

## Legal Matters – October, 2008

Legal Matters is a column that answers your legal questions. It is written by Barry Evans, Attorney at Law, located at 550 Egret Bay Blvd., League City, TX 77573. Barry has been practicing as an attorney for over twenty-five years. If you have any questions regarding this article, you may contact Barry Evans at 281-557-1900 or you can email him at [barryevans@msn.com](mailto:barryevans@msn.com).



### Dealing With Your Insurance Company: How to Protect Yourself

#### When making an insurance claim on your policy, follow these guidelines.

Insurance companies go out of the way to advertise how fast, neighborly, generous, kind, understanding, patient, and friendly they are -- especially when they are trying to sell you one of their policies. It continues to be true for as long as you make your insurance premium payments on time without asking for anything in return. However, policyholders forced to present a large claim often learn there are limits to insurer congeniality.

Here are some survival tips that you may find useful in dealing with your insurer about a homeowners' insurance policy.

#### When You Have a Claim

Review your policy and notes before you speak with a company representative. Make sure you understand the complex coverage, exclusion, and limitations provisions to lessen the likelihood of saying something that the company could twist into a basis for denying the claim.

#### Gather Evidence

Start gathering materials to help you prove your claim. Photograph your loss and keep records of it. For example, if you are making a claim based on wind and water damage to your business or residence, you should photograph the damaged areas and items before they are repaired or discarded.

#### What Not to Do

A policyholder should never do any of the following:

- exaggerate any aspect of a claim
- accept the insurance company's expert's evaluations of the losses without getting an independent expert's estimates
- submit to an "examination under oath" by the company without first obtaining legal advice, or
- sign an insurance company release or check without verifying that the amount is full and correct.

#### Keep a Log

It's a good to start a log concerning your claim. Write down the date, the time, and a summary of every telephone or written communication with company representatives. Keep copies. Note the name, title, and direct telephone number of every person with whom you have contact.

This is important because insurance companies often switch adjusters on claims, sometimes more than once. You'll need evidence of what was said or done when, and by whom, throughout the handling of the claim. Among other things, keeping such notes can make it more difficult for the insurer to blame any delay on you.

#### If a Dispute Arises

A few legal rules are on your side when it comes to deciphering a policy. If a dispute over what should be covered goes to court, the coverage provisions will be construed broadly (in your favor), whereas the limitations and exclusions will be interpreted narrowly (in your favor). And because the company wrote the policy, any ambiguities in it will be interpreted in your favor and against the company. The goal of a court will be to honor your reasonable expectations.

That having said, because of the costs of litigating a claim with an insurance company, going to court should be your last alternative. A concise, non-emotional presentation of the facts, including supporting documentation, is your best chance to receive a favorable settlement.

**Editor's note:** *The information in this column is not intended as legal advice but to provide a general understanding of the law. Readers with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.*