



WHEN THE ADJUSTER SAYS ... , HE REALLY MEANS ...

Talking with an insurance claims adjuster can feel a bit like tiptoeing through a minefield. The adjuster will employ any number of negotiating “tactics” to get you to settle your claim for as little as possible. If you are able to recognize these tactics for what they are—negotiation ploys—you will be better able to avoid common traps and to advocate effectively for your best interests.

Let’s look at four statements the claims adjuster might make in conversations with you and learn (a) what the adjuster really means, and (b) how you should respond.

1. WHEN THE ADJUSTER SAYS: “I’D LIKE TO TAKE YOUR STATEMENT.”

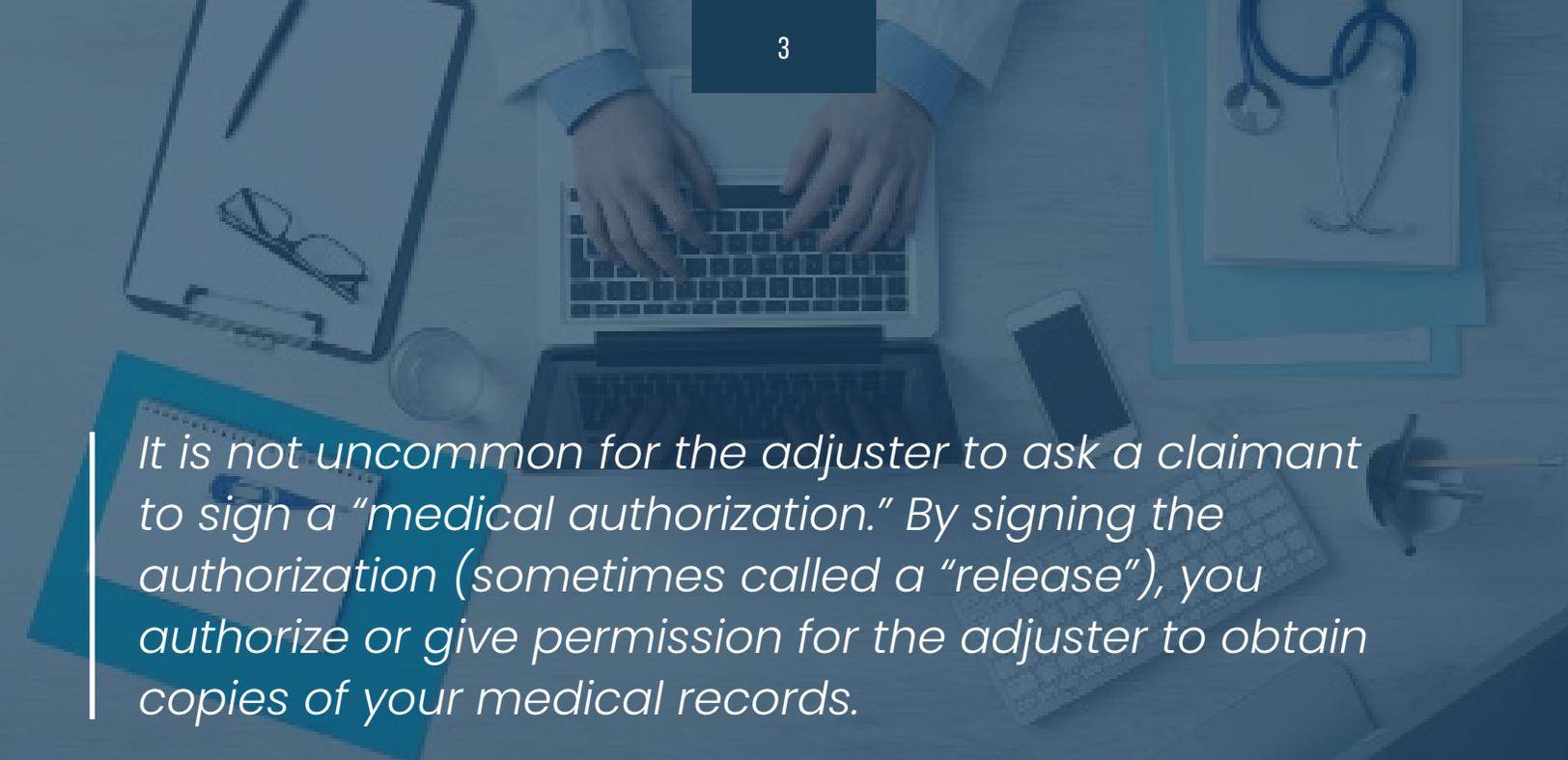
What he really means is: “I want you to commit to one version of what happened – right now – so that I can use it against you if you try to change your story later.”

