

LATVIJAS UNIVERSITĀTE

**BAKALaura DARBS**

RĪGA 2017

UNIVERSITY OF LATVIA  
FACULTY OF HUMANITIES  
DEPARTMENT OF ENGLISH STUDIES

**CONFLICT RESOLUTION IN WRITTEN LEGAL  
COMMUNICATION**

**STRĪDĪGU JAUTĀJUMU RISINĀŠANAS  
STRATĒGIJAS RAKSTVEIDA SAZIŅĀ  
JURISPRUDENCĒ**

BACHELOR THESIS

**Dženita Lubāne**

Matriculation Card No. dl13029

Adviser: prof. Gunta Rozina

RĪGA 2017

## Anotācija

Komunikācijā ir ļoti svarīgs ir valodas lietojums, lai tās rezultātā izteiktu savas izjūtas, emocijas un domas. Mūsdienu pasaulē, juristi un viņu klienti sazinās viens ar otru, izmantojot dažādus saziņas līdzekļus. Tomēr konflikti komunikācijā dažkārt rodas un tie ir jānovērš. Zināšanas par konfliktu risināšanas stratēģijām ir palielinājusi izredzes labvēlīgi atrisināt konfliktu un palielinājusi iespējas veiksmīgi veidot un uzturēt noderīgus kontaktus un attiecības. Šis pētījums aplūko pragmatiskos, lingvistiskos un konfliktu risināšanas aspektus juridiskajā diskursā, it īpaši apdrošināšanās sfērā.

Pētījuma mērķis bija izpētīt konflikta risināšanas teoriju un stratēģiju lietojumu saziņā jurisprudencē. Pētījuma metode bija gadījuma izpētē un analīze. Divpadsmit apdrošināšanas prasības un atbildes vēstules uz tām tika iegūtas no jurista no ASV, kuras tika izvēlētas ar nolūku analizēt to saturu. Var secināt, ka visām izmantotajām konfliktu risināšanas stratēģijām ir dažādas funkcijas, bet vienots mērķis- atrisināt konfliktu. Tāpēc šī zinātniskā darba mērķis ir sasniegts

**Atslēgas vārdi:** juridiskais diskurss, apdrošināšana, prasība, konfliktu risināšanas stratēģijas

## **Abstract**

Communication is crucial in order to express feelings, emotions and thoughts. In the modern world, lawyers and clients communicate with each other by various means. However, conflicts occur and they are not preventable. The knowledge of resolution strategies of conflict has increased the chances of beneficial solutions and chances of successful formation and maintenance of useful contacts and relationships. The present study examines linguistic, pragmatic and conflict resolution principles in legal discourse, particularly in insurance domain.

The aim of the paper was to examine of conflict resolution theory and strategy use in legal communication. The research method was case study analysis. Twelve insurance claim letters and response letters to these claims were obtained from a lawyer from USA were selected as a corpus for the present study. It can be concluded that all of the conflict resolution strategies were used to resolve a conflict as these strategies with different functions have one goal-to resolve a conflict. Therefore, the aim of the present research was reached.

**Key terms:** legal discourse, insurance, claim, conflict resolution strategies

## Table of contents

Introduction .....	1
1. THEORETICAL FRAMEWORK OF THE STUDY: WRITTEN COMMUNICATION AND COMMUNICATION CONFLICT .....	3
1.1 Verbal communication.....	3
1.2 Conflict as occurrence in communication .....	5
1.2.1 Conflict resolution strategies .....	8
2. LANGUAGE FOR LAW .....	12
2.1 Written communication in law .....	15
2.1. Insurance claim .....	16
3. METHODOLOGY OF THE EMPIRICAL RESEARCH.....	20
4. RESEARCH DISCUSSION.....	21
4.1 Analysis of Linguistic Features of Legal Discourse.....	21
4.2 Conflict resolution theory use of legal discourse .....	29
4.2.1 Linguistic politeness as a strategy of conflict resolution .....	34
Conclusions .....	38
Theses .....	40
References .....	41
Appendix .....	45

## Introduction

Language serves as an essential instrument used by legal authorities. Legal professionals have created their own peculiar language, which has been used for centuries and is used nowadays. Communication between legal environments occurs on a daily basis. Moreover, conflicts occur everywhere and legal environment is not an exception. For that reason, the author of the present paper examines how linguistic elements of legal discourse are used in order to solve a conflict.

