

Alternative Dispute Resolution

Whether an insurance policy covers your home, car, boat, life, airplane, jewelry or business, it is a legal contract that exchanges an insurance company's obligation to pay for certain losses if the person covered by the policy pays a required premium. Yes there other, very important parts to insurance contract; but the preceding states the essence of any insurance policy. When a serious dispute arises, a courtroom often becomes the setting for resolving the matter.

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. But seeking 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. Trials may be followed by one or more appeals. The legal expense can be staggering, involving court costs, filing fees, attorney costs, research costs, fees for expert witnesses and a host of other expenses. Time and cost considerations are great 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 are alternatives 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 sides of an argument. Once familiar with the situation, he arranges a mediation session.

Mediations begin with each party fully explaining their position to the other party and the mediator. It is critical that each party is able to explain their side of the issue without interruption. 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 gained, he or she tries to negotiate a settlement. The most important features of mediation are 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 an insurance policy provision. Under arbitration, the insured 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, waiting for a decision to be made by their selected representatives. Second, arbitration is (generally) binding on both parties.

Is any course of action perfect? No, considering the cost and time involved with lawsuits; it makes sense to take advantage of other options to handle high-stakes disagreements. If you need more information, an insurance professional is an excellent source to navigate you toward understanding alternative ways to reach agreements.

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