

CLAIMS

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Insurance is the foundation and supplies the security of modern business. If the feeling of security which insurance gives to business was removed, the commercial structure would be seriously endangered.

What is the foundation of insurance but claims? Insurance is defined as "the act or system by or under which indemnity or pecuniary payment is guaranteed by one party or several parties to another party in certain contingencies upon specified terms." Again insurance is "a contract whereby one party, in consideration of a stipulated consideration or premium undertakes to pay a given sum or sums upon the occurrence of a certain contingency, as upon injury to one's person, or upon attaining a certain age, or upon one's death, or upon the destruction of one's property by fire or otherwise."

The contract of insurance is more than a certain grouping of words and sentences, it implies faith on the part of the policyholder. No one knowing a person to be absolutely irresponsible as to his obligations would willingly enter a contract with such party, no matter how carefully the written terms of the contract were set forth. The person in paying a premium for a hazard which he is unwilling or unable to assume himself buys a policy of insurance because of faith that upon the happening of the contingency the insurer will pay according to its undertaking or guarantee.

As the reason for insurance rests upon the possibilities of claims so the faith of a person in insurance is largely dependent upon the manner in which claims are handled when the contingency insured against arises. Many times the insured's sole personal contact with insurance and insurance companies is made when he has a claim himself or a claim is presented against him. An efficient and ethical claim department is a company's most able advertiser and business producer.

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Claims fall into two general classes, those where the assured is the one asking reimbursement and the other where a third party is asking remuneration for some act of omission or commission of the assured.

Concerning the first class of claimant, it is self-evident that the claim department must exhibit intelligence and extreme courtesy in all dealings with the claimant and see to it that exact justice is accomplished in a pleasant and upright manner. An assured whose claim is handled expeditiously and fairly in view of all the surrounding circumstances is a satisfied customer and a satisfied customer is universally recognized as the best advertisement for any business.

On the other hand, an honest assured, if harassed with detail, treated with suspicion and finally grudgingly paid, gets the idea that though it is necessary to have insurance, still the whole business is to be viewed with distrust. Thus is destroyed the most important element of his contract, faith. With claimants of this class the capable claim man is slow to openly evidence suspicion and only does so when all the facts tend to prove an abuse of confidence and an actual desire to defraud the institution the claim man represents.

Where an actual effort to defraud is evidenced, the claim man will continue to handle the matter courteously but will fearlessly point out the untenable position of the assured. A most peculiar psychology is that of the dishonest claimant assured. He may be one who prides himself upon his honesty and fair-dealing and often is a respected member of the community. Still, he may feel, that in getting something he is not entitled to or more than he is entitled to by altering the facts in order to bring the claim under the contract or padding the amount demanded, he is not doing anything he would consider to be reprehensible. This type of claimant assured works on the same principle or lack of principle that otherwise respected citizens do when they attempt to smuggle articles into the country. Usually, if tactfully handled, this person can be made to see the injustice of his position and becomes one of the better assured.

The second general class of claimants are those injured or damaged due to their own fault or negligence, the negligence of the assured or the combined negligence of both. These in turn may be further divided into several classes.

The honest, meritorious claimant whose person or property has been injured, damaged or destroyed. This person has his loss immediately and sometimes permanently without any fault of his own. To him the claim man owes the highest duty of immediate and fair investigation and prompt, cheerful settlement commensurate with his loss. It is also a claim man's duty to protect such a person from the selfish interests of those who would personally profit by the claimant's misfortune. Oftentimes, where a claimant has lost a member or the function of a part of his body, he cannot be fully restored to *statu quo*. Still in so far as is possible we do the next best thing by paying a sum of money to assist him to meet the needs and obligations of his life. Meritorious claims handled in a straightforward and impartial manner go a long way toward instilling the confidence and maintaining the faith that insurers are properly and equitably administering the huge funds submitted to their care.

The ignorant, misinformed claimant presents still a different problem. He is one who having received personal loss or damage has suffered it wholly or partially through his own act of omission or commission. This individual having suffered a loss will not and often cannot understand that his own errors are the prime factors of his condition. As was cited recently in one jurisdiction, there are people who have come to this country under a promise of personal liberty and they read into that promise the further promise to recompense them according to their own ideas of value, for all loss they may sustain without regard to fault. In other words, to them a policy of indemnity for legal liability is twisted to mean a direct promise to pay without regard to the various elements of the case. This notion is encouraged by individuals who prey upon and seek to handle the injured's claim. After getting the case, as it is called, these so-called representatives of the claimant pick out the weaknesses of the claimant's case and boldly or subtly corrupt the mind of the injured by embroidering or actually changing entirely the story of the happenings of the case. The injured's primary interest being in getting money for his hurts he does not attempt to scrutinize his own conscience nor the methods of his representatives.

