

CAPITAL INSURANCE AGENCY OF WISCONSIN

Do I Have To Sue?

This is a brief discussion on mediation and arbitration, alternatives to resolving insurance policy disputes.

It's Still A Contract

The insurance policy may cover your home, car, boat, life, airplane, jewelry or business, but one element remains the same, the policy is a contract. This written agreement is, at the core, a promise from the insurance company to pay you if a covered loss occurs. But, even when the promise is fulfilled, there may be a serious dispute over the amount of payment. Quite often the method used to resolve the problem is a courtroom.

Need For Alternatives To Lawsuits

In many instances, filing a lawsuit is unavoidable. For instance, when a person seeking coverage has his claim denied, a lawsuit may be the only action that is available. However, looking for satisfaction in court can be its own problem. Court calendars (dockets) are often backed up so it could take months or even years before a hearing can take place. When the trial begins, it can take a long time, possibly involving one or more appeals. The legal costs can be staggering. Depending upon the case's complexity, it will involve court costs, filing fees, attorney costs, research costs, fees for expert witnesses and a host of other expenses. These factors increasingly act as incentives for finding other methods to resolve disputes.

Alternative Dispute Resolution

When disagreeing about the amount that should be paid for a loss, there are a couple of popular alternatives to suing your insurance company: mediation and arbitration. Each is a form of Alternative Dispute Resolution (ADR) since they can be tried as an alternative to going to court.

Mediation - This process involves the two parties meeting to discuss their situation with the help of a mediator. The mediator typically has special training and a legal, financial or similar background. As a disinterested party, the mediator studies information from both parties concerning the dispute. Once familiar with the situation, he arranges to meet with the parties. A mediation session often starts with each party having a chance to fully explain their position to the other party and the mediator. The facilitator then takes time to discuss each party's position in private. Afterwards, the mediator shuttles between the parties and, probing and using the information he gains, he tries to reach a point where both parties can agree on a settlement. The most important features of mediation is that the process is voluntary and the disputing parties are actively involved in reaching a solution.

Arbitration - This is a method that is frequently required by a condition of an insurance policy. With arbitration, you and the insurer each select a representative (arbitrator). Once the arbitrators are selected, they agree on another arbitrator who acts as the arbitration judge. The three persons discuss the merits of the situation and, once any two of the three persons agree on a settlement amount, the process ends. Arbitration differs from mediation in two important respects. First, the disputing parties are bystanders, awaiting for a decision to be made. Second, arbitration is binding on both parties.

Is any course of action perfect? No, but sometimes it is good to know that, when a disagreement occurs, you have more than one option to get it settled. If you need more information, an insurance professional is an excellent source.