

National Underwriter

THE LEADER IN PROPERTY & CASUALTY NEWS

■ MOST DIFFICULT CASES

Claims Can Take Weird Twists & Turns

Industry vets share war stories about misunderstandings, tragic events and feuds

BY MATT BRADY

YOU DON'T HAVE TO WORK LONG IN the insurance business to realize that not all claims are alike. Indeed, while most are routine, open-and-shut cases, agents, adjusters and other industry players often have to cope with unusual circumstances, bad luck or simply the human factor—any one of which can make it tough or even impossible to figure out exactly what happened when a loss is reported.

National Underwriter spoke to a few industry veterans on the front lines of claims-handling, gathering war stories involving simple misunderstandings, tragic circumstances and outright feuds hindering the resolution of mysterious or contentious claims.

EGG-SCUSE ME?

One classic claim tale shared by Randy Wheeler, founder and chief executive officer of San Ramon, Calif.-based Valley Oak Systems—a claims administration and risk management solutions company now part of the Aon family—involved what he referred to as a “fertility facility.”

“Eggs were not matching up with tracking,” prompting the question of “who’s who?” he recalled, and presenting a difficult case for the adjusters.

“From a liability standpoint, how do you investigate that?” he said. “Do you ask everyone who’s been there, ‘Please do a DNA test to make sure your kid is really your kid’? There’s no claims manual for that.”

Sometimes adjusters just find themselves caught in the middle of a larger, if more local fight.

FAMILY FEUD

Mike McCartin of College Park, Md.-based Joseph W. McCartin Insurance mentioned how

one adjuster ended up in the middle of a “Hatfields versus McCoys-type situation” over a partially paved driveway.

“This was already an ongoing dispute” between two neighbors, he said, explaining that the insured had at one point owned both plots of land but had sold one. “There was already tension in the air.”

Since then, they had each wanted to re-acquire the plot, and friction between the two was high. The two neighbors shared a driveway, and the insured had re-paved their portion of it down to the point where the driveway split to lead to each house.

The neighbor filed suit. “They claimed it created an erosion problem,” Mr. McCartin explained, adding that the suit also said the runoff from the driveway polluted the local tidal basin.

There had been some wrangling between the two parties before the claim was brought, according to Mr. McCartin, but he also noted that the suit was worded in a way that was designed to trigger insurance coverage.

“The first thing they told the insured,” he said, “was, ‘Show this to your insurance company.’”

Ultimately, Mr. McCartin noted, the lawsuit was settled for “\$21,000 and change,” although the lawyers’ fees for the case totaled \$146,000. “It was a brawl—an all-out brawl,” he said.

Another claim, Mr. McCartin recalled, showed what can happen when a mountain is made out of a mole-hill.

“This was a low-speed crash,” he said, in which an insured rear-ended the car in front of them, which was driven by an older woman. As with any accident, the involved drivers got out, and everyone seemed to be all right.

“It was no big deal,” according to Mr. McCartin, who added that insurers ultimately paid \$1,700 to fix the car that was struck and noth-

ing to fix the insured’s car.

Unfortunately, a friend of the driver whose car had been hit arrived on the scene, and, as Mr. McCartin put it, “began pitching a fit,” escalating what had been a simple exchange of information.

The increased tension at the scene proved to be too much for the woman whose car had been rear-ended. She began hyperventilating, had a heart attack and died.

“This was a ‘get the information and let’s go’ kind of deal,” Mr. McCartin said, “and the next thing you know, she’s dead.”

Ultimately, Mr. McCartin noted, the insurer involved provided a simple solution for this difficult situation. “They cut a check up to the policy limits,” he said.

A third difficult claim cited by Mr. McCartin involved the tragic death of a young man working for a gardening company. The worker was part of a crew operating a large scale mulcher attached to the back of a truck and used to spread mulch over large areas.

When something caused the machine to malfunction, the young worker was told to go to the front of the truck and shut it off so the problem could be sorted out. Instead, however, he apparently climbed up to look in and see if there was something clogging it, and unfortunately fell in and was killed.

“He was allegedly a minor,” Mr. McCartin said, noting that the local paper ultimately reported the victim as being 17, with the papers he presented to the gardening firm turning out to be fake.

“As soon as it was in the papers, there were lawyers all over it,” Mr. McCartin said. “They were suing for the world.”

While tragic, the case seemed a pretty straight-forward workers’ compensation claim, and Mr. McCartin did not place that particular coverage for the company. He did,

however, place the general liability coverage, and his client faced a lawsuit over the incident.

