

WHAT TO DO WITH INSURERS THAT WON'T COVER YOUR CLAIM?!?

El Derecho Del Pueblo

Columna de comentario [Social Justice Risk and Policy](#) abogado y maestro Matthew "Mateo" Katz.

The People's Right

A column of social comment [Distajman](#) legal advice by attorney and teacher Matthew "Mateo" Katz.

Imagine that you are driving to work one morning, passing through a green light, when a drunk driver comes thrashing through the intersection and smashes right into the side of your car! Your 2005 Cadillac Escalade with all the fancy rims and tinted windows, 100-CD player in the rear and your cute baby sneakers that hang from your rear view mirror are all for naught – your car is totaled.

So, of course you file your claim with your insurance agency, because the schmuck that ran into you has no insurance – surprise, surprise. “Thank heavens,” you say to yourself, “I bought the best insurance policy, the one that cost the most, in order to make certain you would have coverage for your losses in a case just like this. Yes- you bought insurance from Top-Dog-Super-Star Insurance Company, and are ready to cash in on your wise decision.

Next, you call your insurance agency and tell them everything that happened. You're told they'll get right back to you – but you don't hear anything for several days. You call them back, and they tell you that they think you are the person who manufactured the accident, that it was your cousin who hit you in order to make it look like an accident – that all you wanted was a new car. WHAT!?! You can't believe this! And you owned a 2005 Escalade!

Okay, so what do you do? You speak to an attorney and file a lawsuit under 215 ILCS 5/155. What's that? It's an Illinois law that creates a cause of action (lawsuit) against an insurer who engages in “vexatious” and/or “unreasonable” delay tactics in order to avoid coverage of a rightful claim under your policy. This law provides that if your insurance company fails to promptly and justly compensate you for what is an obvious loss covered by the policy, they must pay for the loss and beyond.

The law says that the insurer, if a court finds that indeed the company did engage in vexatious or unreasonable behavior in denying the payment of your claim, can be held responsible for the claim cost plus 60% of the cost, not to exceed \$60,000, as well as your attorneys fees for prosecuting the cause of action.

There are a few other points that every insured individual should know. If you are involved in an accident and you are sued, an insurer has a duty to defend, meaning that they must hire a law firm to defend you in court.

Also, if the terms of your policy given to you on your certificate of insurance grant you more coverage than that spelled out in the actual policy, those terms on the certificate will often control.

Finally, if you have a problem with your insurer where you think they are acting unjustly, in addition to speaking to an attorney, file a complaint with the Illinois Department of Insurance at <http://www.ins.state.il.us> or call them at (312) 814-2420.