This type of claim and claimant is the most difficult for the claim man. He may often wish to disregard strict application

of legal principles involved and compromise the matter to partially recompense the injured. If he does so and if the injured is finally prevailed upon to accept the compromise, the injured instead of feeling happy and thankful for the partial reimbursement resents the fact that he did not get all his cupidity desired. This person often loudly proclaims the unjust and unfair attitude of the soulless corporation. If, on the other hand, the claim man stands upon the legal interpretation he is immediately confronted with altered testimony, rank perjury, prolonged disability, crooked medical testimony and juries liberal with other peoples funds. Thus he is oftentimes forced to pay sums many times what the case would have been worth if it were one of actual liability. If such case is won by the claimant he proceeds to abuse the company for holding him up so long and boasts as to how he put it over, thus tending to corrupt the minds of his hearers.

The last class, the outright fraud, the individual who deliberately manufactures a claim wherein there has never been any such occurrence, or where an occurrence absolutely no injury, has been, I am sorry to state, getting more numerous every year. It may seem inconceivable that persons would deliberately stoop to commit or suborn perjury, but it has been shown conclusively that a few members of the bar have gone so far as to deliberately manufacture claims that never happened and have brought suit thereon and collected judgments.

In these cases the attorneys, if they are cognizant of what is actually going on, and the claimants should be handled with vigor and dispatch. The aid of the public authorities should be promptly solicited and those involved brought to justice. Stamping out this sort of thing depends upon the alertness and perspicacity of the claim representatives and the earnest cooperation of criminal authorities when a case of indubitable fraud presents itself. Oftentimes it has seemed that the criminal authorities cared little whether insurers were mulcted of their monies by frauds and they, instead of cooperating, sometimes let the facts leak out and gave the cheat an opportunity to disappear or to rig up a defense. If ably prosecuted many times the juries would turn the offenders loose to resume their nefarious activities. Public and official sentiment are improving and realizing that this crime is as reprehensible as many others, effective steps have

been taken to teach the fraud that his doings are dangerous to his liberty and are no longer to be tolerated.

The successful growth of the fraudulent claim needs many elements for its success; the dishonest claimant; the doctor who thinks so little of his oath as to excessively magnify the extent and permanency of an injury or to conspire to put before the jury an injury which is non-existent; the lawyer that will engineer the whole fabrication and whip it into shape for presentation at court; the sympathetic unreasoning juror, the type that is liberal with the things of others and is unwilling or incapable of carefully weighing the evidence so that substantial justice may be done as between both parties; the perjured testimony of supposedly disinterested witnesses; and last the jurist willing to sit by and allow rank perjury to go unpunished and inconceivable, illogical testimony to go in as evidence.

We all expect to pay fairly for any commodity, and so with insurance. It is unfair to the great bulk of honest persons that they should be saddled with vastly increased costs due to the depredations of the dishonest claimant, witness, doctor and lawyer. Exact justice cannot humanly be done in all cases but if the public and courts show a more vigorous dissatisfaction with the larcenous attempts of the individuals above mentioned, it will certainly redound to the benefit of the whole people.

Some may ask why the claim man if he knows his job has not remedied these conditions. Claim men for years have been fighting a desperate but losing battle against fraud. If the public and the courts will not actively assist in stamping out fraud, the claim man is practically powerless. If he won't settle resort is made to the courts and many times he pays immeasurably more than was demanded.

Some have criticized the claim man for settling for so-called nuisance values. By "nuisance value" is meant a payment on a case clearly of no merit but made to secure a release and the closing of a suit. Up to very recently practically no case was a case of no liability if it came into the hands of the many of the professional negligence attorneys. The facts as given by the plaintiff and his witnesses were so twisted, distorted and enlarged upon that they were bound to make a question of fact for the jury. The jury knowing that an insurance company, corporation or responsible individual was involved would deliberately

disregard the judge's charge, leave their common sense outside their deliberations and march proudly in with a verdict for plaintiff in an unreasonable amount.

Another feature in unjust verdicts is the desire of the responsible citizen to avoid jury duty. Still many times this same person is a litigant and compelled to sit by and see his case decided by those of little intelligence and no discernment.

Nothing worth while can be accomplished without the honest and active co-operation of all the necessary parties to the doing of the thing. Our business is one essentially of service and when the public mind is satisfied that we are administering our trust in an efficient and scrupulously honest manner, we may no longer fear state monopoly or any of the other panaceas offered the public by self-seeking individuals or classes of individuals.