

# Insurance Company - Bad Faith

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A recurring problem in Risk Management is the insurance company that will not pay on its claims, or immediately leaps for the first loophole to avoid policy coverage. In other words, what good is your insurance coverage if it doesn't pay?

According to Mr. Mike Johnston, a trial lawyer from Oklahoma who practices in the area of insurer's bad faith, the following constitute the "Top 40" types of acts of bad faith by insurance companies:

## *The Bad Faith Top 40*

*Some or all of the following things have been found (in some states) to constitute "bad faith" or "unfair dealing" by an insurance company from whom you purchased a policy. Obviously, the more of these that have occurred in your case, the better your legal case will be. Some states have Unfair Settlement Practices Acts that may also apply.*

*From the reported cases we can discern some acts that might prove sanctionable. Because creative insurers continue to create methods of unfair dealing, this listing can never be all-inclusive.*

1. *Failure to promptly investigate a claim.*
2. *Failure to properly, thoroughly and reasonably investigate a claim as to liability and damages, if any.*
3. *Failure to fairly and reasonably evaluate facts of liability.*
4. *Failure to offer settlement within a reasonable time after investigation and evaluation in favor of its insured, if such occurs.*
5. *Requiring an insured to pursue a claim against any other party before offering settlement, where settlement is required.*
6. *Delay in payment to await settlement with a third-party insurer.*
7. *Requiring an insured to exhaust the policy limits of a third-party insurer prior to offering settlement in an uninsured motorist claim.*
8. *Failure to fairly and reasonably evaluate damages.*
9. *Delaying a denial which causes emotional distress.*
10. *Attempt to condition payment of an undisputed portion of a claim on the favorable settlement of a separate, disputed portion.*
11. *Unreasonably refusing to waive subrogation so that the claimant could settle with the tortfeasor in uninsured motorist cases.*
12. *Deception.*
13. *Intentional or reckless misreading or misconstruing of claims file documents or of policy provisions.*
14. *Non-disclosure of information.*
15. *Failure to inform insured of additional benefits due under the policy.*
16. *Impeding insured by imposing burdensome documentation demands not required by the facts or the policy.*
17. *Interference with recovery of that portion of the loss which is uninsured.*
18. *Fraudulent, intrusive or harassing investigative methods.*
19. *Attempts to "take something off the top."*
20. *Unwarranted disputes concerning value of loss.*
21. *Unfounded accusations of arson.*
22. *Wrongful threats of non-payment.*

23. *Creating issues simply to compromise the duty to pay the full amount.*
24. *Designing a scheme to not pay insureds rightful benefits.*
25. *Failure to comply with industry standards.*
26. *Asserting factual basis or legal principle not originally involved in the evaluation as the basis for the denial or for the delay.*
27. *Concealment of facts.*
28. *Use of oppression.*
29. *Treating insureds who hire attorneys as the insurance company's adversaries.*
30. *Failure to convey settlement demands of adversary in liability cases.*
31. *Attempts to obtain contribution from the insured.*
32. *Altering or changing coverage without consent of insured.*
33. *Biased investigation.*
34. *Failure to reasonably construe the law.*
35. *Dual representation by the same claims person handling conflicting claims.*
36. *Violating the normal procedures called for in the claims manuals.*
37. *Attempting to shift burden of investigation onto lawyer for insured.*
38. *Suing insured to recover amounts paid and taking affirmative steps to harm insured.*
39. *Canceling insured's policies where insured not at fault.*
40. *Failure to settle a third party's claims against an insured within the policy limits (if possible) thereby exposing the insured to "excess" liability*