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Insurance companies fight paying billions in claims

COOPER: Traffic accidents, of course, are a fact of life. So is dealing with insurance companies. You pay them to protect you. That's the idea. But some accident victims say they're being forced to settle or go to court because the claims are denied.

We wanted to know the facts, and in a CNN investigation, we looked into whether some big name insurers are more interested in profit than policyholders.

CNN's Drew Griffin tonight, keeping them honest.

DREW GRIFFIN, CNN CORRESPONDENT (voice-over): I happened in Santa Fe, New Mexico, much the way Allstate describes it in its commercials.

Roxanne Martinez, driving down Sorios (ph) Road about noon, when the SUV pulled out from Tisuki (ph) Drive.

ROXANNE MARTINEZ, ACCIDENT VICTIM: I remember, you know, like hitting the driver's side window. And then I just -- I don't know.

GRIFFIN: The passenger side had been sideswiped. On the driver's side, Roxanne was smashed against the window.

MARTINEZ: I had upper back pain. I went to chiropractors, physical therapists, massage therapists, acupuncture. They told me that my spine was damaged. GRIFFIN: The person driving the SUV that hit Martinez was ticketed and had insurance, Allstate. That was good because Martinez was racking up bills, plenty of them, CT scans, doctors visits, x-rays, all bills she thought Allstate would cover.

But after three years of fighting over bills and still hurting from the accident, Allstate came with a "take it or leave it offer," \$15,000.

MARTINEZ: That was for, I guess, the car, medical. I mean, that was everything. You know, I thought they'd pay all your bills and, you know, keep on paying your medical bills.

GRIFFIN: Roxanne Martinez was battling Allstate, the second biggest auto insurer in the nation. What she didn't know was that both Allstate and the largest auto insurer State Farm, had changed the way they handled so-called minor crashes like hers.

(On camera): In an 18-month investigation across the country, CNN found that if you are injured in a minor accident, chances are high the two companies would challenge your medical claim, offering you barely a fraction of your expenses.

(Voice-over): They would do it by forcing people into court, dragging out court cases for years and by convincing the public it was all designed to fight growing fraud in the car accident business.

But documents examined by CNN indicate the motive was profit. And Allstate has gone to great lengths to keep those documents secret. In two states where Allstate has been sued, the company has defied judge's orders to make the documents public.

According to Nevada Insurance Law Professor Jeff Stempel, the new get tough strategy is adding up to billions in profit for the insurance companies and little, if anything, for the public.

JEFF STEMPEL, UNLV. LAW PROFESSOR: We can see that policyholders individually are getting hurt by being dragged into court on fender bender claims. And yet we don't see collateral benefit in the form of reduced premiums, even for the other policyholders. So, I think now we can say to continue this kind of program is, in my view, institutionalized bad faith.

GRIFFIN (on camera): We wanted to ask Allstate and State Farm all about this on camera in an interview, but they both said no. Allstate did send us an e-mail.

(Voice-over): In an e-mail, All State told us it did not believe it would have any real opportunity of being successful in getting CNN to do a balanced report.

State Farm sent an e-mail, too, saying, "we take customer service seriously and seek to pay what we owe, promptly, courteously and efficiently, and we

handle each claim on its own merits."

And State Farm also added this -- "Any attempt to generalize that State Farm has adopted consultant recommendations as other insurers is just plain wrong. Who is the consultant State Farm refers to? The giant of the consulting industry, McKinsey & Company, hired by both State Farm and Allstate.

McKinsey and company said it does not discuss any of its clients' business. And at the same time Roxanne Martinez thought she was in good hands with Allstate, Allstate was advised by McKinsey in writing to put boxing gloves on those good hands.

That strategy, says Martinez's lawyer, was to take valid claims and pay pennies on the dollar.

Attorney David Berardinelli's has written a book about it, and is challenging Allstate's strategy in what he hopes will be a class action lawsuit.

(On camera): So if you wanted to increase profit, you would try to chop the small claim?

