Each year hundreds of millions of insurance claims are filed against insurance carriers in the United States and around the world, representing hundreds of billions of dollars in insured losses. From minor fender-bender auto accidents to major catastrophic events resulting in massive losses to property and human lives, the handling of insurance claims requires the expertise of many attorneys, claim professionals, managers, administrators, and experts in various disciplines. In addition, the insurance industry is highly regulated, and there are thousands of government officials and other public servants devoted to protecting the public interest in fair insurance claims handling practices.

Fortunately, the vast majority of insurance claims are resolved through the adjustment process without the need for litigation and involvement of the courts. Still, even the small percentage of claims that do not resolve in that manner result in hundreds of thousands of lawsuits filed in the state and federal courts. If all those lawsuits were tried to a verdict, the civil courts would have little time to handle any other types of cases. Accordingly, the use of alternative dispute resolution mechanisms such as arbitration, mediation, settlement conferences, and appraisal is common as a way for both insurance claimants and insurance carriers to avoid the expense, delay, and uncertainty of trying an insurance claim dispute in court.

For over 85 years, the Tort Trial and Insurance Practice Section of the American Bar Association (ABA TIPS) has equipped attorneys representing plaintiffs, policyholders, defendants, and insurance carriers as the primary source of education and knowledge for tort, trial, and insurance practice. Through an extensive program of continuing legal education programs, publications, networking opportunities, and leadership training, ABA TIPS inspires its members to achieve professional excellence in the practice of tort and insurance law. The Section has over 30 General Committees, each of which focuses on a particular practice area such as automobile law, liability insurance, health and disability insurance, life insurance, products liability, and property insurance.

The ABA TIPS Dispute Resolution Committee is dedicated to educating TIPS members and dispute resolution professionals such as arbitrators and mediators on developments and innovations regarding alternative dispute resolution mechanisms. In 2014, the Dispute Resolution Committee embarked on a project to produce a resource on insurance claims resolution that would draw on the expertise of the members of the various General Committees. With the support of the Section’s Book
Publishing Editorial Board, the Dispute Resolution Committee recruited some of its own members as well as members of other General Committees to write chapters on the common dispute resolution mechanisms in the committees’ areas of practice. This book is the result.

The book is designed to be a resource for attorneys and insurance claim professionals who are familiar with the common alternative dispute resolution mechanisms within their own practice areas but may be unfamiliar with such mechanisms in other areas. For example, if the focus of your practice is litigated automobile bodily injury claims but you find yourself handling your first litigated property insurance claim, the chapter in this book on property insurance claims will provide you with a comprehensive overview of the basics of the alternative dispute resolution mechanisms common in property insurance as well as practice pointers and things to watch out for if your case goes to mediation, arbitration, or appraisal in an effort to resolve the claim before trial. Similarly, if your practice is focused on life insurance claims but you are now handling a litigated health or disability insurance claim for a client, the chapter on health and disability insurance claims will provide you with essential information about arbitrating or mediating those types of claims.

The book also includes chapters that provide general information on insurance claim mediations and arbitrations, which are helpful for those who are unfamiliar with the specifics of how those mechanisms work. There is also a chapter on dispute resolution of insurance claims involving international parties, which is becoming more common as the insurance markets become more globalized. Importantly, there is also a chapter on ethics in arbitration and mediation to help practitioners understand the professional responsibility boundaries around those mechanisms.

One of the joys of this project for the editors was the opportunity it provided to work with talented litigators and writers from the various ABA TIPS General Committees that contributed to the project. This book brought together the committees in unprecedented ways to produce a product that will benefit not only the membership of ABA TIPS but also all of the attorneys, insurance claim professionals, and dispute resolution professionals working diligently to resolve insurance claim disputes before trial.

The editors hope that this book will be a catalyst for many other collaborative projects among the ABA TIPS General Committees to equip and inform the Section’s membership and the larger legal and insurance professional communities. We also hope that this book will help you and those you represent utilize the various alternative dispute resolution mechanisms successfully to resolve many more insurance claim disputes without the necessity of going to trial.

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