The author of the present paper carries out an analysis of legal documentation, presented in form of claims, where the role of linguistic elements in conflict resolution are examined. The analysis of applied conflict resolution theories by Fearn-Banks(2017) are analysed. Moreover, the conflict resolution approaches are analysed from the perspective of linguistic politeness theories of Leech (1983), Brown and Levinson (1987).

The **aim** of the paper is to examine of conflict resolution theory and strategy use in legal communication.

The research paper puts forward the following enabling **objectives**:

- To develop theoretical framework for the study;
- To examine legal discourse on linguistic and pragmatic level;
- To examine conflict resolution theory use in legal communication;
- To examine conflict resolution approach from the perspective of politeness;
- To draw relevant conclusions.

The **goal** of the present research is to investigate the linguo-pragmatic nature of language for Law in conflict resolution as well as the strategies used in order to resolve a conflict.

In order to achieve the main goal, research questions have been set:

- 1) What are the peculiarities of conflict, legal communication?
- 2) What linguistic and pragmatic aspects aroused to resolve a conflict in legal documentation?
- 3) What conflict theories are applied to resolve a conflict in legal documentation?
- 4) Which of aspects or theories guarantee a more beneficial conflict resolution?

Research methodology was created, such as:

- 1) Examination of legal discourse and linguistics, conflict resolution;
- 2) Empirical analysis of data, established on the analysis of documents used for the research
  - Case study approach is used as research type

- Qualitative study is the research perspective
- Research corpus consists of textual material, which totally consists of 7 458 words

The structure of the paper is formed by four main chapters as well as sub-chapters. Chapter 1 presents the findings of the theoretical study- theories on conflict resolution. Chapter 2 focuses on the peculiarities of language for Law. Chapter 3 offers the methodology used in the empirical part of the research. Chapter 4 reveals the results of analysis of linguistic and pragmatic analysis of legal communication and conflict resolution theory use in legal documentation.

# 1. THEORETICAL FRAMEWORK OF THE STUDY: WRITTEN COMMUNICATION AND COMMUNICATION CONFLICT

The theoretical part of the thesis presents a theoretical level analysis of conflict resolution strategies in written communication in law. Chapter 1 presents a theoretical framework for the discourse analysis under case study, where communication conflict resolution strategies in written discourse of English for Law.

## 1.1 Verbal communication

The word 'communication' as such has the roots of the Latin word *communis* and it means 'common' (Marcel, 2000:58). There are various definitions of communication and Cooley stated that 'by communication is here meant the mechanism through which human relations exist and develop all the symbols of the mind, together with the means of conveying them through space and preserving the time' (Cooley, 1909:61). Communication consists of such aspects as attitude and gesture, the expression of the face, the tones of the voice, words, writing, printing, telephones and much more (ibid).

The verbal communication includes spoken and written means of communication (Renkema, 2009:9) As stated by Renkema, oral communication occurs in real time, on the other hand written communication performs as a more static aspect (Renkema, 2009:10). Moreover, verbal communication or language 'is an instrument of communication, but the language itself does not communicate' (Langacker, 1973: 212). Language fulfils a function in order to communicate and serve as a process of social interaction. Brown and Yule (1989) describe two generally accepted language functions, 'function which language serves in the expression of content we will describe as transactional, and that function involved in expressing social relations and personal attitudes we will describe as interactional' (Brown, Yule, 1989:1).

According to Jacobson 'any verbal behavior is goal-directed, but the aims are different and the conformity of the means used to the effect aimed at is a problem that evermore preoccupies inquirers into the diverse kinds of verbal communication' (Jacobson, 1960:351). Language can serve various functions at the same time and for that reason Jacobson introduces six essential functions of language- *referential, emotive, conative, phatic, metalingual* and *poetic* (Jacobson: 1960:357). Moreover, many linguists have their own versions or even additions concerning language functions.

*Referential* or *informative* function focuses towards the context, where the main goal is to present the information in an understandable matter (Jacobson: 1960:355). Klinkenberg (1996) argues that emotive function 'should not be understood in the usual sense, as referring to human

affect. It actually has nothing to do with emotion. Any message, including the most neutral, reveals the condition of its sender' (Klinkenberg, 1996:53).

A direct focus on the addressee in the text is when *conative* function of language is fulfilled (Jacobson, 1960:355). Furthermore, the *conative* function 'finds its purest grammatical expression in the vocative and imperative, which syntactically, morphologically, and often even phonemically deviate from other nominal and verbal categories'(ibid.). Moreover, Hebert offers a translation of Klinkenberg's (1996) description of relation between conative and referential function 'Any information – the referential function – changes the receiver's knowledge stock; we can thus say that it acts on the receiver: that is the conative function' (Online 2). *Conative* and *referential* functions both have an impact on the receiver of the message, because these functions focus on the matter of how the message is presented and how it will affect the receiver.