DAVID BERARDINELLI, ATTORNEY: Sure. If you could take \$1,000 off of a million claims, do the math.

GRIFFIN: A lot of money.

BERNARDINELLI: A lot of money.

GRIFFIN (voice-over): Shannon Kmatz was an Allstate claims agent in New Mexico before she became a cop. She says she was trained by Allstate to treat most minor accident victims as frauds and offer them as little as possible.

SHANNON KMATZ, FORMER ALLSTATE CLAIMS AGENT: \$100? Yes, I've offered people \$50. They have minimal damage to the back of their vehicle and they're claiming that they are hurt.

GRIFFIN: Then Kmatz got to see the insurance strategy firsthand from the other side.

KMATZ: I turn around and get in a car accident myself. My car has minimal damage, and I can't walk. And I realized, whoa, what am I doing? This is not right.

JIM MATHIS: It really came down to three basic elements. A position of delay. A position of denying a claim. And then ultimately, of course, defending that claim that you denied.

GRIFFIN: The three D's?

JIM MATHIS: Exactly.

GRIFFIN: Jim Mathis is a former insurance company insider who now testifies against insurance companies in court.

MATHIS: And the profits are huge. Profits are good. And as long as the public allows this to occur, the insurance companies will get richer and people will not get a fair and reasonable settlement, period.

ROBERT HARTWIG, PRES. INSURANCE INFORMATION INSTITUTE: Insurers don't blanket deny claims on any grounds whatsoever.

GRIFFIN: Robert Hartwig is president of the Insurance Information Institute, an insurance industry trade group.

HARTWIG: What insurers are trying to do is monitor costs. And every insurer is under the same pressure to do it.

GRIFFIN (on camera): And this Allstate training manual obtained by CNN details how that was going to be done. By forcing what the manual calls smaller walk away settlements.

(Voice-over): The walk away settlement for Roxanne Martinez was a "take it or leave it offer" of \$15,000 that came three years after her accident. She said that would pay a little more than half of her costs.

MARTINEZ: It's kind of hard when you're thinking, are they going to leave me broke? Or you know what? I mean, that's what -- that was very stressful.

(END VIDEOTAPE)

COOPER: But Roxanne Martinez decided that instead of taking Allstate's offer, she would take Allstate to court. We'll tell you what can happen if you take an insurance company to court, next on 360.

(COMMERCIAL BREAK)

COOPER: Before the break, we introduced you to a woman who said she was

dragged through the ringer by car insurance giant Allstate. She said that Allstate wanted her to settle for thousands of dollars less than what she was entitled to. She refused the deal they offered her and went to court.

And that's where she says the battle got even tougher. Her case is not an isolated one, however. As our reporting reveals, accident victims across the country are fighting back against the insurance companies they thought would protect them.

Once again CNN's Drew Griffin.

(BEGIN VIDEOTAPE)

GRIFFIN (voice-over): When Ann Taylor's car was rear ended...

ANN TAYLOR, ACCIDENT VICTIM: I woke up the next morning, I couldn't move. I had severe pain in my back. Down both legs were numb and tingly.

GRIFFIN: The doctor diagnosed herniated disk muscle tears. And the treatment would mean time off work, therapy and medical bills. The person who hit her was a State Farm employee driving a State Farm car. So Taylor thought at least financially she'd be covered. It added up, said Taylor, to \$15,000.

But after dragging out her claim, State Farm offered her only \$2,000.

TAYLOR: I was just very insulted.

GRIFFIN: Taylor hired Attorney Jeff Cook and decided she would fight. It turned into a major legal battle eventually ending up in this courtroom.

Taylor's case is an example of how the two largest auto insurance companies, State Farm and Allstate, have changed the way they handle claims when people are hurt in minor impact crashes.

CNN's investigation reveals a strategy to increase profits by limiting payments to accident victims. And former insurance insiders say most of the industry has adopted the strategy. Allstate and State Farm, the industry leaders, would not talk to CNN for this report.

