

Lawsuit Limitations in Insurance Policies

Before the one-year anniversary of an event that caused a loss, it is wise to send a simple letter to preserve your legal rights. Most insurance policies have a provision labeled “Suit Against Us” that says you have one year from the date of a loss to file a lawsuit relating to a claim under the policy. The law in your state may override that provision and give you more than a year. But, even if you are not planning on suing your insurer, it is wise to protect your right to do so. Once you lose your right to sue, you lose virtually all leverage to get an insurer to make further payments on a claim.

In every state there are laws called “statutes of limitations” that set deadlines for filing lawsuits. Depending on the event that caused the problem, that deadline may be one, two or more years after the event. Once the deadline passes, you lose your right to sue unless you’re able to persuade a Judge to make an exception. Judges generally enforce these deadlines. In addition, some contracts including insurance policies contain their own deadlines.

WHY the deadlines?

To encourage people to promptly resolve disputes and to keep evidence fresh.

If state law gives you more than a year, that law rules. Otherwise, the one year deadline in your policy will apply. Regardless, insurers will usually agree to extend the lawsuit deadline if you ask in writing and give a good reason or if the Insurance Commissioner’s office tells them they should.

HOW to stop the clock?

Many states, including California, have “case” laws (laws made by judges) that stop the deadline clock ticking while your claim is being adjusted. So instead of having a year from the date of a fire, you have a year from the date your insurance claim is closed or denied. This is known as “tolling”. The lawsuit deadline is being “tolled” while your claim is being adjusted. Consult a policyholder attorney to learn about the law in your state. Use United Policyholders’ [“Find Help”](#) section as a starting point.

If you’re approaching the one-year anniversary of an event that caused a loss for which you have filed an

insurance claim, United Policyholders encourages you to make sure you don't miss a legal deadline and lose the leverage you need to enforce your rights to a fair settlement. The safest approach is to write a letter along the lines of the following sample, send it certified, return receipt requested, and make sure to keep a copy in a safe place where you'll be able to find it in the future. Even if they don't respond, you've got a written record. To be extra safe, send copies of the letter via email as well.

SAMPLE LETTER RE: Insurance claim and legal action deadlines

[Date]

[Claim Number]

[Date of Loss]

[Name of Insured/Address of Property]

Dear [Highest Ranking Executive for whom you have an accurate address]:

We are continuing to do our best to document our loss and cooperate with your company to reach a fair and full settlement. As you know, the one-year anniversary of our loss is approaching.

We are looking forward to resolving our claim as quickly as possible, and it is important that we understand our options and our legal rights.

We are writing to confirm our understanding that:

- 1) Our claim is open and being processed.
- 2) You will not be enforcing the "Suit Against Us" or any lawsuit limitation provision in the policy until a



year after you have completed the claim adjustment process and closed our claim.

3) When you complete the claim adjustment process, close our claim and/or pay all you intend to pay, you will let us know in writing.

Unless we hear otherwise, we will rely on our understanding of the above three points..

Sincerely,

[Your name/insured's name]

The information presented in this publication is for general informational purposes and is not a substitute for legal advice. If you have a specific legal issue or problem, United Policyholders recommends that you consult with an attorney. Guidance on hiring professional help can be found in the "Find Help" section of www.uphelp.org. United Policyholders does not sell insurance or certify, endorse or warrant any of the insurance products, vendors, or professionals identified on our website.

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