

Risk Management – CPLIC Claims Handling Guidelines

GENERAL LIABILITY CLAIMS – Another View

Liability Assignment Investigations

Receipt of Assignment

Acknowledge by office.

Preferably same day by email to assignment Adjuster.

Suit files require immediate attention.

Watch decisions on late notice.

Use of Reservation of Rights Letter

Reservation of Rights to insured by certified mail and regular mail almost immediately, do not hesitate.

Always watch late notice issues. Some carriers will deny because of late notice, some carriers will not. It pretty much depends on your state.

Coverage

Never assume. Endorsements change everything.

Watch coverage. Ask if they have any other insurance.

If the insured is a roofer and the suit claims plumbing, be sure he is within his description of insurance coverage's.

Contact

To insured by phone as well as by mail if necessary, separate from the Reservation of Rights letter.

On all correspondence, once you send out the Reservation of Rights Letter or take a Non-Waiver include the paragraph.

To witnesses send a letter, make a phone call.

To claimants, call and send correspondence introducing yourself to the claimant.

When the claimant is Attorney represented, call counsel, leave a message, call several times and leave several messages if necessary. Follow up with a documentation letter request. Don't be surprised if you are ignored.

If Defense Counsel is involved, call them, depending upon your relationship they might return the phone call, chances are good if they are involved at the start they will send a document request letter to the insured. If we send one as well, and they haven't told you they have, it will just confuse the insured even more.

Investigation Time

By whatever instructions the carrier gives you, by your own suggestion, as need be by common sense, tailoring your investigation by type of assignment. Do what is necessary but don't overdo it.

Its up to you to secure the necessary documentation as in leases, contracts, estimates whatever is written, that you think you might need, ask the insured for that documentation verbally and in writing. When you are with the insured, and need to make a copy of

something, remember a digital camera is a great tool these days for making copies of a document the insured does not want you to take with you.

When the investigation begins, depending upon your client, get a feel for a budget of time or money allowance. Feel free to call the client when you hit a certain agreed upon dollar amount so that your bill does not become excessive or a surprise to the client.

Get time sensitive items such as scene photographs soonest. Document your efforts in investigation. Take meaningful photographs not just to bill the expense. Remember all dates are important. Remember to relate photographs to diagrams and to the loss itself. Letters are important.

Do your homework. Remember the internet is there for you to use for research. If you gain knowledge that is pertinent to the investigation, put it in the report. Remember if you talk to the inside Adjuster on the phone about what you've learned and forget to put it into the report, they may forget it as well.

Experts

When experts are retained, manage them. Tell them what you want. Seek official reports early. Remember the phrase "Confidentiality".

Follow up with the insured for documents. They tend to be lax in their response. Speak with the assigning Adjuster re: progress. Even if it's an email, keep it brief and to the point. Once you put paragraphs into an email they belong in a report.

Report Time

Your first is usually due with ten days or as company requires. Additional reports every thirty days after. Make your reports say something. Outline a plan of action. Tell them what you are going to do. Show them you followed up.

Remember Plaintiff Counsel will see everything in your file. Never use words with two meanings. No words such as "cursory", say what you mean. Don't repeat and stay to the point. Litigation says defense Counsel has probably been asked for your file. Make your reports say something instead of just "another report".

If your state requires snowflake letters, send them. be prompt.

If your state requires statutory letters, send them, be prompt.

Reporting Correspondence

How often should be when information is pertinent and make it a letter report. By all means send out snowflake letters and statutory letters. Call, leave messages, send letters. Be proactive rather than reactive. Remember we must maintain one "one file only". That does not mean you have separate files in separate places. Remember email is discoverable. If you send it, save it. Avoid one line dialogues in emails, the meaning tends to be forgotten. Be direct, make no extemporaneous comments. Remember never, never, never say "thanks for the tickets".

Watch typos on letters. Use diaries to follow up. Note the file. Use tools such as outlook to leave yourself reminders.

Always think in terms of moving the file. Remember on a general liability file you still have to adjust the loss if a damage claim is involved even if coverage might be questionable. Ask the carrier whether they want the inventory done or an estimate written. Have good notes or a clear scope as you someday might not be the one writing that estimate.

Plaintiff/Claimant Counsel

Depending upon Plaintiff Counsel, most likely they will ignore you. You should request a statement from the claimant as early as possible. You should endeavor to get it even if that means an after 5:00 or sometimes a weekend appointment. Remember they don't have to cooperate unless there is something in it for them.

When speaking to Plaintiff Counsel if nothing else, at least get the background on the claimant as in working or married, information about injuries and treatments. If it's a general liability or property damage claim, see if you can get them to give you a claim.

Be persistent, tell them what you seek as in police reports, etc. Seek to share if possible when we can. If you will be in a position to settle, tell him. Don't be afraid to ask for an extension of time if suit has been filed. If they think that there will be a settlement, they most likely will grant you time to do the investigation we need to do. You might be refused, but at least ask. If it's granted, remember it's important to follow up in writing and by the agreed upon date, take whatever actions you need including having Defense Counsel file an answer.

Collateral Sources/Subrogation

Is anyone else involved, is anything else involved in this claim. Is it a repair person, a service provider or manufacturer. Think subrogation, think collateral sources.

Remember if there is a municipality involved, there is typically a statutory time limit for which they must be placed on notice. That notice most likely must go to the County Clerks office by certified mail. Remember certified mail cannot go to a post office box.

Watch potential conflicts. Don't have your office handle two sides of a file. In the same office, it is a conflict.

When speaking to an insured and discussing the word "employee", is this an individual really an employee receiving a W-2 or is he paid cash. Does he receive a 1099. Is he a sub-contractor. It does make a difference.

Watch having to put people on notice.

Evidence

Watch evidence.

It probably should never come into your hands. Let the expert deal with it.

Discuss the insureds cooperation with the carrier. If cooperation problems surface, you should report immediately to the carrier.

Ask whether the carrier wants a statement tape, and preferably send it to them anyway.

Interim Bill

Smaller bills look better. Your initial report should have information contained within it if it's available. By your third report which is most likely 70 days down the road, you should pretty much be ready for an interim billing. Remember the initial work should be done by your first report if possible by all means, the second report and if not by the third you should be well on your way in the investigation.

Activity Sheets

Be timely with notes to the file. Your activity time. If you put s/w co .5, someone eventually will ask you what you need to discuss for one half hour for without further note taking.

If you put full s/w "co" or lmtc, someone will ask you what the codes are. Plaintiff counsel will love to harass you on what your codes mean. Leave no comment in the notes that could be

questioned. Make no doodles or other in or on the file that could be questioned as derogatory towards an insured.

Bill accurately. Your time sheet bill will most likely be blown up to show to a jury that “you” got paid, why should the claimant not.

Recommendations

Make recommendations to the client. Call them to discuss. If its unequivocally something we owe, tell them. In litigation, it saves the client money. Base your written comments on the client. Some do not want it in writing.

In General

Never quote law, it's not what we do.

Be careful with the claimant and damage. They don't understand denial or the words no coverage for the loss.

This outline is by no means complete in what steps you should or should not take when adjusting or investigating a claim or loss. It is my personal take. It's an abbreviated version and changes greatly based upon what needs to be done by the terms and agreements for any individual assignment.

Some files will require massive amounts of time for the simplest loss, some files require no great amount of time for the most difficult loss.