But Jim Mathis, a former insurance company insider, who now testifies against the insurance business in court, did. And he says cutting payments to people like Taylor has meant billions for the insurance companies.

MATHIS: It's not based on what should be a settlement value or offer to this claim. It is not based on ethics. It's based on -- it's not based on profits. It's based on how much profit.

GRIFFIN: Taylor's case finally got to court three years after her accident. The lawyer brought in medical testimony. To present its case, State farm just dug deep into Ann Taylor's past.

JEFFREY COOKE, TAYLOR'S ATTORNEY: The lawyer stands up and says to Ann Taylor during her cross-examination, tell the jury about your back injury when you were 16 years old.

GRIFFIN: In fact, the attorney for State Farm raised questions about Ann Taylor falling off a horse when she was in high school. And the lawyer also asked Taylor, a nurse, about throwing out her back when she moved a patient.

(On camera): The attorney even brought up personal things that Ann Taylor had to sell a horse, that Ann Taylor had to sell her house, that Ann Taylor had even broken up with a longtime boyfriend. And couldn't all these things add to stress and that could have caused her back pain?

TAYLOR: They didn't have any expert testimony. They never had a physician look at me.

GRIFFIN: They tried to make you out to be a liar.

TAYLOR: Exactly. GRIFFIN (voice-over): The attorney for State Farm did produce one piece of evidence -- very large photos of two slightly damaged cars.

TAYLOR: They expected the jury to see those and to say, she really wasn't hurt.

GRIFFIN: Michael Freeman is a crash expert, often called in to testify when insurance companies are trying to use photos to deny a crash victim was injured.

How did the insurance companies use photos? Well, take a look at a photo of a car with minimal damage, he says, and convince the jury what they probably were already thinking. That doesn't look like much. How could that person be hurt?

MICHAEL FREEMAN, FORENSIC EPIDEMIOLOGIST: You're eventually being judged by what your car looks like, not by what your doctor says. Or by what the impact of a particular crash has had or an injury has had on your life. That's not fair. It's not right. It's fraud.

GRIFFIN: What stunned Taylor in the end is that State Farm's strategy

worked. The jury didn't believe she was hurt. They awarded her just \$1,500, less than what State Farm originally offered.

We contacted three of the jurors. They said this photo played a big part in their verdict. And they thought the insurance company had already paid its share and Taylor was only trying to get more.

Why did they look at her and must have assumed this lady is trying to rip off the insurance companies, she's a fraud?

COOKE: When she walked in the courtroom and she walked to the jury box and she walked to the testimony box and she walked out of the courtroom at lunch and at the end of a day, they assumed that she was not significantly injured.

GRIFFIN: It's a case straight out of the McKinsey playbook, the three D's. By denying her claim, State Farm forced Taylor to hire an attorney and sue. After a three year delay, Taylor walked into a courtroom with no noticeable pain. And by defending the case for years, State Farm forced her attorney to front expensive litigation costs, which in the end, he didn't get back.

FREEMAN: They make these cases so expensive to litigate, that attorneys won't want to take them.

GRIFFIN: Indianapolis Superior Court Judge David Dreyer says he hears it from colleagues across the country, courts bogged down with minor impact cases. He says the insurance companies' own lawyers admit to him they're being forced to drag the cases out.

JUDGE DAVID DREYER, INDIANAPOLIS SUPERIOR COURT: They've confided to me that they would rather settle a case and that they aren't allowed to settle by the insurance companies that of course control the defense.

GRIFFIN: It's a strategy spelled out in this affidavit from a former Allstate attorney in a lawsuit against Allstate. She explains how 10 years ago the insurance giant was changing the way it did business, driving lawyers out.

The former Allstate attorney says Allstate's strategy was to make fighting the company, quote, "so expensive and so time-consuming that lawyers would start refusing to help clients." The president of the Insurance Information Institute says the change was need.

HARTWIG: We have a group of attorneys, quite frankly, who are very upset because, guess what, the gravy train has ended.

