



## Insurance Company Misbehavior

by John D. Whitaker

Most of us have seen that cute, thoughtful little British gecko who sells insurance on television. Maybe it's the camera angle or some other technical problem, but when I watch that commercial I can never see his little fangs. He has them, you know. He seems like a friendly little character when he accepts the premiums you pay for insurance, but he can turn into one nasty little lizard when you make a claim.

Insurance companies are like any other company, they are in business to make a profit. There is nothing wrong with that, but insurance companies have a duty to treat the people they insure in good faith. Sometimes they don't do that. If you think about it for a second, an insurance company may have millions of claims in a year. If they save a dollar on each claim, they have saved millions of dollars. The economics of the insurance business presents a temptation to shave a little on each claim. Sometimes the temptation gets the better of an otherwise honorable company. When this happens, there are things a consumer can do.

Anyone who has ever made a claim understands this process. You make the claim and your insurance company assigns an adjuster to evaluate the claim. An adjuster is a person who investigates and negotiates the settlement of a claim on behalf of the insurance company. The adjuster determines what the company is willing to pay on the claim and will make you an offer to settle your claim after concluding an investigation. If the company's offer is unfair, most people are reluctant to get into a fight with a multi-billion dollar company, and so the tendency is to take your lumps and accept what the company offers you. The bargaining disparity in this process is one reason the insurance business is regulated by the state. Wyoming has an insurance code which covers most issues that arise in the context of an insurance claim.

The Wyoming Insurance Code prohibits unfair claims settlement



practices by insurance companies doing business in Wyoming. For example, an insurance company cannot misrepresent pertinent facts or policy provisions in the negotiations. They cannot ignore your communications to them, and must act reasonably promptly in responding to your requests. They cannot refuse to pay a claim without conducting a reasonable investigation based upon all available information. When liability on a claim has become reasonably clear, they must attempt in good faith to effectuate a prompt, fair and equitable settlement. They cannot force you to institute litigation to enforce your rights under the policy by offering substantially less than the claim is ultimately determined to be worth. If the company does deny your claim, they must provide a reasonable explanation of the basis in the policy in relation to the facts of your claim. If there is a dispute as to the value of your claim, the insurance company can only refuse to fairly compensate you if the claim is "reasonably debatable." This term has been the subject of a number of lawsuits, but the insurance company must always act in good faith in adjusting your claim

I spend a good deal of each day negotiating with claims adjusters on behalf of my clients. It is my experience that most adjusters are fair and reasonable people. Most are a little suspicious, conservative, and optimistic about your future prognosis, but generally they are good people who are trying to do the right thing. There are exceptions however, and just because some adjuster claims you are not covered or that your claim is not worth much does not mean you are stuck. If you and the company do not agree on the value of the claim, you can demand that the claim be arbitrated or, depending upon the policy language, you can file suit against the company. If you win, you may be entitled to attorney's fees. If you feel like you are getting jerked around by your insurance company you should call your lawyer. Insurance company misbehavior is not something you have to accept. You do have rights, and they are so easy to enforce, even a caveman can do it.

**The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWTL@aol.com or by calling his office in Casper at 265-6204.**