

How fanciful are right words and how damaging are wrong words

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December 10, 2008

The business of claims is conducted through words. From the first notice of loss, the assignment of a claim, the investigation of coverage, the negotiations and ultimately the settlement, all turn on oral and various forms of written words.

Unquestionably, words can make the difference in the success or failure of your goals in dealing with matters assigned to you by your principals, clients, and others who have given you responsibility to act on their behalf.

SELECT YOUR WORDS CAREFULLY

"There is a weird power in a spoken word...and a word carries far - very far - deals destruction through time as bullets go flying through space." Joseph Conrad, Lord Jim, Chapter 15

Words are easy like the wind, perhaps too easy, once they have blown by, you cannot get them back.

There perhaps is no other business where the importance of words are paramount. From the words in the insurance contract to the words that memorialize a settlement agreement--Words are fought over, litigated over, and in the end determine the outcome.

THINK BEFORE YOU SPEAK OR WRITE

"I understand a fury in your words but not your words."

Shakespeare: Othello

1. Be Disciplined. In our fast paced world we do not always have the luxury of time to compose our thoughts in order to articulate our instructions, opinions, positions and decisions in the often highly charged controversial and adversarial world of insurance losses.
2. Be respectful-Be professional with every word you speak and every communication you send out.
3. Do not get personal--letting personality conflicts get in the way is a race to the bottom. While you may feel good disparaging a claimant, his representative, or others, from my experience, the recipients of your bad words may in fact leave the impression that you are the lesser person. Name-calling and off-color remarks may not have the desired effect on the outcome of your client's matter.
4. Be professional in all your communications. Understand your words before you speak or write them. Consider a peer review of your words before you speak or write them. If your peers and you do not know what you said, you can imagine what the result will be on the recipient of your words.

USE WORDS AS YOUR WORK TOOLS

Words can be very effective tools of your trade.

1. Telephone confirmation letters. This is to confirm our agreement.
2. Email confirmation of conversation. Be careful-Emails are never deleted.
3. Documentation of claim, conduct, and requests for some action to be taken.
4. Words can be used to pressure, turn the matter around to your benefit.
5. Move the claim along by reminding the other side of timing issues.

BE BRIEF AND TO THE POINT WITH YOUR WORDS

The old adage "less is more" should apply to your thinking when composing your words. Over the course of my career, I have observed the smart and very successful people seem to be the listeners. Less spoken words and very carefully chosen written words can make a huge difference in the outcome.

DO YOU WANT TO SEE YOUR WORDS READ BACK TO YOU?

THE BAD

There is no greater sinking feeling than in an adversarial setting, typically in a venue with multiple parties present to hear an opening remark as follows:

"Mr. Tutwiler, I would like to show you and the folks assembled here today a series of letters you wrote over the course of this claim and ask you some questions about what you wrote. We will start with this three-page letter you signed which was approximately three years ago and I am going to ask you to read passages for us today." You know it is going to be bad if the other side cites your letter or letters.

GULP - SWEAT - PANIC - HIDE

Your mind reels as you silently worry about the words that you said that they now want you to read aloud.

Are my words relevant after the passage of time and the unfolding of a fact investigation?

How can I explain my letter now. It can only get worse. Can I say I did not mean to say what I said. Can I take it all back.

Words matter - you cannot take them back. The often used excuse "what I really meant to say" cast great doubt on what you said as well as what you meant to say.

THE GOOD

"How forceful are the right words" Job 6:25

It does not get any better to have your words read back where you nailed the other side, in a professional way. Their mistakes, inconsistent positions, laziness and their general total disregard to the policyholder can make your case, if along the way, you memorialized each act in a well thought out, professional and factually correct manner.

The choice is yours whether you want to be bad or good with your words. The bad use of your words can cause great pain and perhaps a very bad result. On the other hand, a professional and factual use of your words can result in the outcome you and your client desired.

WORDS: A TURNAROUND OF COVERAGE - THE SETTLEMENT

An insured has an elevator in a luxury four-story townhouse. The main hydraulic line that runs the elevator car broke on an upper floor causing hydraulic fluid to shoot out under pressure in the interior wall spaces. The result was that the drywall ceiling and floor coverings and a very expensive wardrobe of high-end design clothes were covered in oily hydraulic fluid.

The insurance carrier's letter states: "We have completed our investigation of the above claim and find that the damage reported is excluded from coverage. You reported that the elevator LEAKED fluid causing damage to the walls and ceiling of the condominium and to your contents. As the damage was not caused by a covered peril, we are unable to provide coverage for your claim."

The carrier then goes on to list 17 named perils which includes "EXPLOSION." In reply to the denial letter, "after careful review of your denial letter, there needs to be additional clarification on the explosion peril."

The carrier's reply is that the PLRB indicates that the definition of explosion encompasses criteria relating to:

1. A sudden release of explosive pressure.
2. Noise although not necessarily loud.
3. A bursting forth of material, whether gaseous liquid or solid.
4. Evidence of the scattering of debris to locations further than would have resulted from gravity alone.

Words matter! That is exactly what happened (Thank you). The carrier extends coverage under the "EXPLOSION" peril and the matter is settled to everyone's satisfaction or at least to the policyholders complete satisfaction.

LASTING IMPRESSIONS

How you speak and how you write your written words are going to make a lasting impression of your professionalism or lack thereof. While in the end your reputation may not in total be formed by your words, at least in my mind, you will not be forgotten given your choice of words in your professional activities. Whether it is good or bad, it is up to you.

CONCLUSION

Words are as ubiquitous as the languages throughout the world. The writer's thoughts expressed in this paper are but a few points and examples of words as it relates to the insurance claim profession.

Other practitioners can of course add many more examples and suggestions of the importance of thinking before you speak and write your words to avoid a bad unintended consequence.

