

Injury Law Alert

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The Three “Ds” of the Insurance Industry: Delay, Deny, Defend

U.S. insurance companies rake in billions of dollars in profits every year. How does the insurance industry make so much money? Unfortunately, many insurance companies—even the most well known and well respected—en-

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gage in dirty tricks and unethical behavior to boost their profits. Some of the most common tactics can be referred to as the three Ds: delay, deny, and defend.

Delay

The first D is delay. A claim is made and the demands begin: You need to fill out a form, you did not fill out the form correctly, you need to fill out another form, your claim is too late, your claim is not cov-

ered, back and forth, back and forth. Meanwhile, the benefits that the insurer is supposed to pay out remain in its pocket, inflating its profits.

The hope is that the more difficult the insurer makes it to collect and the longer the delay, the more likely it is that a person with a

legitimate claim will give up and drop the claim.

Delay is an especially effective tactic with certain kinds of insurance (such as long-term care insurance), where the insurer knows that the illness affecting the person

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How to Fight Back!

- Although complicated and hard to understand, read the insurance policy. You may find that some of the things that you were promised when shopping for insurance actually aren’t true.
- Don’t give an insurer a reason to deny your claim. Carefully read all of the forms that you have to fill out and provide all of the information requested.
- Put all of your communications to the insurer in writing. If you do speak with someone on the telephone, follow up with a letter confirming what you were told.
- Contact your state’s department of insurance. It may be able to help you, but it will not represent you in a private matter.
- Call our office. We will fight to get you everything you deserve.
- Remember, the insurer is counting on you giving up. Hang in there!

Debit Versus Credit Cards

When you are pulling out the plastic to make a purchase, will it be debit or credit? It makes sense to know how each works, and their respective advantages and disadvantages. The bottom line is that debit cards are fine for small and/or routine purchases, but credit cards, as a rule, are better for major purchases and online transactions because they offer more protections if something goes awry.

Debit Cards

A debit card is like an electronic check—the consumer is spending money that he or she already has. As compared with credit cards, debit cards carry the potential for greater liability if the card is lost or stolen. Under federal law, liability is limited to \$50 for the fast-acting consumer who notifies the bank within two days after discovering an unauthorized transaction. After that, the cardholder could lose up to \$500, or even more in some cases. On its own, a bank may choose to waive liability for unauthorized transactions if the consumer has taken reasonable precautions, but, of course, this varies depending on bank policies.

For transaction errors, banks, as a general rule, have up to 10 days to investigate after receiving notice from the cardholder, or up to 45 days in special circumstances. Pending the outcome of the review, banks generally must credit the account for the amount of the alleged error.

As with credit cards, debit cards offer convenience and an alternative to carrying cash. But, unlike with credit cards, the consumer is not taking on debt when using a debit card. Nor is the consumer paying interest or an assortment of fees, assuming that the account is

not overdrawn. It may be possible to avoid even the overdraft fees by linking a checking account to a savings account or a line of credit. A debit card can also be used to obtain cash without incurring charges that usually come with cash advances by means of a credit card.

Federal law limits a consumer's losses to a maximum of \$50 if a credit card is lost or stolen, and also provides protection against credit-card billing errors.

When there is a problem with purchased merchandise, there is no right to withhold payment if the consumer has used a debit card, as might be an option with a credit-card transaction. Another drawback for debit cards is the practice of putting “holds” on funds. If the final amount is not yet known, a merchant may place a temporary hold on funds for more than is ac-

tually spent, which denies the consumer access to that amount until the hold is lifted later.

Credit Cards

Federal law limits a consumer's losses to a maximum of \$50 if a credit card is lost or stolen, and also provides protection against credit-card billing errors. Unlike with debit cards, federal law may also allow the user of a credit card to withhold payment under certain circumstances until a problem with purchased merchandise is rectified.

The most commonly cited drawbacks for credit cards concern fees, interest rate increases, and penalties. In addition to annual fees for some cards, there are usually fees for paying late and for exceeding the credit limit. Of course, unless a consumer is in an interest-free grace period, interest accumulates and adds to the overall debt, especially if the cardholder pays only the minimum amount due each month. As any holder of a credit card can attest, having a credit card also makes overspending very easy, especially with high credit limits and enticements such as rewards programs.

Thanks for the Referrals

Despite this modern age of marketing and advertising, the best source of our new business is word of mouth. We are grateful that many of our clients and friends feel confident in recommending our firm.

