Pesk Business
DEALING WITH NUISANCE CLIENTS
By CIP Society/Canadian Insurance Magazine

In the middle of a cold December, things were heating up for a harried claims representative. It seemed that there was never enough time in the day to accomplish all his work. Moreover, the company was approaching its month-end, quarter-end, and year-end simultaneously, and senior management was encouraging staff to wrap up matters as quickly as possible.

Amid the daily challenges, the claims representative found himself managing the file of a difficult and abrupt claimant. Each step in the process, from telephone conversation to emails and letters, was adversarial. The situation was not totally unfamiliar as the claims rep considered that aggravation often comes with the territory, but this time it seemed different. The reason for the claimant's behaviour was unclear and he was demanding an inordinate amount of attention. The claim wasn't particularly large; in fact, it was rather small. Yet this file was rapidly becoming a distraction and a nuisance.

Feeling pressured, the claims representative was unsure what step to take next. It was tempting to give the claimant what he wanted – although it would have been excessive – and thereby free up time to focus on more important matters. After all, whom would that hurt? What would be the best course of action to take? Is there a bigger picture to consider?

Laura Ro (B.Ed., BA Hons, CIP), examinations manager, Insurance Institute of Canada, IIO-GTA’s Instructor of the Year
This is a situation that every claim representative has faced. Even a typical day for a claim representative, and for many others working in the insurance industry, is extremely busy with tight timelines and other stresses. However, being under pressure is not a valid reason on which to base a decision. Judgments should always be based on sound ethics and good faith. Most often the easiest answer is not the most ethical answer.

In this particular situation, the most expedient short-term solution would be to settle the claim for the amount that is being asked by the claimant and close the file. At face value it may seem that this would not “hurt” anyone and would actually make the claimant happy. Remember, however, that a seemingly simple decision on a small matter can often have far-reaching consequences.

To make an ethical decision in this situation, we must go back to one of the basic principles of insurance: An insurance policy is a contract of indemnity. In the event of a loss, insureds should be put back in the same financial position as they were prior to the loss – not better, but not worse. It would also violate the “fairness” principle to reward this claimant for his ornery and rude attitude. As professionals, we should not be influenced by a claimant’s behaviour.

When we settle a claim, we have to remember that we are using policyholders’ premiums. It is a claim representative’s ethical responsibility to spend our policyholders’ dollars fairly. If we were to continue to make the decision to settle all claims for an unreasonable amount of time and time again, our claims costs would rise, which would result in an increase in premiums for policyholders.

In addition, we must consider the precedent that is being set when deciding to settle a small claim for an inappropriately larger sum of money. The insurance industry must try to maintain its image and justify to policyholders why their premiums are what they are. When people hear of settlements of this nature, two things can happen: Other policyholders will become upset and be to settle the claim for an amount that is being asked by the claimant and close the file. At face value it may seem that this would not “hurt” anyone and would actually make the claimant happy. Remember, however, that a seemingly simple decision on a small matter can often have far-reaching consequences.

In the end, my suggestion would be for the claim representative to review the file and discuss a settlement in an objective and professional manner for a fair and reasonable amount with the claimant. If that attempt fails, abide the file and continue to handle the claim in an ethical manner.

There is nothing as stressful as not having enough time to address all the issues that need to be taken care of immediately. Ideals and best practices do not seem to carry the same importance when people are breathing down your neck. However, it is at this particular time that it is more important than ever to ensure that the right thing is done. Anyone can follow the correct path when the sun is shining, but it is the mark of the true professional to do the right thing when the going gets rough.

In this situation, the adjuster must use his training in ethical negotiations to shift the pressure from him to the claimant, where it really belongs. If the file in question was soundly investigated, including legal research into liability and quantum, the adjuster is on solid ground to make an offer of settlement. In the absence of an equally well-researched and reasonable counteroffer, the adjuster should maintain his position and advise the claimant as to the next step they should take in the proceedings.

Often it is a good tack for the adjuster to explain to the claimant, and in doing so remind himself, that he must answer for his actions at some point in the future. Adjusters too often worry more about the resolution of the file than the process that gets them there. If the correct claims handling procedures are followed on every file, the vast majority of files will be resolved – and all according to ethical and best practices.

It's also important to recognize that whether it is someone's debut dive off the 10-metre board or initial bank robbery, the first time is always the hardest; the next time is nowhere near as difficult. This pertains equally to that first slip from ethical claims handling. This adjuster should not be questioning how to make things easier but ought to be considering what should be the next step in the claims process.

Martin Pinney, quality and professional standards, Crawford and Co.

The only other comment that I could add would be to suggest that the adjuster discuss the matter with his supervisor or manager for assistance. Sometimes another set of eyes helps put a difficult situation into focus. Although we don’t know if the claimant is an insured or a third party, there is no contractual obligation to a third party and there comes a time when the adjuster’s offer is final.

If we have fairly fulfilled our obligation under the policy and have advised the insurer accordingly, there are occasions where we might solicit the help of the broker, or at least advise the broker of the circumstances in the event the claimant calls there to complain.

Richard Verreault (FPAA), expert en sinister, vice president for Quebec, SCM Adjusters

As claims adjusters, we frequently face such situations. First, avoid falling into a reactionary position or “negative trap”...
with the claimant. Try to identify the reasons behind his attitude and show sincere empathy and active listening, which could help you identify the source of the conflict in relation to the liability and quantum aspects. Politeness, humour, and the right tone can make an important difference in cordial and professional relations – better than fuelling a hostile conversation that could result in a complaint.

