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Contributed by Insurance Bad Faith Attorney and KCR Partner, Eric J. Ratinoff

Most people who purchased disability insurance policies did it because for decades insurance companies were engaged in a huge marketing effort, and they were making a lot of promises. Essentially, they said that if you paid your premiums month after month and year after year - and these were expensive premiums - they would protect you, your family, your earnings and your lifestyle. For example, doctors go to school for years, investing hundreds of thousands of dollars of time, money and energy into their education. It makes sense that they would turn to insurance companies to protect them in the event that they can no longer practice medicine.

In the early 1970's through the mid 1990's there was intense competition among the insurance companies, where they started offering what is known as "own-occupation policies." Now the concept of offering an own-occupation benefit within a long term disability policy has been around since disability insurance's inception. But as a marketing tool in the 1970's and 80's, insurance companies figured out that they could charge huge premiums and go after the highest earning individuals - doctors, lawyers, stock brokers, and other professionals - offering to protect the livelihoods from their high earning jobs.

But there was a targeted effort to get doctors to buy these policies, and in the competition among insurance companies to sell the most policies, they ended up overselling and making promises that they could not fulfill. The heaviest promise they made to California doctors was basically that in the event they could no longer practice their own occupation - regardless if they obtained a new occupation earning money elsewhere - they would still receive the full benefit from their policy.

So jump ahead several decades, and a number of physicians who paid tens of thousands of dollars in premiums over the years have become disabled. And now the insurance companies' promises have come back to haunt them.

But their promises really shouldn't haunt them, because they'd been paid millions of dollars in premiums over thirty or more years. But with the fall in investment returns, poor investment decisions made by these companies and the fall in the

economy, insurance companies figured the easiest way to save money would be to find ways to reject claims.

Meanwhile, as the insurance companies were finding ways to cheat the claims of honest, hard working people, they created a new animal to sell. It's called the "residual income" disability policy. And the brokers went out selling these policies, saying, "this is an own-occupation policy; if you can't do your own occupation you're covered." But what they didn't make clear is that almost every new own-occupation disability policy contains a residual income clause, stating that if you are "gainfully employed" anywhere else, the benefit you receive from your policy will be reduced. This is a big difference from the policies they'd been selling all those years that promised full benefits to age 65 (and sometimes beyond), no matter what the employment or earning situation was, as long as the policyholder could no longer practice his or her own occupation.

If you are shopping for a disability insurance policy, be on the lookout for terms like "gainfully employed" or "residual income." It may be worth a look at your current policy to make sure you know what you purchased.

In part two of this four-part series, Eric Ratinoff will discuss what should be done when a disability claim needs to be filed.