

The Employee & Consumer Justice Law Firm

- ✓ Smart
- ✓ Aggressive
- ✓ Effective

(800) 573-0490

Ten Insurance Claim Do's & Don'ts

There is no fixed formula for handling an insurance claim. Even so, over the years I've developed a short list of do's and don'ts that are basis for every claim

DO:

1. Report your loss as soon as possible. Don't procrastinate with an insurance claim. On the other hand, you should not be making needless claims, because the carriers keep track of what you claim and too many claims can affect your ability to obtain insurance in the future. Use your best judgment, but make your decision as quickly as possible.
2. Document your loss as thoroughly as possible in writing. The insurance company keeps an extensive claim file. You should have one too. Get a manila folder or a binder and collect receipts, notes, photographs – everything having to do with the claim – in one place. Try to keep it organized, but it's more important to keep it than anything else.
3. Keep a written diary of all communications and contacts during your claim. The insurance company adjuster is supposed to keep a diary of every communication he or she has with you but very often will only record the communications that are helpful to them. You need to keep your own diary of every contact you have with the company. A diary looks like this: <<diary graphic>> You should also confirm all important oral communications in writing. It is amazing how this one simple practice can solve so many problems during the course of a claim.
4. Take photographs of your loss where possible. Don't be cheap with the film, either. This is especially important with property losses such as fire, earthquake or automobile accident. Make sure you document visible evidence of your loss. Your adjuster may not get around to taking photographs until a significant amount of time has passed, and if the visible evidence of your damage has disappeared (such as when a flood scene is cleaned) the carrier will use that lack of evidence against you.
5. Be truthful and accurate about your loss. Don't overstate your claim, but don't understate it either. Insurance adjusters are much like investigators and they are trained to be suspicious. You need to be candid with your carrier. At the same time, you need to take care that you can support your claim with accurate information. Don't assume that a carrier will accept your estimates of value, quantity or whatever without question. That seldom happens in all but the smallest claims. Be ready to defend your estimate.

6. Be polite but firm with claims personnel. Claims adjusters are people too. They have a job to do and you should attempt to treat them with all due courtesy. Now, it is true, there may come a time when the adjuster will be difficult if not rude, especially when pressed for additional payment. Avoid being drawn into a battle with the adjuster. Keep your head, commit important communications to writing and be polite but firm. If the dispute erupts into litigation, everything you say or do is subject to scrutiny and criticism and you want a clear record that the insurance company is the wrongdoer, not you.

DON'T:

7. Do not misstate facts. Once again, adjusters are trained to be suspicious. You should report your loss like a news reporter reports a story. Just the facts, ma'am.

8. Do not intentionally overstate the value of your loss. We call this "overreaching" in the legal profession and it is an excellent way to get into trouble on your claim. Remember, claims professions adjust claims day in and day out. They have probably seen claims similar to yours dozens if not hundreds of times and have a notion about the value of your loss is likely to be.

9. Do not engage in any act that might be considered fraudulent. Fraud is a intentional act calculated to mislead. Don't do that during your claim. A carrier's favorite defense is to yell "fraud!" even where there is none. So don't give the insurance company any ammunition. Also, insurance fraud is not only grounds to deny a claim, but it is a criminal offense as well. During your claim, honesty is always the best policy.

10. Do not be intimidated into settling your claim for less than its reasonable value. Insurance adjusters are trained negotiators. They are trained to attempt to settle a claim within a range of value. The first offer you hear is most often the number at the low end of the adjuster's range and you will only find out what the top offer is by negotiating. Don't be intimidated. Present your evidence. Insist on a thorough, fair, objective investigation and evaluation of your claim, which is the standard the law requires. If you believe that you don't have the skill to negotiate successfully, consider getting some help in settling.

**

William A. Daniels is a Trial Attorney with BILL DANIELS | LAW OFFICES, APC, in Encino, CA. His practice focuses on employment, serious personal injury and class actions. A graduate of Loyola Law School of Los Angeles, he is a member of the Consumer Attorney Association of Los Angeles Board of governors and a founding member of the Civil Justice Program and the 21st Century Trial School at Loyola. For several consecutive years he has been named a "Super Lawyer" Los Angeles Magazine in Southern California.

He can be reached at William.Daniels@BillDanielsLaw.com; www.BillDanielsLaw.com