated claims adjuster," said no one, ever. The lawyer decided it was high time to write down claims presentation commitments to live by in order to civilize, expedite, and maybe, just maybe, humanize the process.

Commit yourself

Whenever one gets off the phone with an irascible adjuster, recognize we contributed to the problem. Maybe not you, because you're Zen personified, having never snarked at anyone, but we as an industry have. Rather than give adjusters some leeway, some of us tend to respond to surliness with surliness, escalating things when we as adults should know better. Claims adjusting has devolved into an adversarial process, which does not always bring out people's best. But that doesn't mean it has to be personal.

So where do we start? At the beginning: When we present a claim, we will call and introduce ourselves. We'll give you everything we have, as early in the process as we can provide it, to help you set reserves. This will likely include any police report, incident photos, body worn camara video, medical records (in chronological order), medical bills (with the amount paid tabulated), wage loss documentation, and property damage documentation. We'll endeavor to obtain pre-incident medical records and provide those as well, so you can confidently tell your supervisor there were no prior injuries to the body parts in dispute. We'll do all this whether our first interaction is cheerful and friendly or whether you're the type who thinks (and says) that every injury claim is a fraud. If we misstep and lose our temper in verbal or written communication, which can happen, we'll apologize.

Updating...

We'll provide you with updated records and billing when we get them, without you having to ask. If there's any causation ambiguity in the medical records, we'll provide a medical-legal causation report, so you have the proper documentation for your file. We'll make our demand as soon as we have all the material pulled together. That's for us and for you. Our clients want resolution, and we know some of the carriers dock you for older claims. Once we submit the demand we'll follow up and ask if you need any further material. If there's anything you need, we'll do our best to provide it. That includes a pre-filing medical exam or an opportunity to meet our client, if that will help you assess the claim. If you're having a problem getting sufficient pre-litigation authority, we'll offer to go to a pre-litigation mediation. We both know we don't need a mediation to get to the right number if it was just us. But having that neutral come up with a mediator's proposal, and perhaps make a phone call to your supervisor, is what you need to get sufficient authority (and hopefully not face scrutiny down the line during a file audit.)

It won't always be easy. Sometimes, to get the carrier to do its job, we have to write letters to your insured that go through you. These letters necessarily point out ways the carrier's claims handling process fails the insured. We don't believe you, the adjuster, are personally making what we view as a terrible decision by not offering policy limits in a claim where the reasonable verdict value exceeds the policy. We do everything in our power to focus these communications on the carrier, not you. Because you act on the carrier's behalf these communications can feel personal – please know they are not.

The creed

Everyone here is committed to work relentlessly to successfully resolve our clients' claims and do so civilly and ethically. Should you ever feel any one of us has cut corners or been out of line, know that we take these commitments very seriously and I personally want to know about your concerns. That's why every introductory letter has my mobile phone number. We may not become best friends throughout the process, but if we've done our job properly, you'll appreciate our commitment, our candid evaluation, and the respect we showed you during the process. Our approach doesn't change when the case shifts into litigation, and every commitment we make to adjusters extends equally to defense counsel as well.

Outro

Back to our lawyer and the commitments to adjusters. The lawyer reflected on the inspiration, an invocation at a recent dinner. Regardless of religious beliefs, our delicate dance was masterfully put in *A Lawyer's Prayer to St. Thomas More*, "…so that today I shall not, to win a point, lose my soul." Words to live by.

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