

The Litigation Process – Duty to Defend Policies

TRAVELERS CLAIM SERVICES GUIDE

Q. I was served with a summons and complaint. How do I request coverage under my Travelers insurance policy?

A. Immediately report this matter in writing to Travelers. You should refer to your policy for specific reporting instructions.

What is a summons and complaint?

A lawsuit is commenced by the filing of a complaint. It is a document filed with the court that outlines the plaintiff's claim against a defendant. It contains the relevant facts, the alleged violations committed by the defendant and the type of relief or damages requested by the plaintiff.

A complaint is usually accompanied by a summons. This is a formal notice to a defendant that a lawsuit has been commenced. It identifies the plaintiff, the defendant(s), the court in which the complaint has been filed and the date by which the defendant must respond to the complaint.

Who will represent me?

Depending on your coverage, Travelers may appoint an attorney to represent you, or, if your policy so provides, you may choose your own attorney, subject to Travelers' consent.

How do I respond to a complaint?

Your attorney must file a responsive pleading on your behalf. Most often a defendant files an answer, wherein the defendant responds to each allegation in the complaint. In some cases, the defendant will file a motion to dismiss, requesting the court to dismiss the complaint based on a defect in the complaint.

What happens if a responsive pleading is not filed?

If a responsive pleading is not filed in the time required, the court may enter a default judgment against the defendant and award a judgment to the plaintiff.

Superior customer service

Travelers understands that life is full of uncertainty. Rest assured that, whenever possible, our claim professionals are ready to help. When you call, you can always expect to be assisted promptly and treated with the utmost respect, integrity, professionalism and skill.

Just call us at 1.800.842.8496

What is the discovery process?

Once the responsive pleading has been filed, the parties start a formal process called "discovery." Through discovery, each party "discovers" or learns information and facts from the other parties in the lawsuit that relate to the allegations in the pleadings. There are four main types of discovery:

- **Interrogatories** – written questions requiring answers under oath
- **Document requests** – written requests requiring the other party to provide documents for review and copying, including e-discovery
- **Requests for admission** – written statements made by one party which the other party is required to admit or deny
- **Deposition** – sworn testimony from a witness under questioning by the attorneys without a judge present

What is a mediation or settlement conference?

At a mediation or settlement conference, the parties and their attorneys attempt to settle the case through the assistance of a neutral third party. Often a court will order the parties to participate in a mediation or settlement conference; sometimes, the parties agree to attend such a session voluntarily.

What is a motion for summary judgment?

At any time during the litigation, but most commonly after discovery is concluded, a party may file a motion for summary judgment. A motion for summary judgment advises the court that the party believes that there are no material facts in dispute and that the only remaining issues are legal issues to be decided by the judge. In the motion, the party argues the legal issues and requests that the case be decided by the judge in its favor without the need for a trial. If the judge grants the motion, the case is over. If the judge denies the motion, the case proceeds.

A bench trial vs. a jury trial

The difference between the two types of trials is who serves as the fact-finder. In a jury trial, the jury decides the facts. In a bench trial, the judge decides the facts and there is no jury. In both types of trials, the judge decides the legal issues.

What happens during a trial?

If it is a jury trial, the attorneys select a jury. Once selected, the trial begins with each side making an opening statement. This informs the judge or jury what evidence will be presented at trial. Then the plaintiff presents its case and then the defendant presents its case. The plaintiff has the right to call rebuttal witnesses to testify about issues raised in the defendant's case.

After both sides have presented their case, closing arguments are made to the judge or jury. In the closing arguments, the attorneys put together all of the evidence presented at trial and try to convince the judge or jury to render a decision favorable to their party.

After closing arguments, if it is a jury trial, the judge "charges" the jury by instructing the jury on the law and how to apply the law to the facts in order to render a verdict. The jury then leaves to deliberate, or discuss the case and render a decision for the plaintiff or the defendant. If it is a bench trial, the judge may request briefs from the parties, which allow each party to advise the judge what facts they believe were proven at trial.

What is a judgment?

At the conclusion of the litigation, the trial court will enter judgment for the prevailing party. A judgment is the final determination and award of relief in a lawsuit.

If I lose at trial, can I appeal?

A losing party may appeal the legal issues that it believes were incorrectly decided by the trial judge. The appeals court independently rules on legal issues without deference to the trial judge's rulings. A party may appeal factual findings on a much more limited basis.

How do I report a claim?

Immediately notify your agent or broker when a claim is made against you. You must also comply with any other specific claim reporting instructions set forth in your policy.

To notify Travelers directly, please contact:

Fax: 888.460.6622

Email: BSIclaims@travelers.com

Travelers Bond & Specialty Insurance

385 Washington Street

St. Paul, MN 55102

Please refer to your policy for your duties in the event of a claim.



travelersbond.com

Travelers Casualty and Surety Company of America and its property casualty affiliates. One Tower Square, Hartford, CT 06183

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