



Navigating Through Statutes, Insurance Policies, and Regulations
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Behind the Scenes Act I: Insurer Claims Operations

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Highbanks Insurance Professionals

“Behind The Scenes – Act I – Insurer Claims Operations”

By: Chris A. Johnson, JD & Britta Moss, CPCU



Know Your Audience

Claims Office Structure

- ◆ Central vs. Regional
- ◆ Level of Specialization

◆ Process

- ◆ Authority level
- ◆ Internal Reporting Requirements

Who are the Decision-Makers?

- ◆ Claim handler
 - ◆ Highly experienced/specialized
- ◆ Front line Supervision/Management
 - ◆ Beyond Claim Handler authority
 - ◆ Triggers
- ◆ Upper Management
 - ◆ Roundtable/file conferences
 - ◆ Large/Volatile exposure

Reserve Adequacy: Arguably 90% of the Battle

- ◆ Insurer financial stability
- ◆ The element of surprise is NOT a good tactic
- ◆ Help your adjuster help you
- ◆ Bottom line: If the reserve for your case is properly set and adjusted in a timely fashion, a mutually agreeable settlement is far easier to attain.

Information is Key

- ◆ Timing and Depth of Info
 - ◆ “Here’s what I know NOW…”
 - ◆ Reserving, trigger for authority
 - ◆ Rapport development
- ◆ Frequent and Substantive Updates
 - ◆ Document, document, document.
 - ◆ Summary cover note with supports attached
 - ◆ Adjusters and Attorneys share common goals- Really!



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“Behind The Scenes – Act II – Extracontractual (Bad Faith)
Claims Exposures”

By: Chris A. Johnson, JD & Britta Moss, CPCU



Identifying Bad Faith Exposures

- ◆ Law Suit Complaint
- ◆ Insurance Department Complaint
- ◆ Complaint to Senior Management
- ◆ Written Complaints
- ◆ File Audits
- ◆ Employee Performance Reviews

Nature of the Dispute

- ◆ Technical
- ◆ Experience
- ◆ Polarization
- ◆ Perception
- ◆ Method
- ◆ Process
- ◆ Management

Legitimate Exposures Identified

- ◆ Dilatory or deficient investigation / Insufficiently supported (or lack of) evaluation
- ◆ Failure to comply with regulatory/statutory requirements, i.e. demand letters
- ◆ Questionable coverage interpretation or denial / Duty to defend
- ◆ Files off diary / Lack of follow up
- ◆ Poorly documented claim file / Lack of information
- ◆ Default judgment
- ◆ Missed settlement opportunities

Next Steps

- ◆ Report
 - ◆ Communication to Senior Management, E&O Carrier
- ◆ Attempt to minimize
 - ◆ Re-establish communications
 - ◆ Acknowledge obvious breakdowns and take ownership
- ◆ Preserve Underlying File
 - ◆ Split File
 - ◆ Litigation Hold
- ◆ Get Back on Track
 - ◆ Search for settlement opportunities / develop resolution strategy
 - ◆ Identify the responsible party handling the case

Settlement Value in Bad Faith

- ◆ Attorney fees
- ◆ Punitive Damages Exposure, Pre and Post-Judgment Interest
- ◆ Statutory Fines & Penalties
- ◆ Emotional Distress
- ◆ Outstanding judgment

Reasonable Justification Therefor

- ◆ *“An insurer fails to exercise good faith in the processing of a claim of its insured where its refusal to pay the claim is not predicated upon circumstances that furnish...”*