This may not exactly be a dirty trick, but it certainly is less innocent than it sounds on the surface. Adjusters are paid to investigate claims and gather facts. One way they do this is by getting statements from all the parties involved in an accident, as well as statements from any witnesses. Once all the facts are in, the adjuster will make a judgment about liability (fault) and decide whether to pay the claim, deny the claim, or try to negotiate a settlement. The linchpin of the investigation is the claimant’s (the injured party’s) statement.

The adjuster may try to schedule a face-to face meeting with you to take a written statement or, more likely, attempt to take a recorded statement over the phone. In either case, the adjuster’s goal is to get you to commit to certain facts – your version of what happened. Once the adjuster gets you to commit, you cannot go back and revise your statement (e.g., to correct an innocent mistake or add a detail you may have overlooked at the time) without the adjuster calling your credibility into question.

When you hear, “I’d like to take your statement,” you should:

Politely decline this request. Do not agree to give a written or recorded statement unless your attorney is present to protect your interests.



It is not uncommon for the adjuster to ask a claimant to sign a “medical authorization.” By signing the authorization (sometimes called a “release”), you authorize or give permission for the adjuster to obtain copies of your medical records.

2. WHEN THE ADJUSTER SAYS, “PLEASE SIGN THIS MEDICAL AUTHORIZATION FORM.”

What he really means is: “Please sign this form so that I can gain access to your entire medical history and, perhaps, find something I can use against you.”

It is not uncommon for the adjuster to ask a claimant to sign a “medical authorization.” By signing the authorization (sometimes called a “release”), you authorize or give permission for the adjuster to obtain copies of your medical records.

The problem is that most of these insurance company authorizations are broadly drafted and give adjusters the ability to delve into a claimant’s complete medical history, as opposed to just obtaining records related to treatment for the accident itself. This allows the insurance company to pry into pre-existing conditions and medical issues that may be completely unrelated to the claim.

Despite this, most claimants sign these releases, either because they don’t know any better or because they think that if they cooperate with the adjuster this will increase their chances of getting a prompt and fair settlement. Convenience is another reason some claimants sign these authorization forms. The adjuster will say, “I am going to need copies of your medical reports and bills in order to evaluate your claim. You can run around trying to gather this information yourself, or you can sign this medical authorization and let me do the work for you.” While this may seem like a good decision at the time, it can hurt you in the long run. Finally, the adjuster may try to get your signature on a medical authorization form by telling you that it is required under the policy’s “cooperation clause.” However, this type of clause applies only to the policyholder (i.e., the party

who caused your injuries), not to third-parties, like you, who are making a claim on the policy. Any adjuster who tells you that you must sign a medical authorization as a condition of receiving payment or settlement is likely misrepresenting the law and the terms of the insurance policy.

When you hear, “*Please sign this medical authorization form,*” you should:

Proceed with great caution. As a general rule, be wary of signing any medical authorization form and never sign this type of form without first reading it carefully. Decline to sign an “open-ended” medical authorization form. Instead, insist that the insurer agree, in writing, that the authorization will be limited to “medical bills and reports pertaining to the accident occurring on such-and-such date and treatment flowing from that accident.” Moreover, do not sign a medical authorization form that remains in effect for an indefinite period. Make sure that the authorization states that it is valid only for a certain number of days after it is signed and executed.

Remember that the claims adjuster works for the insurance company. His job performance is evaluated and he is rewarded (in bonuses, promotions, etc.) based on how quickly he can “turn over” his inventory of cases ...

3. WHEN THE ADJUSTER SAYS, “WHY DO YOU NEED AN ATTORNEY? I’LL WORK WITH YOU ON THE CLAIM.”

What he really means is, “Please don’t call an attorney! When an attorney gets involved, it becomes much harder for me to push you into a fast, cheap settlement.”

Remember that the claims adjuster works for the insurance company. His job performance is evaluated and he is rewarded (in bonuses, promotions, etc.) based on how quickly he can “turn over” his inventory of cases and how much money he saves the insurance company by keeping settlement payouts to a minimum.

When the adjuster deals with the injured party alone, the adjuster has the upper hand because he knows how the system works and he has been trained in negotiation. Once a personal injury attorney gets involved, the adjuster loses his advantage. As a result, the adjuster might say any number of things to dissuade you from contacting an attorney. For example, the adjuster might say:

“Your claim won’t be any more valuable just because you get an attorney.”