*Emotive* function is concerned with the addresser, Jacobson states that 'aims a direct expression of the speaker's attitude toward what he is speaking about'; moreover, 'it tends to produce an impression of a certain emotion whether true or feigned' (Jacobson, 1960:354). *Emotive* or *expressive* function reveals the sender's opinion or attitude towards the receiver.

*Phatic* function concerns the development, maintenance and continuation or discontinuation of communication, or to make sure that the communication is still happening (Jacobson, 1960:355). The main aspect of phatic function is the contact, because it focuses on the actual process of communication, from establishment to termination of the communication process.

*Metalingual* language function refers to the mutual agreement on the code, which usually is which form the message occurs (Jacobson, 1960:356). This code can occur in a form of previously agreed language, definition, dialect and even the particularization of the code in the form of questions can serve a metalingual function (ibid.).

*Poetic* function is directly concerned with the message as such and it does not have any connection with the field of poetry (Online 2).

Written discourse can be examined from the perspective of various factors, including both grammatical and lexical utterances. Language and text can be perceived differently within the context. For that reason, Halliday (1985) distinguishes three textual functions or metafunctions- *ideational function*, *interpersonal function* and *textual function* (Halliday, 1985:53). *Ideational function* concerns factors related to transitivity, in other words serves a representative function and 'what the clause is about, which is typically some process, with associated participants and circumstances' (Halliday, 2002:361). *Interpersonal* function is related to exchange, it serves an interactional function and 'what the clause is doing, as a verbal exchange between speaker-

writer and audience' (ibid.). *Textual* function concerns the actual message and 'how the clause relates to the surrounding discourse, and to the context of situation in which it is being produced' (ibid.). All of the functions by Halliday mentioned above focus on the clause

Jacobson marks that successful verbal communication cannot occur without these factors seen in Figure 1.1- addresser, message, context, contact, code and addressee (Jacobson 1960:353). Addresser sends a message to an addressee, while the message needs a context in which the text or verbal messages takes place, code (which is usually the language in which the communication occurs), and contact, which assures that communication is possible (ibid.).

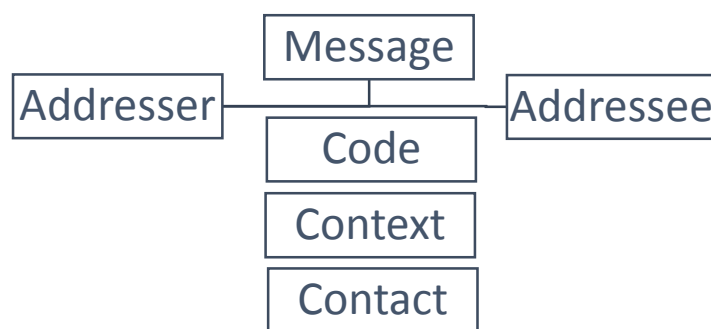


Figure 1.1 Six factors of effective verbal communication

The persons who are receiving the communication classify communication in intrapersonal communication, interpersonal communication, group and mass communication (Khetarpal, Sehgal, 2006: 6). Intrapersonal communication deals with communication of one person with him or her, interpersonal communication is an interaction between two people, group communication involves communication within a group and mass communication characterize a communication with a group of significant numbers of people (ibid.). The paper focuses on conflict as an occurrence in communication, which is investigated in the following chapter.

## 1.2 Conflict as occurrence in communication

In the process of communication, there could arise problematic situations, which can result in conflict. Kim and Pruitt claim that 'conflict is perceived divergence of interest, a belief that the parties' current aspirations are incompatible. In other words, conflict is a belief that if one party gets what it wants, the other (or others) will not be able to do so' (Pruitt, Kim, 2004:7-8).

After analysing various definitions of conflict, Baron (1990) has found out that the majority of definitions include joint elements- conflict includes contradicting interests in a situation when only one party can win, these interests should be considered, each party knows, that the other party will try to prevent other parties' interests, conflict is a procedural situation where past relationships and context play a major role in conflict pace, insinuate actions preclude another party to achieve their goals (Baron, 1990:199). Conflict as such is a very complex

concept, which has various aspects from the perspective of conflicting parties, the reason and context of the conflict.

