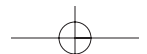
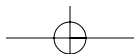
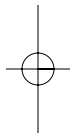
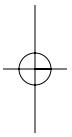
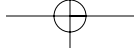




California Claims Regulations





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Barry Zalma

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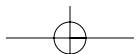
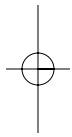
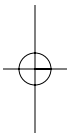
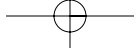
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For My Brother
Irving S. Zalma
1937 – 2006





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Introduction

1. California Claims Regulations

This book was written for California insurance claims personnel, special fraud investigators, private investigators who work for the insurance industry, the management in the industry, the attorneys who serve the industry, and all integral anti-fraud personnel working with California admitted insurers. The state of California requires all who are involved in the claims process—even if only tangentially—to be trained with regard to and in compliance with the Fair Claims Practices Regulations (Regulations) and the Special Investigative Unit Regulations (SIU Regulations).

It is, therefore, necessary that insurance personnel who are engaged in any way in the presentation, processing, or negotiation of insurance claims in California be familiar with the Regulations imposed by the state on all insurers doing business in the state.

A. Fair Claims Practices Regulations

In 1993, the California Department of Insurance started the regulatory process to control claims handling with the first version of what was then called the “Unfair Claims Settlement Practices Regulations” to comply with the direction of the California Supreme Court made as part of the ruling.¹ The Regulations were modified in 1996, 1997 and most recently in 2004. The 1997, changes renamed the Regulations the “California Fair Claims Practices Regulations,” whose name remained with the 2004 amendments.

The Regulations imposed on all insurance personnel a detailed laundry list of actions the California Department of Insurance (CDOI) considers wrongful or in violation of the Fair Claims Practices Act, California Insurance Code Section 790.03(h). They also impose on all insurance claims personnel the requirements that they read and understand the Regulations. They also require that insurers ascertain that every employee involved in any way in the claims process is trained about the Regulations or is willing to swear under oath that he or she has read and understands the Regulations.

The Regulations also require that the insurance claims executive attest, under oath, that each employee has been trained with regard to and/or understands the Regulations. This requirement must be complied with in order to avoid the possibility of a prosecution for perjury as well as administrative penalties to the insurer.

1. *Moradi-Shalal v. Fireman's Fund Ins. Companies*, 46 Cal. 3d 287 (1988).

California Claims Regulations, and its Appendices, should be used by the insurers, their insurance claims personnel, and their trainers, educators, or lawyers to effect compliance with the Regulations by training or by assisting the claims personnel in their obligation to read and understand the Regulations.

The Appendices include an outline for use by insurance claims personnel in presenting a training seminar. Reading the book alone should give the reader sufficient information to declare under penalty of perjury that he or she has read and understands the Regulations. In addition, the insurer who presents the training materials should be able to ascertain that each of the insurer's employees who need to be trained was adequately trained.

Insurers must understand that every claims employee must be trained annually in accordance with the requirements of the Regulations no later than September 1, and insurers must be ready to prove to the CDOI compliance with that requirement.

The CDOI announced in 2000 through 2004 that it had identified as many as 60,000 violations of the Regulations and that its intent is to enforce the Regulations. Those found in violation can be fined up to \$55,000 for each violation and may even lose their certificate of authority to do insurance business in California. For example, an insurer with 100 employees who have not been trained could face a fine of \$1 million or more.

B. The SIU Regulations

The CDOI enacted a set of emergency regulations, as amended in 2003, 2004, and 2005, requiring all insurers who do business in the state of California have a special fraud investigation unit (SIU) and a plan to defeat fraudulent insurance claims (the SIU Regulations). The SIU Regulations were approved in their final form in October 2005, and are no longer considered emergency regulations. The SIU Regulations, like the Regulations, attempt to micro-manage the work of insurance company efforts against insurance fraud.

The CDOI has audited dozens of insurers regarding the SIU Regulations and has found most insurers doing business in California in violation of some portion of the SIU Regulations. Major fines, as much as \$10,000 per violation, may be imposed on those insurers who refuse or fail to comply with them. As with the Regulations, failure to train 100 employees can result in a fine from \$500,000 to \$1 million. By following the training recommendations in this book insurers can inoculate themselves against the potential for paying enormous fines to the CDOI.

The Appendices include outlines to be used by a staff member of the insurance company SIU, its trainers, educators, or lawyers to present a training class for all of the insurers "integral anti-fraud personnel" as defined by the SIU Regulations. Insurers must understand that every claims employee must be trained in accordance with the requirements of the SIU Regulations no later than 30 days after the person is hired and annually thereafter.

California Claims Regulations and its appendices, will provide the insurer and its staff with the information needed to comply with the SIU Regulations and will provide the training required for what the regulations describe as an insurer's "integral anti-fraud personnel."

Barry Zalma, Esq.
Culver City, California, 2006