

www.badfaithinsurance.org

What is Bad Faith Insurance?

Bad faith insurance is any matter regarding an insurance claim by an Insured that is wrongfully denied by the Insurer. An insurance policy is considered a contract between you (the Insured) and your insurance carrier (the Insurer). This contract requires that your Insurer acts in "good faith" toward you. **When an Insurer unreasonably withholds the benefits of the policy from its Insured, it is considered to be in "bad faith."**

Insurance attorneys know that Insurers most frequently attempt to deny claims for any reason they can. Furthermore, when an Insurer acknowledges that a claim or lawsuit is covered by the insurance policy, it most often attempts to underpay a claim. To determine whether an Insurer is acting in good faith, the Court must determine whether or not the Insurer's conduct is "reasonable." In most states, **an Insurer may not put its own interest above that of an Insured.** **To prove bad faith, the Insured need only to show that the Insurer failed to honor the contract and had no cause not to pay what was due.**

The Insurer has a duty to deal fairly with Insureds. **Every insurance contract contains an unwritten covenant or promise of good faith** imposed by law upon an Insurer to always act fairly towards its Insureds in handling their claims. Insurers must always meet the reasonable expectations of the policyholder as well as give as much if not more consideration to the financial interests of its Insureds than it does to its own financial interests.

What are some examples of Bad Faith?

There are many examples of how an Insurer can commit bad faith, they include: failing to promptly and thoroughly investigate a claim; unreasonably delaying payment; unreasonably denying benefits to a claim; using unreasonable interpretations in translating policy language; refusing to settle the case or reimburse you for the entirety of your loss, etc. Insurance Bad faith constitutes not only breach of your insurance policy contract with the Insurer but also includes injuries personally sustained outside of the insurance contract as a result. If such a breach exceeds that of being "unreasonable" and is demonstrated to be dishonest, deceptive or fraudulent, a judgment may be obtained and punitive damages awarded exceeding compensation for the loss under the policy as punishment for bad faith and to deter similar conduct by the Insurer in the future.

Do Insurers have the right to deny a claim?

Insurers have the right to deny a claim where the Insured has not lived up to the insurance contract, or where the claim is not covered by the policy or is fraudulent.

What should an Insured do in the event of a claim?

An Insured should immediately notify the Insurance Agent; Collect and review the insurance policy as it relates to the relevant provision(s) of the claim; Most importantly, document all events, notes and all contacts and communications made, whether written or verbal with the Insurer and those related. Submit your claim promptly as most state laws and most insurance policies require that claims be presented within a limited period after the loss, otherwise if the Insured waits too long, the Insured loses the right to seek benefit on a claim.

What if my insurance company denies my claim and appears to be committing bad faith?

If you still feel you are in the right after having reviewed your insurance policy, collected all of the correspondence you have had with your insurance company and other pertinent

documentation, write a letter and send it certified mail to the Director of Claims of the Insurance carrier citing the relevant provisions of the policy and demonstrating that the Insurer's denial of claim benefits is unreasonable. At the same time, write the Commissioner of the Department of Insurance in your State and for whatever its worth ask the Department for a review and assistance in the matter.

What if my insurance company still continues to deny my claim and commits bad faith?

Collect your policy and documentation and bring them to a qualified Insurance attorney. Insurance bad faith is a very specialized field and it is important to go to an insurance attorney. An Insurance attorney should be able to determine after a quick consultation and review of the policy whether or not coverage applies for your loss, and whether or not your Insurer has committed bad faith. If you don't know an attorney, consult FBIC's Lawyer Directory.

What can I recover if I sue my Insurer for bad faith?

If the Court finds the Insurer to have acted in bad faith, the Insured is eligible to recover the benefits of the policy for the claim as well as all consequential losses and damages it suffered as a result of the Insurer wrongfully denying the claim including damages for emotional distress. This also includes the Insured's attorneys' fees which you had to pay in order to force your Insurer to live up to its contractual obligations; and in some cases where the Insurer has exhibited flagrant, intentional and/or gross misconduct, punitive damages are awarded.

What are an Insured's options when an Insurance carrier commits bad faith?

When an Insurer commits bad faith, an Insured has three options: to negotiate a resolution and an acceptable settlement with the Insurer however if this fails (Insurers are masters of claims negotiation) the Insured is left with two options, to either do nothing and give up, or sue the Insurer. A vast majority of people unfortunately choose to do nothing and give up. Frequently, when an insurance attorney becomes involved, an Insurer will generally take the claim much more seriously and look to modify and correct its earlier bad faith direction in order to minimize the amount of the claim, potential bad faith implications and loss and punitive damages against the Insurer. Just as frequently, however, the Insurer may become even more difficult as it realizes that it now must justify its actions. Typically, however, even when it is necessary to sue an Insurer for bad faith, the case is often settled before or at the time of trial.

Why do Insurers commit bad faith?

There is a very substantial benefit and good economical reason for Insurers to commit bad faith. Insurers receive thousands of claims every day many of which are wrongfully denied. Very few Insureds dispute this wrongful denial and thus Insurers save considerable amounts of money which in reality they would otherwise be obligated to pay. Here's an example how it works. Let's say for example that an Insurer denies 100 claims. Of these 100 claims, ninety-five go unchallenged and disappear while five claims are disputed. Of these five, the Insurer reverses its earlier decision to deny coverage and agrees to pay on four of the claims but continues to refuse coverage on the fifth claim. The fifth claimant then files a lawsuit and recovers bad faith and punitive damages against the Insurer. Even if this claimant who filed suit recovers millions of dollars against the Insurer, the insurance company still saved millions of dollars by not having had to pay the other 95 claims which were denied and not disputed. Thus, Insurers gain substantial financial and economic advantage by continuing to deny claims.

