

# The Miami Herald

---

## BUSINESS MONDAY

February 8, 2010

### Submit documentation with insurance claims

BY R. HUGH LUMPKIN  
SPECIAL TO THE MIAMI HERALD

Owners and operators of Florida businesses, as well as individual policyholders, often ask what they can do if they believe their insurance companies have underpaid or wrongly denied their claims. They can fight back, when appropriate, under the state's "bad faith" law (Section 624.155 of the Florida Statutes).

Under the bad faith statute, an insurance company that has unjustifiably refused to fully pay a claim can be liable for not only the amount of the claim but also for any damages that were a consequence of the improper claim decision. In addition, under certain circumstances, the insurance company can be liable for punitive damages that exceed the amount of the claim or the limits of the policy.

To understand the concept of bad faith, one must first understand that insurance companies owe three basic duties to their policyholders under Florida law:

To adequately investigate the claim

To defend the policyholder against legal action where there is even a potential for coverage

To indemnify the policyholder (that is, to pay legitimate claims).

An insurance company can face bad faith liability if the insurer is found to routinely breach those duties, among others. The following are common examples of wrongful practices by insurance companies:

Failing to promptly and thoroughly investigate the claim.

Misrepresenting facts or the terms of a policy in order to pay out less than what is fairly owed.

Failing to communicate with the policyholder.

Employing delaying tactics.

Making an unreasonably low settlement offer.

Here are a few tips in dealing with your insurance company after you have submitted a claim:

**Document everything.** Keep copies of all correspondence with your insurance company and take notes of all telephone and in-person communications with any insurance company representative. Take plenty of photographs, and make sure you note the date and location.

**Be cooperative.** Provide any information or documentation the insurance company requests (and keep copies of everything you provide).

**Don't procrastinate.** If your insurance company denies or underpays your legitimate claim, contest the decision promptly and courteously.

If you suspect your insurance company has wrongly denied or underpaid your claim, or that it has acted improperly, you may want an attorney to help you pursue your rights. Florida insurance laws provide for fee-shifting, which means that if a policyholder sues his or her insurance company and wins, the insurance company can be required to pay the policyholder's legal bills.

**R. Hugh Lumpkin** is a shareholder in the Miami law firm **Ver Ploeg & Lumpkin**.