

Connon Wood Scheidemantle LLP

Insurance Traps, Pitfalls, and Blunders

by David Scheidemantle and Deborah Bucksbaum

Insurance doesn't work the way it used to. In an earlier era, policy holders could count on their insurance companies to step up and pay claims without much hassle. No more. Ever since the explosion of asbestos and environmental claims in the 1970s and 1980s, insurance companies seem to value premiums more than they value their customers. They prefer to collect premiums and hold on to them as long as possible, accruing plenty of interest and hoping that the insured will forget about the claim or decide it's just too expensive to go to court.

How can you protect yourself or your company? This article will give you an overview of specific, practical, and immediate steps you can take to avoid *Insurance Traps, Pitfalls, and Blunders*. We will explore each of these steps in more detail in subsequent issues of this newsletter.

First, negotiate your policy. Don't assume you have to live with the terms in the policy as drafted by the insurance company. As the title of a popular book tells us, "You can Negotiate Anything." This is especially important when you are changing insurance companies, to ensure you don't have a gap in your insurance coverage. If your company does not have a risk manager, a proactive insurance broker or your coverage lawyer can help you negotiate your policy.

Second, keep your insurance policies, especially those really old ones. NEVER throw them away. You'd be surprised how an old policy can sometimes save the day. But to keep your policy, you have to make sure you get a copy in the first place.

Third, if you have a claim, tell your insurance companies – ALL of them – about it. Without professional help, don't try to pick and choose which policy you think might apply. And don't make the mistake of assuming a policy doesn't provide coverage. To prove the point: one court held that an auto policy from the 1940s provided coverage for an environmental remediation claim in the 1970s.

Fourth, don't wait around. Tell the insurance company about the claim as soon as you learn about it. Sometimes even one day can make a difference. There are a number of good reasons for doing this, which we will describe in a later issue.

Fifth, don't rely on your broker to tell the insurance company about the claim. What if the broker forgets or tells the wrong insurance company? Both of these things have happened in cases we've handled. By all means, involve your broker, but don't rely on your broker exclusively.

Sixth, follow the notice requirements in your policy for telling the insurance company about your claim. To whom should the notice be sent, by what method of delivery, and what information should be included?

Seventh, insurance policies are not drafted to be easily understood. Sometimes, it seems they are drafted to baffle and confuse. So, whether you are deciding on an insurance program, negotiating the terms of your policy, providing notice of a claim, or fighting for coverage, obtain the assistance and advice you need to help you through the process. Chances are, it will pay off many times over in the long run.

In our next issue, we will explore in more detail our first topic, *Negotiating your Policy...*

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