



July 21, 2022

Texas Department of Insurance
333 Guadalupe St
Austin, TX 78701

Cc: Public Counsel Melissa Hamilton of the Texas Office of Public Insurance Counsel

Re: Unfair Delay of Insurance Claims by Auto and Homeowners Insurance Companies

We, the undersigned consumer groups, write to urge the Texas Department of Insurance (TDI) to investigate the delaying of insurance claims in order to avoid paying consumers what they are rightfully owed. Recent news articles suggest that insurers are treating consumers unfairly and violating Texas law. Specifically, they are likely violating Chapter 542 of the Texas Insurance Code, which states that unfair claims settlement practices include “not attempting in good faith to effect a prompt, fair, and equitable settlement of a claim submitted in which liability has become reasonably clear.”

An insurance defense law firm—Colvin, Saenz, Rodriguez, & Kennamer—recently published on its website a blog post urging insurers to delay valid claims in order to maximize their profits, as [Dallas Morning News reporter Dave Lieber explained in his Watchdog column](#). The post states that delaying the payment of claims can bring “a number of benefits” to insurance companies.

The blog post violates all standards of good faith and fair dealing and fair claims settlement. The Department of Insurance has the specific authority to investigate and punish the delaying of claims, and it should respond by thoroughly scrutinizing the insurers who are clients of this firm.

Insurance is an essential and often mandatory part of our lives—Texas requires all drivers to purchase auto insurance and lenders require property insurance for anyone who has a mortgage. When valid insurance claims are filed, it is critical that insurance companies promptly evaluate these claims and pay the full value of a claim in a timely fashion.

This blog post counsels insurers to delay policyholder claims even if these claims are sound. Specifically, the post states:

Companies that delay claims may experience a number of benefits...delaying a claim puts pressure on policyholders. These individuals may be dealing with mounting bills for property damage, legal fees, and medical expenses. Most people cannot afford to

continue fighting insurance companies for a prolonged period of time. This means that most plaintiffs will be forced to settle for a favorable amount instead of continuing to negotiate with insurance companies for an extended period. In other words, delaying claims forces policyholders to accept lower settlement offers.

The post also argues that when insurers face many property damage claims, “they can delay some of them in order to avoid mass payouts all at once.” Such practices are particularly concerning for Texans, as there have been numerous recent disasters, including wildfires, winter storm Uri, and hurricanes. Disasters are hard enough for individuals and families to navigate without adding the possibility of delay tactics by property insurance providers.

Immediately after the two passages highlighted above, the post cautions that companies need to be careful about how they delay claims, or they could face legal action. Once exposed, the law firm quickly took down the blog post.

All too often insurers use unfair delays and drawn-out processes to deny consumers the payments they are rightfully owed. They may be very slow in responding to someone’s claim or in communicating about its various aspects. Insurers may require excessive documentation or information that they do not need, knowing it will take significant time and effort for consumers to acquire this. Finally, some companies may simply not respond to claimants after they refuse a lowball settlement or request their own settlement—this is done to frustrate consumers into accepting whatever offer the insurers present. It is important to ensure that these companies are treating consumers fairly and that if not, to uncover how widespread this misbehavior is.

The Department should assume that the insurers that retain this law firm may be following their advice to unfairly delay claims. As such TDI should:

- 1) Pursue a market conduct examination of each insurer with consumer complaints related to delayed payments or other evidence raising concerns about the practice. The examination should determine if affected policyholders are experiencing a higher number of delayed claims, report this information to the Legislature, and issue a public report with this information.
- 2) Issue a bulletin detailing these tactics as violations of the requirement for good faith and fair dealing in the handling of insurance claims. As we previously mentioned, insurers’ wrongful delay of claims violates Chapter 542 of the Texas Insurance Code.
- 3) Place meaningful penalties on insurance companies that drag out the process and slow pay their policyholders. Insurers should not be able to shrug off fines for unfair treatment of consumers as “the cost of doing business.”

If Texas’s current laws are not strong enough to protect consumers against unfairly delayed claims, the Legislature should consider additional protections. The disproportionate power that insurance carriers have over policyholders is easily abused, especially during times of great need. TDI must ensure that these companies are treating consumers fairly.

Please contact us at mdelong@consumerfed.org if you have questions.

Sincerely,

Consumer Federation of America
Texas Appleseed
Texas Watch