

## Managing Unreasonable Claims - Episode #153

Posted: Thur., May 23, 2019



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**Guest Attorney:** Jeff Vernis of [Vernis & Bowling of Palm Beach, P.A.](#)

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**John Czuba:** Welcome to "Best's Insurance Law Podcast," the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, Managing Editor of *Best's Insurance Professional Resources*.

We're pleased to have with us today attorney Jeff Vernis. Jeff is the managing partner of Vernis & Bowling and is located in the firm's North Palm Beach, Florida office. Jeff specializes in civil trial and appellate practice and is board certified in civil trial law by the Florida Bar Board of Specialization.

Jeff's areas of practice are insurance defense, commercial litigation, and employment related practices, including trial and appellate practice. Jeff is a member of the Defense Research Institute, the National Restaurant Association, and the Council for Litigation Management. Jeff also is a charter-founding member of the National Retail and Restaurant Defense Association, and currently serves as its general counsel.

Jeff is also actively involved in community organizations. He serves as president of the Board of Director of Jeff Industries, Inc., which offers unique and innovative programs, education, and training for troubled children and the mentally ill in Palm Beach County.

Jeff, we're very pleased to have you with us today.

**Jeff Vernis:** Thank you very much. I'm happy to be here this morning.

**John:** Today's topic of discussion is managing the difficult claim. Jeff, to start out, what is a difficult or an unmanageable claim?

**Jeff:** Have you ever had one of those claims where you can't control it? You feel like you're just along for the ride, like you're on a roller coaster. For example, what do you do if the money that your client is offering is not being accepted, even though it may be a reasonable amount of money?

Some claims start that way. Some claims end up going into that direction. An unmanageable claim is one that won't go away. It takes a different path, it's exceedingly expensive, and your typical plan that you have on most of your claims isn't working.

**John:** Jeff, what are some of the reasons why a claim becomes unmanageable?

**Jeff:** Some of those claims, like I said before, start that way and some get that way through litigation. For example, multiple party claims where you're one of multiple parties in the case, where you can't control the entire litigation.

Or, for example, if the plaintiff's demand is unreasonably too high and you can't get them into the range of reasonableness or the plaintiff will not settle with you in a multi-party case, even though you may not have much responsibility or liability. You're along for the ride, while the other parties are still litigating.

Or sometimes if you're being sued and you're not the one that's at fault but you may have the most insurance coverage. We all have had that circumstance where we may be either not negligent at all or have the least amount of exposure and we're the focus of the litigation because we have the largest insurance policy.

**John:** It sounds like some of these claims can get really expensive, Jeff.

**Jeff:** Yes, they can get very expensive. Taking control of these claims from the beginning and continuing on through the litigation is so important.

**John:** What can someone do to get control of the claim and make it somewhat more manageable?

**Jeff:** There's certainly a couple of ways that really come to mind that I have used that help. Number one is assigned experienced counsel. You have to select the right counsel that has the experience in handling large exposure or these unmanageable claims. Look for their reputation. Look for their experience.

Some other strategies are have a plan. Don't expect everyone to follow your plan, but at least put together a plan. That plan could also include things like more frequent reporting, requiring a counsel to report to the claims professionals to keep them more involved and to feel like they have more control.

Schedule bi-monthly conference calls to have discussions. People love emails, but have verbal discussions back and forth so you can talk about issues. You can talk about where we're going, talk about the plan.

One of the things that I also recommend is get the supervisors involved in those conference calls because the supervisors are going to be asking the claims handlers, "Hey, what's going on in this case?" It's also good to have those supervisors on some of those calls so they can ask those questions directly, and they can get answers from their counsel and discuss where the plan should go.

Also, some things like required discussion for expenses, for example, over \$500 or \$1,000, which means every time the counsel has to expend expenses hiring experts or doing certain things they have to get authority for doing that. That gets the claims professional and claims handlers well more involved in the claim, because then they are actively involved in it.

Some of the things you want to continue to do, discuss strategies as often as you can. Understand that those strategies may change.

You can use docket management, like management conferences, like case management conferences can be used. That gets the courts involved to help cases get moving and keep moving, as opposed to becoming stagnant or going off in directions that you don't expect.

**John:** Jeff, what can the claims professional do to help manage the unmanageable claim?

**Jeff:** Teamwork is a key part of working and handling these unmanageable claims. Working together with your entire team, which includes your team in your company, but also including your counsel, because we're all part of the same team.

If we all work together there's always ideas that other claims professionals can have based on their experiences with other claims and perhaps with this particular insured or this particular client that will help move or create the best plan that works.

A couple of other things is patience. You have to understand that these types of cases don't always go the way you expect.

You don't always have control over the other attorney in the case, the other attorneys in the case, the claimant, the claimant's counsel, or the judge. Sometimes you don't always have control over that, so you have to have some patience.

Listen to your counsel. You hired them for that reason. Listen to them, but work with them as part of a team. Ask questions about how is the best way to keep this claim moving, how is the best way to take this claim to resolution.

Encourage team calls. What I mean by team calls is what I mentioned earlier, conference calls that include you entire team. Everyone involved in the planning and the movement of this particular claim, get them on conference calls, perhaps every other month, to keep everybody advised. Work together so that the claims professional can take control over those calls to make sure that they happen.

Also, keep the matter on diary so you can stay informed and you know what's going on in the claim, because you become more fearful and you feel less control if you don't know what's going on. Stay involved. Keep the diary up so you can keep more informed as to what's going on in the claim.

**John:** Jeff, final takeaway for our audience, what's the most important thing to do when handling one of these claims?



**Jeff:** One of the most important things, at least in my mind, is communication and working together. Working together to keep communication open between counsel, claims professional, and those within your company so everyone is aware of the plan.

We utilize patience because not everyone's going to follow your plan, but at least putting together a plan together. Working together, at least to me, is probably the most important thing in managing these unmanageable claims.

**John:** Jeff, thanks so much for joining us today.

**Jeff:** It is my pleasure. Thank you.

**John:** That was Jeff Vernis, Managing Partner of Vernis & Bowling in Florida. Special thanks to today's producer Frank Vowinkel.

Thank you all for joining us for "Best's Insurance Law Podcast." To subscribe to this audio program go to our webpage [www.ambest.com/claimsresource](http://www.ambest.com/claimsresource). If you have any suggestions for a future topic regarding an insurance law case or issue, please email us at [lawpodcast@ambest.com](mailto:lawpodcast@ambest.com). I'm John Czuba, and now this message.

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