Reality: The price tag of a claim almost invariably goes up when an attorney gets involved.

“The attorney takes at least a third of your recovery. Why should that third go to him, when the two of us can work things out together?”

Reality: You and the adjuster are not working “together,” at least not toward the same end.

“Why do you need a lawyer if I’m looking out for your best interests?”

Reality: The adjuster is not looking out for your best interests. He is looking out for his own (and the insurance company's) best interests.

"If you get a lawyer, we won't have the convenience of working together directly any more on this claim."

Reality: The adjuster will no longer have the "convenience" of working directly with you; conversely, you will no longer have to worry about calls from the adjuster. Once you retain a personal injury attorney, all subsequent communication with the insurance company should go through your attorney. If the adjuster wants to take your statement or interview you, it can be done at your attorney's office, under his or her watchful eyes. If the adjuster wants to make a (lowball) settlement offer, it has to go through your attorney first.

"If you hire a lawyer, it will slow down the claims process."

Reality: This may be true, but it also is likely to work to your advantage in the long run.

"If you get a lawyer, we will have to hire one as well to take your deposition."

Reality: The insurance company already has a lawyer – lots of them. Plus, this is no reason for you to delay retaining a personal injury attorney. A deposition is just a formal sworn statement. The insurance company will want a statement from you whether or not you have an attorney. It is better to give your statement with your lawyer by your side to protect you from overreaching by the insurance company and its lawyer.

When you hear, "Why do you need an attorney? I'll work with you on the claim," you should:

Appreciate that this is a self-serving statement by the adjuster; then, objectively assess your situation to determine whether it's time to call a personal injury attorney.

An open file in litigation is only going to add to the adjuster's headaches and will negatively impact his case file "turn over" rate, which in turn may negatively impact his opportunities for pay raises and bonuses.

4. WHEN THE ADJUSTER SAYS, "IF YOU DON'T ACCEPT THIS AMOUNT NOW, WE WILL WITHDRAW ALL OFFERS."

What he really means is, "Please take this (low) offer, so I can close your file and get it off my desk."

This is often a bluff. If your case is worth \$20,000 today, it will likely still be worth \$20,000 tomorrow and next week and next month. If it is not a bluff, and the claims adjuster withdraws the offer, consider this an invitation to file a lawsuit.

When you hear, "If you don't accept this amount now, we will withdraw all offers," you should:

Take a deep breath and consider your options carefully. Practically speaking, you have two choices: (a) accept the offer, if you think it is fair; or (b) call the adjuster's bluff.

If it is early in the negotiations and this is the first time the adjuster has threatened to withdraw all offers, you should strongly consider option (b). Politely tell the adjuster, "I'm sorry to hear that is your position." Then, remind the adjuster that if you file a lawsuit, the insurance company will have to defend the lawsuit. This will be an expensive process, which may end up costing the insurance company more in legal fees than the amount at issue in your claim. It also is likely to be costly for the adjuster personally. An open file in litigation is only going to add to the adjuster's headaches and will negatively impact his case file "turn over" rate, which in turn may negatively impact his opportunities for pay raises and bonuses. If the adjuster sticks to his "take it or leave it" position,

say, "Thank you for your time. My attorney will be in touch." Then, if you have not already done so, reach out to an experienced personal injury attorney.

CHART

The following chart is a handy summary of our discussion above.

When the Adjuster Says ...	He Really Means ...	You Should ...
"I'd like to take your statement."	"I'd like to tie you to one version of the 'facts' surrounding the accident."	Decline to give a statement without your attorney being present.
"Please sign this medical authorization form."	"Sign this form so that I can gain access to your entire medical history."	Carefully read the form. Do not sign an "open-ended" form. Insist that any medical authorization form be limited to "medical bills and reports pertaining to the accident occurring on such-and-such date and treatment flowing from that accident." Insist that the authorization specify that it remains valid only for a certain number of days.
"Why do you need an attorney? I'll work with you on the claim."	"Please don't call an attorney! When a lawyer gets involved it makes it much harder for me to push you into a fast, cheap settlement."	Remember that this is a self-serving statement by the adjuster. Objectively assess your situation to determine whether it's time to call a personal injury attorney.
"If you don't accept this amount now, we will withdraw all offers."	"Please take this offer, so I can close your file and get it off my desk."	Carefully consider the offer. Remind the adjuster of the costs of a lawsuit. Call his bluff. Call an experienced personal injury attorney.