

When Your Insurer Reserves Its Rights

If you want to avoid expensive problems later, you should understand (1) what it means when your carrier reserves its rights; (2) how insurers reserve their rights; and (3) how to respond when they do. Understanding these insurance fundamentals can prevent surprises.

What Does It Mean When Your Carrier Reserves Its Rights

Whether you (1) make a claim under a liability policy because someone has sued you, or (2) claim damage to your own house or car, your insurer might respond by reserving its rights.

That often means the carrier believes, based on the facts before it, that it is at least possible that your claim, or some part of it, might not be covered. That in turn means it might decide not to pay to defend you against a lawsuit, or it might decide not to pay some or all of what you claim as losses. If you are counting on payment, that could complicate collecting.

How Will You Know Rights Have Been Reserved

Your insurer will most likely tell you that it has reserved its rights by saying exactly that in a letter. But if a claim handler tells you in a conversation that the company is reserving its rights, insist on getting that position in writing.

The letter may just offer a general reservation of rights. Indeed, many carriers include closing language to every letter they send stating something like "we are investigating this matter under a full and complete reservation of all our rights." Such a statement does not offer much clue as to the carrier's coverage position.

Some states, however, require that carriers set forth in detail the reasons behind their reservation of rights. And many well-run companies provide such notice even in states that do not require it. Those letters may cite specific policy language and discuss why or how the current facts might not support coverage given those contract provisions. Letters like that give you a better idea of where the company stands, which helps you decide how to respond.

What Do You Do When Your Insurer Reserves Its Rights

When you get a reservation of rights letter with any sort of detail, that strongly suggests that your carrier may deny your claim. That means you need to evaluate your risks against the costs of action.

These three questions help:

- 1) Would paying the amount at stake by yourself hurt?
- 2) Is someone suing you for more than your policy limits?
- 3) Did your insurer advise you to consult your own lawyer?

If you answer yes to any one question, you probably should at least talk to a lawyer. If you answer yes to all three, call a lawyer now.

A Lawyer Can Guide You Through A Complicated, Confusing Process

When a carrier reserves its rights, they may be looking for more information to help deny your claim. A good insurance coverage attorney can help you navigate the claims process and moderate what information you share in a way that helps protect your rights without breaching your duty to cooperate with your insurance company. They should also be able to give you at least rough estimates as to what it would cost to help maximize your insurance recovery in the face of a possible denial. You can then balance that cost against the amount at stake.

Using Your Own Lawyer Helps Protect Your Own Interests

When someone sues you for more than your insurance policy limits, that can often create a conflict situation between you and your carrier. You would rather have the case settle within policy limits than risk even an outside chance at a larger verdict. Your carrier, however, might not want to pay all its policy limits.

For that reason, you may not want a lawyer hired by the insurance company to defend you without any oversight. Instead, you will likely want your own lawyer to advise you on the situation. That lawyer can also make sure the insurance company lawyer is helping you.

Of course, if your insurer actually tells you to find your own lawyer, don't wait to follow that advice.

John J. Rasmussen founded the Insurance Recovery Law Group, PLC after nearly a decade of working for insurance companies. You can learn more about him and his practice at www.insurance-recovery.com. You can contact him at jjr@insurance-recovery.com.