Second, explain the details of our mandate as well as the context and the minimum procedures required to proceed with the investigation, evaluation and settlement of the loss. Your training and education dictate the established process. It is very important to remain open to the claimant’s questions and to give direct and precise answers by helping him to understand the advantages, in his favour, of allowing the adjuster the time to grasp the details and circumstances of the case and evaluate the claim professionally.

Third, if the details and circumstances reported allow for the adjuster to complete the investigation rapidly and establish liability, advise the claimant immediately of the position and the rationale that motivates it. As for the quantum aspect, exclusive of the supporting documents already submitted, explain the scales on which it is based – that is, the depreciation factors and/or evaluation of the bodily injuries – in order to give credence to the issues.

Ultimately, a good, concerned and experienced claims adjuster should be able to defuse strained situations by prompt investigation and fair evaluation of losses, and proceeding expeditiously to settlement – possibly immediately, particularly where small claims are concerned. The real justification for a rapid settlement should be the evaluation that results from facts obtained and the circumstances analyzed, and not the pressing attitude of the claimant. This is the difference between an adjuster who acts emotionally instead of one who behaves professionally.

Cristian Monge (FRM, FCIP, CFE, CFEI, CFII), vice president / executive general adjuster, Charles Taylor Adjusting

I have always felt that spending a bit more time than normal to keep the balls in the air can really pay off in the end. If the adjuster has a large caseload, he should concentrate on resolving order to give credence to the issues.

The consensus: Stick to established policy and try to diplomatically defuse the situation. Hold your ground under stress, politely but firmly, as procedures and processes are there for a reason.
those files that he feels he can wrap up effectively and efficiently, all the while managing the communication with this difficult claimant.

Seek advice from your supervisor or senior management, as they can help manage your current commitments, and suggest what they need done according to what priority. Discuss this claim, which is requiring an excessive amount of time to handle, and ask for their advice on how they feel the company should deal with it.

Crispin Daniels (FCIP, CRM, CCIB [ON], CPIB, CAIB), managing partner, JJI Risk Management and Insurance Solutions Ltd.

In this “difficult claimant” scenario, we have to remember that, as insurance professionals, we have a series of obligations, including but not limited to the principle of “utmost good faith.” Other principles include:

• That adjusters/claims representatives shall “diligently seek to exercise skill and care, refusing to be influenced by self-interest or inappropriate considerations urged upon them by others,” as stated in a “Claims Agreement Document” produced by the Insurance Bureau of Canada (IBC).

• That insurance professionals “shall not associate themselves with false reports” and “shall avoid conduct which would discredit the profession of insurance or the Institute,” as stated in the Insurance Institute of Canada’s Code of Ethics for Chartered Insurance Professionals (CIPs and FCIPs).

Other obligations include:

• Our employer: We have a duty to use our skills and experience to the best of our ability to perform assigned tasks within any agreed-upon parameters and guidelines. If a situation is such that the most effective resolution is to do something outside this norm, the course of action should be determined by someone who has the authority to make such a decision. If the claims representative believes that the payment sought by the claimant, albeit excessive, will ultimately be less costly (because less time/expense will be allocated to the claim) a recommendation to settle on this basis should be made to the claims representative’s superiors.

• Our customer/client (this would include third-party claimants): All of our customers and clients deserve a settlement that is fair and equitable.

• Ourselves: The claims representative should make a fair, appropriate and timely settlement in accordance with policy wordings, limits/amounts of insurance, limitations of liability, warranties/conditions, and relevant company guidelines and procedures.

Lastly, it is important to remember that the unknowing client is looking for understanding, communication, empathy and fairness in the claims process. As an insurance professional, it is your obligation to educate and communicate about your mandate, explaining the investigation process and the context for decision-making in a claims situation.

You and your company need to be accountable now and in the future for your decision. Your education, experience and ethics should be seen by the claimant as honourable, as your actions reflect not only on you and your company but on the insurance profession as a whole.

Next Time: Peek-a-Boo

It was an ordinary day for the veteran customer service representative, one much like most of the others over the past 17 years that she had worked for her brokerage employer. That is, until she routinely strolled to the photocopier to make a copy of a form, just like she had done countless times before, and her world was turned upside down.

While retrieving her documents, the CSR realized that she had three pages in her hand instead of two. A quick glance determined that she had also picked up material belonging to someone else, which may have mistakenly been left in the photocopier out-tray. She quickly scanned for some clue as to whom it may belong to so she could pass it on. But the contents shocked her: It was an agreement of purchase and sale for the firm.

Her mind raced as the CSR tried to figure out what to do. She understood that this was a confidential document but, like a moth to a flame, she could not take her eyes off it. Should she present it to the brokerage principal, keep it a secret, place it back on the photocopier, shred it, act now, or act later after pausing for reflection? Should she tell her co-workers?

What is the CSR’s best course of action? There is no denying that she is now familiar with the contents of the document, but is the reading of it justifiable under the circumstances – i.e. ascertaining the owner of the document in order to return it? Can this sequence of unfortunate events be remedied in some way? What would be deemed appropriate versus wrong or unethical?

The CIP Society represents more than 15,000 graduates of the Insurance Institute of Canada’s Fellow Chartered Insurance Professional (FCIP) and Chartered Insurance Professional (CIP) Programs. As the professionals’ division of the Institute, the Society offers continuing professional development, information services, networking opportunities, and recognition and promotion of the designations. This article, with the contributions of industry professionals, is aimed at ensuring the professionalism and ethical practice of Society members and the industry in general. It is intended to generate a dialogue about ethics among professionals and we welcome comments and scenarios for discussion at cips@insuranceinstitute.ca. This series of articles is archived on The CIP Society’s Web site at: www.insuranceinstitute.ca/cipsociety.