MARTINEZ: She had like taken off the other way.

GRIFFIN: Remember Roxanne Martinez from the beginning of our investigation? She was sideswiped and Allstate offered her \$15,000 to cover her medical bills and lost wages. Her case also dragged on for years.

But after listening to what her lawyer said was a deliberate attempt to drag Martinez through the ringer, her jury awarded \$167,000 plus interest.

MARTINEZ: You know, I was happy. I thought, well, you know, all my bills are getting paid.

GRIFFIN: Industry insiders say 80 percent to 90 percent of accident victims don't fight. They take what the insurance company offers.

Drew Griffin, CNN, Santa Fe, New Mexico.

(END VIDEOTAPE)

COOPER: Interesting. You might think all the savings would mean lower premiums for drivers. Well, guess again. The Insurance Information Institute says auto insurance rates have actually gone up 30 percent over the 10 years since this went into effect. The president of that institute told us rates would actually be much higher if the companies hadn't cracked down on fraud.

How much you pay per year on car insurance depends on where you live in many cases. Here's the raw data. Last year the five cities with the most expensive auto insurance rates were Detroit, Philadelphia, Newark, New York and Los Angeles. The least expensive city was Roanoke at just over \$900, followed by Chattanooga; Nashville; Green Bay, Wisconsin; and Raleigh, North Carolina

BLOG INTRO

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Put yourself in the driver's seat of this accident. You are heading down the street when a truck comes out of nowhere and slams into the right side of your car. The damage to the vehicle is obvious: dents across the passenger door.

You are hurt too, thought it's not obvious how much: a slight cut above your eye, an ache in the neck.

Your doctor says your spine was injured, you have soft muscle tears, and the pain in your neck mostly likely is whiplash.

It's going to need therapy, she says, and some time off work to heal. And in the end it's going to cost you \$15,000 in medical payments and another \$10,000 in lost wages, because you took so much time off work.

But when you send the \$25,000 bill to the insurance company of the person who hit you, the insurance company says it's only going to pay you \$15,000. You can take it or leave it.

What do you do?

That's what producer Kathleen Johnston and I have been investigating for the last 18 months -- accidents most of us don't pay attention to, the fender-benders we pass by without even slowing down. In part, we looked at how Allstate handled the claim of one woman, Roxanne Martinez. Her car was hit in Santa Fe, New Mexico. Her medical bills and lost wages added up to \$25,000.

Allstate offered \$15,000 to settle. Roxanne Martinez didn't know what to do.

Sure, she could try to find a lawyer. But if you were in her shoes, would you? After all, you are fighting insurance giant Allstate over a \$10,000 difference. What attorney is going to take on that case?

Martinez's case represents what 10 of the top 12 auto insurance companies are doing to save money. And if you are in a minor impact crash and get hurt, former insurance industry insiders say, insurance companies will most likely try doing the same thing to you: delay handling your claim, deny you were hurt and defend their decision in drawn-out court battles. It's the three Ds: delay, deny and defend.

That, in a nutshell, is the strategy adopted by several major auto insurance companies over the past ten years, a lot of lawyers, former insurance company insiders and others tell CNN.

With nowhere to go, Allstate and others bet you'll take what they offer and walk away. It's right in the training manuals we obtained from Allstate: force "smaller walk-away settlements."

Shannon Kmatz, a former claims adjuster for Allstate, told us she would offer as little as \$50 dollars in some cases. Poor people would take it, she said, fearing that if they didn't, they'd get nothing at all.

Roxanne Martinez didn't take it. She sued and a jury awarded her \$167,000 dollars. But that verdict took three years.

Allstate is betting you won't wait, you won't sue and you'll take what you get and walk-away. And that, say our experts, has been a good bet for Allstate and others. Accident

victims have been walking away from billions of dollars that insurers now keep for themselves.

Allstate would not grant an interview or answer our questions. Instead, they sent an e-mail saying they didn't think CNN would deliver a fair report. I hope you will watch our report tonight and decide for yourself who is being fair.