Unfortunately, many people who need a good lawyer do not know where to turn. If you or someone you know has been injured and needs legal help, call us.

Defective Insulin Pumps

It is estimated that 25 million Americans suffer from diabetes, and their ranks are growing every day. Many diabetics are able to control their condition with diet and exercise, but others must take insulin, a drug that helps diabetics regulate the level of glucose in the blood.

For many years, insulin was given by injection, but then the insulin pump was invented. An insulin pump is a small device (about the size of a cell phone) that introduces insulin into the body at the

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same rate that it would be produced in the pancreas of a healthy person. More than 400,000 Americans currently use insulin pumps, and when the pumps work they allow many diabetics to lead nearly normal lives.

However, insulin pumps do not always work as designed. After 18 different models of insulin pumps were recalled over a five-year period, the Food and Drug Administration appointed a panel to look into the issue.

The panel issued its findings in 2008, reporting that it had discovered that insulin pumps were associated with more than 300 deaths and 12,000 serious injuries. Some of the diabetics using insulin pumps received too much insulin,

while others did not receive enough. Although some of these injuries or deaths may have resulted from user error, a disturbingly high number were caused by unknown problems with the various models of insulin pumps that were recalled.

A number of product liability lawsuits have been filed against insulin pump makers. Some of these lawsuits allege that there is a specific problem with a specific pump, while others complain more generally that manufacturers did not give users of insulin pumps enough information about the pumps to use them safely. These lawsuits fault

the pump manufacturer for producing a product that can injure users in ways that they are unable to guard themselves against.

If you suspect that you or someone you love has experienced injury, illness, or even death due to the use of an insulin pump, the first step is to find and consult a lawyer you trust. A lawyer can help you evaluate the facts and determine whether you have a claim and, if so, can help you make your claim within the limited time allowed. A lawyer also can help provide the guidance you need and ensure that you obtain the compensation that you deserve.

Smoke Alarms: Inexpensive Guardian Angels

If you could pay \$20 and, in return, get a guard who would warn your family if your house caught fire, would you? Of course you would. Despite this, most of us do not have enough smoke detectors in our homes—detectors that will stand guard over our family's lives 24 hours a day.

The evidence shows that using even an inexpensive smoke detector increases your family's chance of surviving a house fire by 50%, making it one of the best investments you can make for your family's safety.

Experts recommend installing smoke detectors, the cheapest of which start at less than \$20, throughout your house. At a minimum, install one detector for every floor and one outside of each bedroom. Test your smoke alarms once a month, and replace the batteries once a year.

Make sure that every member of your family knows (1) what to do when the smoke alarm sounds, and (2) the fire escape route from each room. A little advance planning can help make sure that you and your family have a better chance if a fire should start in the night.

The Three “Ds”

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making the claim adds yet another obstacle to overcome before the person can collect the payment that he or she is due.

Deny

Most people think that the job of an insurance company is to pay covered claims. Nothing could be further from the truth. In fact, insurance companies regularly refuse to pay claims that they know are covered, and many insurers actually reward the employees who pay the fewest claims and fire those who pay the most.

Claims are denied for any number of reasons: tenuous interpretations of policy language, willful misunderstanding of the facts, and even out-and-out fraud. In other cases, the insurer will “audit” the initial application for insurance and claim (often falsely) that it was

not filled out properly or that the person did not disclose all of the facts he or she needed to disclose on the form, and then use this as an excuse to drop coverage entirely.

Denial of claims is effective because, as with delaying payment, many people do give up and drop the matter. Of course, every dollar not paid out on a claim is a dollar that goes to the insurer’s bottom line.

Defend

Finally, there is the third D, defend. If all else fails, a person with a legitimate claim may have no choice but to force the insurer to defend itself in court. This all but ensures a delay of several more years while the issue is litigated, even more if the matter is appealed.

Some laws make it difficult to force an insurer to pay anything more than what should have been paid in the first place. This increases the incentive for the insurer to delay, deny, *and* defend.

So what is a person to do when up against an unethical insurance company? All too often there is only one answer: Get a lawyer.

Car Safety

What if Your Brakes Fail?

Although rare, total brake failure can be a terrifying and perilous experience. As in all emergency situations, remaining calm is the first and most important step. In addition to that:

- Shift into a lower gear if your car has an automatic transmission. If it has a manual transmission, downshift.
- Engage the emergency brake.
- Pull off onto the side of the road.
- Turn off the engine and call for help.

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.