"They were trying to claim that he wasn't an employee, because of his age," Mr. McCartin said, adding that since the worker had no dependents, there also would not be a large workers' comp claim.

The lawyers involved "were putting it all out there," he said. "They were looking for the deepest pocket."

In fact, he said, the workers' comp carrier refused to cooperate or speak with him at all on the claim despite the fact that both insurers were facing lawsuits.

Ultimately, Mr. McCartin said, the liability suit was settled for a fairly large amount of money, although not near what the lawyers for the dead employee had been seeking. "They pretty much let us go," rather than push for trial, he said. "I think they knew they were on shaky ground."

WELCOME TO THE JUNGLE

Sometimes claims can become difficult for the simplest of reasons, as the University of California found. Kevin Confetti, risk manager of workers' comp for the school, told a story of a professor who had gone to New Caledonia, in the South Pacific, looking for some kind of insect in the jungle.

"He fell out of a tree and into a ravine," suffering a compound fracture, noted Mr. Confetti—adding that it was 18 hours before the professor was found, leading to an additional "severe infection" of the wound.

Eventually, the professor was taken to a hospital, and that's when Mr. Confetti noted that numerous other issues kicked in.

"How do we get him proper medical treatment?" was the first and foremost challenge, and the circumstances did not provide any help, he said.

For example, communication between the hospital and the university was complicated

by the fact that locals in New Caledonia speak French rather than English.

Additionally, he pointed out, "the time difference was huge," creating difficulties since New Caledonia is 18 hours ahead of California.

Ultimately, Mr. Confetti said it was "about two weeks" before the professor could be flown home, and the university faced additional questions about whether to fly someone out to accompany him on the return trip.

He noted that the university had purchased a business travel insurance policy from AIG and was able to make use of the insurer's resources to get the professor home safely.

The professor has since made a full recovery, but Mr. Confetti said the experience demonstrates what universities and other institutions can face.

"That's the tough thing, just by the nature of what we do as a university in research," he said, while also citing the university culture, where it can often be "tough to control a professor" in the field.

"A lot of their research is based on doing things that are risky. It doesn't matter if it's in Iraq in the middle of a war. It's very hard for us to limit professors in what they do," he said.

He did add, however, that the university asks professors to at least keep their department superiors informed of what they're up to while in the field. Unfortunately, he added, "they don't always tell us."

Finally, some unusual claims are just cases of old-fashioned bad luck.

Marc Dubois, a Florida-based claims adjuster, recalled an incident involving an open septic tank, a deaf farmer and his unlucky tenant.

"I received a liability claim for my insured—a retired, deaf farmer," he recalled. "He rented a small cottage-like structure to a woman of a certain age, and this structure was adjacent to

the main house."

Given the property's rural location, it had a septic system, which needed to be emptied periodically.

"Unfortunately, the operator of the pump truck forgot to install the cover to the tank," Mr. Dubois noted. "That evening after dark, the tenant, out for a leisurely stroll, walks across the lawn and ends up falling into the tank—where, after screaming her lungs out, she unfortunately stayed until morning, when the owner ambled over to find his tenant in the tank."

Perhaps the most surprising aspect of all in the story, however, is that "the claim was only for her clothing and shoes, which the tenant had preserved for me in a paper bag."

Mr. Dubois had an experience of his own, which—while not necessarily a case of bad luck—certainly was one of unusual and somewhat awkward circumstances.

In the salad days of his over-30-year career as an adjuster, Mr. Dubois said he was assigned a liability claim filed by a gentleman's club. "Apparently, one of the dancers had been injured by a patron," he recalled.

Mr. Dubois phoned the young woman and made an appointment to take her statement on what he said was a warm July afternoon.

"When I arrived at her home, decked out in a suit and tie and jacket—as required by my employer—I was confronted by a very busty blonde sunbathing nude in her enclosed porch," he said. "For the approximately one hour that it took to take her statement she remained unabashedly in a total state of undress. I wished I could keep focused on the task at hand in the 90-degree heat."

While Mr. Dubois may have been keenly aware of the awkwardness of the situation, the young woman, apparently, either did not pick up on, or concern herself with his discomfort.

"When I left, the claimant simply wished me a good day as if nothing was amiss," he said. ■

Reprinted with permission from National Underwriter P&C. Copyrighted 2007 by The National Underwriter Company. All Rights Reserved.



As seen in *National Underwriter, P&C*