Deutsch, Coleman and Marcus (2011) state that there are various aspects, that can cause a conflict- motivation, trust, communication, language, emotions, persuasion, self-control, power, violence, judgmental biases, personality, development, culture, moral, religion, family and gender perception (Deutsch, Coleman and Marcus, 2011:8-10). Nonetheless, Wright (1988) implies that the knowledge of a shared language does not ensure mutual understanding and successful communication between people (Wright, 1998:11). Two aspects affect the process of communication- the first factor includes channels that implement communication process (face-to-face communication, telephone, TV, radio, mail etc.) and the second aspect is the conception of the message or the misunderstanding of an implication of a certain idea (ibid). An inaccurately conducted message can cause misunderstanding in terms of perception and understanding of an idea and the message that the person wants to deliver.

Misunderstanding occurs in everyday life; however, in conflict situations misunderstanding can lead to more disadvantageous process or results. Bartos and Wehr (2002) suggest that there is a connection between misunderstanding and conflict, ‘conflict parties communicate both by what they say or fail to say, and by how they behave toward one another’ (Bartos, Wehr, 2002:152). Moreover, the higher level of conflict can be more harmful if miscommunication appears and develops (ibid.). There can be situations that in the process of conflict, the conflicting parties become more emotional and as a result the given message can be inaccurate, ‘emotion control is one way to encourage accuracy’ (ibid.). A clearly stated and deliberative message ensures the possibility of less occurring misunderstandings. Miscommunication is one of the cause of conflict and communication is the logical solution to solve a conflict, which has arisen from miscommunication (Azis, 2009: 2). Miscommunication has various reasons and instruments, which need to be considered in order to solve a conflict in a more beneficial manner for all parties involved in a conflict.

Anolli, Ciceri and Riva have introduced a concept of deceptive message as a manner to influence other participants of communication, where ‘deception as a miscommunicative act implies an increase of the degree of freedom on the part of the speaker to choose a definite path of message design according to context expectancies and cultural standards’ (Anolli, Ciceri, Riva, 2002:79). The main reasons to use deceptive message is ‘to acquire or protect one’s own resources (money, time, possessions, privacy etc.), or to manage the relationship with a partner (initiate, continue, or avoid interaction; avoid conflict and embarrassment, avoid punishment... or to maintain or enhance self-esteem’ (ibid.). Moreover, when it appears that the person has been telling lies or has stated a wrongful message, a deceptive message can be hidden by

expression such reasons ‘as a lack of information, a mistake, poor judgement, a moment of bewilderment’ (ibid.). Deceptive message can be used in order to avoid conflict; however, it can perform as a conflict cause as well.

Irony can be perceived as one of the reasons of miscommunication, where it ‘arises from the need both to respect social standards, and to avoid other people’s censure, without abandoning, however, those topics that would otherwise be unacceptable’ (Anolli, Ciceri, Riva, 2002:142). Moreover, irony in miscommunication serves as a manner to minimize and hide emotions and feelings (ibid.). Irony is an instrument to hide the emotive aspects of communication; however, it can cause conflict.

Conflict in an organization can have not only negative, but also positive consequences. Dysfunctional conflict leads to negative consequences, which can affect the work process in a negative way (Sims, 2002:246). For instance, conflict distracts from the work process and transfers the energy to the wrong direction, it takes too much energy and time, and a conflict influences psychological health, ruins healthy relationships by creating negative conditions and developing unfavourable behaviours (ibid.). However, a functional conflict promotes new solutions, encourages innovation and creativity, develops performance and trust, and stimulates organizational life force (ibid.). A conflict in an organization can cause different consequences; thus, creating new experiences from which an organization can create their conclusions for further conflicts.

Bugajski points out that there are mostly three types of conflict in organizational setting- intra-state, inter-state and trans-state conflicts (Bugajski, 2011:1). Intra-state conflict ‘include civil conflicts precipitated by deepening political cleavages, economic distress, and growing inequalities’, while inter-state conflict ‘include conflicts over the status of disputed territories and the treatment of ethnic kindred’(ibid.). Trans-state conflicts ‘include international terrorism, economic sabotage, and cyber-attacks that precipitate state paralysis, undermine national security’ (ibid.).

Conflict can have many negative consequences, including a development of crisis. As stated by Bugajski, ‘crises can be instigated by all three conflict types, but they can also be precipitated by natural disasters’ (Bugajski, 2011:2). Conflicts can provoke crisis, which leads to crisis theory application to conflict theory due to the one aspect leading to another.

