Claims Handling Process

1. *Acknowledging and assigning the claim*
2. *Identifying the policy*
3. *Contacting the Insured*
4. Timing and method of contact
5. Preparation and initial contact (steps on pg 2.9)
6. Good faith
7. Waiver and estoppel

\*Non-waiver Agreement vs Reservation of Rights

1. *Investigating the claim*
2. Claimant investigation
3. Insured/witness investigation
4. Accident scene investigation
5. Property damage investigation
6. Medical investigation
7. Prior claim investigation
8. Subrogation investigation and recover

\*worker’s comp, auto, property damage, and liability

**Documenting the claim**

1. File status notes

-clear, concise, and accurate

-timely

-fair and balanced investigation

-objective

-good faith

b. File reports

1. *Determining the cause of loss*

**Determining liability**

-Basis for legal liability (understand difference from criminal liability)

-Statutory law

a. Liability based on tort

b. Liability based on contract

c. Liability based on statute

**Determining the loss amount**

-Damages: compensatory (special and general), punitive

-Pro rate contribution

-Insurable interest

-Coinsurance clause

1. *Concluding the claim*
2. Payment: no to terrorists/drug traffickers, child support, Medicare beneficiaries
3. Denial
4. Alternative Dispute Resolution (ADR)

-mediation

-arbitration

-appraisals

-mini trial

-summary jury trial

1. Litigation

**Negligence**

Liability based on negligence is based on 4 elements

1. Duty owed
2. Duty breached
3. Proximate cause
4. Damages

**Types of Negligence**

1. Contributory negligence
2. Comparative negligence

-pure comparative: KY

-50 percent rule (51% bars recovery): WI, IL, IA, MN, IN

-49 percent rule (50% bars recovery)

-slight vs gross rule

Strict liability

Intentional torts

**Coverage analysis**

-Is the person involved covered?

-Did the loss occur during the policy period?

-Is the cause of loss covered?

-Is the damaged property covered?

-Is the type of loss covered? Direct vs indirect loss

-Is the location of loss covered?

-Do any exclusions, exceptions, or endorsements apply?

-Does other insurance apply?