

## The Ten Habits of Highly Effective Coverage Adjusters

by Kevin Quinley, CPCU, AIC, ARM



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As the football game is tied in the closing minutes, the offense gets set to gain yardage. The ball is snapped, the quarterback drops back to pass and throws to an unguarded wide receiver, who sprints to the end zone for a game-winning score. The opposing coaches shake their heads, as no defender picked up the wide receiver. In football parlance, this is a “blown coverage.”

Blown coverages exist beyond the gridiron, though. They can seep into the arena of insurance claims. Coverage is a bedrock component of claims handling, but it often gets short shrift in the triumvirate of coverage, liability, and damages. There is an unspoken sense that liability and damages are where it’s at. Analyzing coverage seems so, well, b-o-r-i-n-g [YAWN].

Nevertheless, if there is no coverage, you do not pass GO and do not collect \$200 ... or policy proceeds. If there is no coverage, then—to an extent—liability and damages are moot. Further, probably more bad-faith claims arise out of bodily injury coverage issues than they do out of disputes over liability or damages. A truly skilled claims professional needs to be adept and embrace best practices when handling insurance coverage.

What are the ten habits of highly effective coverage adjusters? I submit that they are as follows, in no particular order:

**#1. They read the policy.** Not just a sample copy of the policy, but the actual policy issued that applies to the loss in question. They don’t skim. They dig in and read the policy. This includes endorsements, amendments, and schedules that list additional insureds. They do not rely on their memory from having seen similar policies on past claims. They sweat the details and carefully read the policy that pertains to the claim in question to see whether any conditions or exclusions apply.

**#2. They get an underwriting perspective.**

They touch base with the underwriter on coverage questions, particularly sensitive coverage questions or gray-area situations. They do not cop out by looking to underwriters to make the tough calls or decisions, but they do get the underwriter’s perspective—for what it’s worth—to see what he or she thinks about the situation and the availability of coverage. Was the scenario presented by the claim one that the underwriter envisioned as covered or not? Is there anything the adjuster may be overlooking that the underwriter can shed light on to bear materially on the decision to cover or decline? What does the underwriting file reflect? I have seen situations where the adjuster stakes himself to a coverage stance, and there is a memo from an underwriter taking a diametrically opposite position on the same issue. Mr./Ms. Adjuster, try explaining that when the policyholder’s attorney takes your deposition in the coverage litigation or bad-faith trial!

**#3. They get the agent/broker perspective.**

Again, the adjuster is not looking to the broker or agent to make the tough calls, but sometimes the intermediary can shed light on a coverage situation that should be weighed by the adjuster in making decisions. Admittedly, in the case of brokers, the latter will likely be advocates for the policyholder. (That may be the case with agents as well.) Therefore, this predilection should be factored in; nevertheless, the adjuster should use the agent or broker as a sounding board to see whether there are any facts or angles on the coverage issue that the adjuster may have overlooked.

**#4. They seek internal sounding boards.**

Two heads are better than one. This applies to coverage analysis and decisions. Superb coverage adjusters bounce ideas off co-workers, supervisors, and bosses. They proactively schedule roundtables among claims staff on ticklish coverage situations. They avail

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themselves of the expertise around them to get various perspectives before making coverage decisions.

**#5. They are objective.** They approach coverage analysis and determination on a level playing field, not looking for ways to deny coverage or grasping at straws. They ask themselves, "What might a neutral trier-of-fact decide in interpreting this policy exclusion or condition?" Superb coverage adjusters do not give extra weight to factors that would undercut coverage or discount factors that support a pro-coverage stance.

**#6. They play devil's/insured's advocate.** They try to walk a mile or more in the policyholder's shoes by dispassionately viewing the landscape from the insured's vantage point. They ask what-if questions such as, "What if the policyholder argued the following?" They try to think of holes that opposing counsel or others could poke in the adjuster's coverage analysis and stance. Are there multiple ways that a particular word or phrase might be interpreted? Is there a key word in the policy that is a linchpin of the adjuster's coverage reservation or denial, a term not defined in the policy? Does the term have different shades of meaning that could affect the availability or nonexistence of coverage? Could reasonable minds differ on this point? If so, why is the adjuster not "awarding the tie"—a la baseball—to the policyholder?

**#7. They seek advice of coverage counsel.** Superb coverage adjusters know that no matter how bright and thorough they are, they have limitations. Before acting precipitously, they seek the advice of outside attorneys. They are not looking for a yes-man or yes-woman but rather an attorney who will give them an objective assessment as to the strength or porosity of a coverage stance. Nor do they dally in making the referral to coverage counsel. They make the coverage assignment with a sense of urgency and communicate that urgency to coverage counsel.

**#8. They see the big picture.** They realize that business relationships are often at stake in coverage decisions. This does not mean

that the adjuster plays to the peanut gallery or renders coverage interpretations based on what is most likely to be popular. However, superb coverage adjusters understand the business ramifications of coverage decisions. In some cases, there may even be marketing implications. At a recent insurance law conference I attended, a policyholder attorney incredulously reported a situation where an insurer spotlighted the claim in a print ad that touted the breadth of this coverage when, simultaneously, it litigated coverage against that same policyholder. In other words, through its marketing, the insurer boasted about the quality of the protection while it fought its policyholder by insisting that the claim wasn't covered. You can't make this stuff up!

Also, superb coverage adjusters take a realistic perspective. Yes, you could reserve rights based on late notice or because the suit papers include a noncovered punitive count. However, if you reserve rights, you open the door for the policyholder to insist on independent counsel, which is waiting in the wings and eager to bill at \$600 an hour. Is the remote chance of a successful denial based on late notice worth a real risk of relinquishing control of the defense? In some cases, the answer may be yes. Moral: think it through and don't just shoot out a reservation of rights because it is item No. 6 on some claims checklist.

**#9. They operationalize lessons learned.** Whenever an adjuster feels that the company has gotten tagged with a claim that it had no business covering, superb coverage adjusters execute a feedback loop with the underwriting staff. They bring the situation to the attention of underwriting staff. They might even (diplomatically) venture suggestions on policy wording revisions that could close such loopholes. At a minimum, they sensitize underwriting to the fact that certain types of risks are being addressed that the pricing structure may not have contemplated.

**#10. They're not into collecting pelts.** Superb coverage adjusters do not measure their professional effectiveness by the number of cases they deny or the number of reservation of rights letters sent. While they are vigilant in

spotting coverage issues and acting on them, they do not keep score or view it as a badge of honor to decline coverage. I have served on numerous bad-faith cases where at issue was the insurance company's scorecard-like tracking of coverage denials. Some might post copies of successful denials on a prominent wall in the claims department. Others might reward a clever adjuster good at spotting exclusions by centralizing review of all coverage letters with that individual. Other companies may award bonuses for contributing to the company's financial performance through successful claim denials.

These are all examples of collecting pelts that can quickly create a dysfunctional culture within the claims department and be a virulent breeding ground for bad-faith claims.

A brief disclaimer: As one who periodically serves as an expert witness in bad-faith litigation, I would like to stress that these are aspirational standards and do not necessarily represent the current standard of care for adjusters or claims operations. They are simply one observer's perspective on sound practices—if not best practices—for adjusters who excel at handling coverage.

Coverage-savvy adjusters are valuable assets to their organizations. They contest claims that merit resistance. They deliver on the promise when coverage is in order. They avoid hasty decisions that can lose customers or risk bad-faith lawsuits.

Cultivate these habits of effective coverage adjusters to become a claims all-star on your winning team!

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