

QUESTIONS YOU SHOULD ASK THE INSURANCE ADJUSTER

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I have been representing accident victims in their claims against insurance companies for the past 18 years. My office has handled hundreds, if not a few thousand, of accident cases during this time. Over the years I have seen how the insurance industry operates. How they deal with accident victims after they begin the claim process following an accident. I have seen the kind of procedures that are in place for the insurance adjuster to follow. I have heard how they use their protocols and scripts.

Most insurance adjusters are highly trained adversaries, and very good at what they do. People do not think this is the case. At least not in the beginning of the claims process when the adjuster is acting like your friend. As I am sure you are aware, it is the insurance company's job to make money. One way they do this is by settling claims for less than what the claim is worth. Insurance companies use sophisticated, yet simple methods to help it accomplish this goal. They also try to keep the money for as long as possible before paying the claim. This allows the insurance company to continue to earn interest on that money. You might think your claim isn't big enough for this to make a difference, but when you multiply that by the thousands of claims across the country it does.

Here are some questions that can make the insurance company uneasy and nervous. They do not like it when you ask these questions because they cannot answer the question or, the answer is one they do not like to give.

Question 1: Isn't it true that if I hire an attorney, I'm likely to receive more money in settlement than if I try to settle the claim on my own?

Answer: Don't be surprised if the adjuster lies to you and says "no" to this important question. This is incorrect. Most accident victims received larger settlements if they hire an attorney.

How do I know this? The Insurance Research Council (a nonprofit group funded by major insurance companies across the nation) conducted a study called "Paying for Auto Injuries". This study found that the average total payout on claims that involve an attorney is 4.8 times greater than those claims where the injured victim settled on his or her own. This same study showed that individuals who use an attorney receive 3.28 times more money after the attorney's fee is paid. Most insurance claims adjusters are aware of this study. To maximize profits the insurance company will train its claims representatives to go to great efforts to dissuade people from hiring an attorney. This keeps more money in the insurance company's pocket. They have protocols and scripts to dissuade you from hiring an attorney. There is even a script for what to say if you start talking about hiring attorney. There is a reason why big buildings in every city have insurance company's names on them.

Question 2: How can the insurance company ensure to me that the amount being offered to me is a fair and reasonable settlement?

Answer: It can't and it won't! The adjuster may tell you that settlement offer is reasonable and fair, but he can't verify or prove it to you. He can't tell you that everyone with similar injuries don't receive more. Unless you are in the business of negotiating and settling injury claims there is little chance you will know whether the settlement amount that is being offered is fair. By negotiating and settling the claim yourself without using the assistance of a professional (i.e., personal injury attorney) you run the risk of accepting a sum that may turn out to be much less than what is considered reasonable for your type of claim. Having this knowledge is invaluable. An attorney has his personal experience along with data from most of the civil trials in the state of Kentucky to use to help evaluate your case and tell you what is reasonable.

Question 3: Why do I have to give you a recorded statement when you can get information about the accident from the police report?

Answer: Because the insurance company will try to use your own statements against you! In most accidents a police report will be filed and the insurance company has easy access to this report (it just takes a written request and a small fee). So why is a recorded statement necessary? Most companies have written policies in place which require the adjuster to get a recorded statement to see if there's any information the accident victim might reveal which could be later used to either deny the claim or pay out less money when settlement occurs.

Now, as a practical matter the insurance adjuster needs to get your statement to settle your claim. If you are attempting to settle your case you will want to consider giving a statement. When this is done you must be prepared. The insurance adjuster takes statements on a regular basis. This may be the only one you ever give. I prepare my clients for these statements much the same way I prepare a client to give a deposition. The stakes are just as high. Make sure you understand the process and are prepared before you give a statement to any insurance adjuster, even from your own insurance company.

Question 4: If I give you a recorded statement, can I then get a recorded statement from you insured, i.e., the other driver?

Answer: No! It will not happen. This would be the fair thing to do. If you have to give a statement about the accident, then you would think would be entitled to get a statement from the other driver. Yet, the insurance adjuster will never allow this. They could give it to you yet they site company policy. You will not receive this until a lawsuit is filed.

Question 5: Why do I have to give you an unrestricted medical authorization before I can settle the claim?

Answer: The adjuster can go on a fishing expedition into your past medical history and find anything about your prior health if you sign a medical authorization without restrictions. This would help the company either deny your claim or pay out as little as possible. You can collect your accident-related medical records and send them to the carrier for their review when you attempt to settle your case. If you are not represented by counsel the carrier will probably not accept this. The attorney can usually put limits on the amount of medical information that needs to be disclosed. You should speak with your attorney before signing the authorization for medical records. I will make sure the insurance company gives me a copy of everything they obtain and limit it under most circumstances to the records from the current accident.

Questions 6: Shouldn't I wait to settle the claim until my medical treatment concludes or until I'm sure that I have made a full recovery?

Answer: The answer is yes, but the insurance company may tell you no. This is because the insurance company knows that the quicker you settle the claim the less money they will have to pay out. Once you settle the claim you can't reopen the case if it turns out your injuries are more severe or if you need more treatment as recommended by your doctor. When it is settled it is over for good. Most insurance companies have in place written directives to its claims department to settle every claim as quickly as possible. This is so the accident victim can't reopen the case later if the person's condition gets worse or additional injuries are disclosed. When it is over, it is over.

Question 7: Why hasn't anyone told me about Uninsured Motorist (UM) or Underinsured Motorist (UIM) coverage?

Answer: Many people do not know that they may have additional coverage under their own policies which will pay for the injuries and damages caused by a car accident. If the at-

fault driver has no insurance, or not enough insurance to pay for your damages, then your own insurance company is responsible for paying you additional compensation under the UM/UIM portion of your policy if you have this coverage. I have written a book on buying car insurance in Kentucky entitled "What You Don't Know About Buying Car Insurance Can Hurt You". GO to my web site, www.mikeschaferlaw.com, for information on how you can get your free copy. Many insurance companies don't want you to know about this coverage because it may mean that you are entitled to more compensation!

Question 8: If you are claiming that my medial treatment is excessive or unreasonable, will you pay my doctor to write a detailed report explaining why my treatment has been appropriate and related to the accident?

Answer: Of course not! The insurance company will always refuse this request. The claims adjuster has absolutely no medical training. This doesn't stop him or her from arguing that your treatment was excessive or unreasonable. Most insurance companies will pay to have your records reviewed by one of their own doctors though. They will gladly pay for this because they know what the report will say in most instances, And it will hardly ever help your case. This is one way the carrier will try to decrease the value of your claim hoping you will accept a much smaller settlement than what you may be entitled to. An experienced personal injury attorney on your side will help to solve this problem!

IMPORTANT

In the Commonwealth of Kentucky you only have two (2) years from the date of your accident or two (2) years from the date of the last medical no-fault payment, not to exceed four (4) years to settle your claim or file a lawsuit against the at-fault driver. This is called the statute of limitations. The insurance company may intentionally delay and drag out the settlement process. Before you know it, the statute of limitations is right around the corner. The insurance company knows that you only have a certain amount of time to settle your claim and if you're backed

up against the SOL, there is a good chance no reasonably good attorney will take your case. You will then be forced to accept a settlement that is virtually pennies on the dollar of the true value of what the claim is worth. Don't fall into this trap! The bottom line is to be prepared. By knowing the processes you will help protect yourself and increase the value of your accident case.