According to Fearn-Banks (2017), conflict has five stages- detection, prevention/preparation, containment, recovery and learning (Fearn-Banks, 2017:4). In the detection stage, there are minor or noticeable warning signs (Fearn-Banks, 2017:5). The one tries to develop two-way communication with the public in order to lessen the extent and duration of conflict in the prevention stage (Fearn-Banks, 2017:6). In the preparation stage a

person deals with all aspects of conflict, which cannot be stopped; in this situation communication plans are used (Fearn-Banks, 2017:7). The containment stage includes actions taken to diminish the matter and period of the conflict at a interpersonal level, which is not seen to the public (ibid.). In the recovery stage, the main goal is to execute actions in order to recover and restore normal working pace at the fastest time period possible (Fearn-Banks, 2017:7-8). In the learning stage the one examines conflict resolution strengths and weaknesses, which are useful for dealing with future crisis (Fearn-Banks, 2017:8). Furthermore, the knowledge of conflict resolution strategies play a significant role in the process of conflict; for that reason, the following chapter describes conflict resolution strategies that can be applicable in the conflict process.

### **1.2.1 Conflict resolution strategies**

It is common knowledge that the conflicting parties are interested in achieving their own goals; however, there has to be a certain knowledge of the approaches of how their goals can be achieved. Moreover, the knowledge of conflict resolution approaches and strategies that can be applicable in the conflict resolution can benefit both conflicting parties. Generally, it is logical that the causes of the conflict need to be examined (Tidwell, 2001: 4). There are three factors to be considered in order to resolve a conflict- *opportunity*, for instance, time and place, and *capacity*, where the ability and skills to resolve a conflict play a major role (ibid). Third factor to take into account is *volition* or will to resolve the conflict, because without the willingness to resolve a conflict, the conflict will continue (Tidwell, 2001: 5). There is no need for the parties to like each other, but there is a need for mutual understanding, that the conflict has to be resolved (ibid.). Consequently, when these factors are considered, the conflicting parties can use conflict resolution strategies.

There are different conflict resolution strategies which help to resolve conflicts in a least harmful manner. Fearn- Banks has gathered several conflict resolution theories- **apologia theory, image restoration theory, decision theory, diffusion theory** (Fearn-Banks, 2017).

**Apologia** is a reaction to a situation when one accuses other of an infringement (Fearn-Banks, 2017:18). However, the reaction is not always an apology, it could be also an explanation or even a denial, because the main goal is to remain the reputation (ibid.). There are three aspects of apologia theory- redefinition, dissociation and conciliation (ibid.). There can be situations when a company denies the fact of misdeed; moreover, a company can imply that they did not intend to take the misfortunate actions, this is described *redefinition*, and in this case the forgiveness is not always guaranteed. *Dissociation* occurs when the company has not actually done mismanage; however, the company explains that it might have done something using explanation. Furthermore, the actual apology admitting the fault is called

*conciliation* (ibid). The theory explains the company's possible actions towards admitting or explaining the conflict to general public.

**Image restoration theory** concentrates more about the division of the information to certain public, because 'the organization determines what is threatening reputation or image and also determines which public must be addressed and persuaded in order to maintain and restore positive image' (Fearn-Banks, 2017:19). This refers to delivery of the misfortune of the company, because the company can determine the amount of information, which they can and want to present, because not always it is important to expose bad information, but sometimes it is better to deliver bad news by the company itself, not from any other sources (ibid.). The focus of this theory is the maintenance and retention of reputation of the conflicting party.

**Decision theory** examines the importance of chief executive's role in decision making process during a conflict affecting the company (Fearn-Banks, 2017:20). Decision making process is difficult, because it occurs under various conditions and 'the outcome may be certain, vague, ambiguous, or risky' (ibid.). *Maximizing* approach in decision theory is used to evaluate the benefit of each alternative decision and *satisficing* approach is choosing the decision, which will require minimum requirements, usually because of lack of information to prepare for decisions (ibid.). Consequently, the focus of this theory is the effect of the decisions made in the process of conflict.

**Diffusion theory** describes the process how new procedures, innovations and objects are integrated and accepted by companies and individuals. As stated by Fearn-Banks, diffusion theory consists of five stage process- awareness, interest, evaluation, trial and adoption or failure to adopt (Fearn-Banks, 2017: 20). In the awareness stage the one is aware that there is or could evolve a conflict, there is an interest to the conflict in the interest stage, benefits and disadvantages are considered in the evaluation stage, in the trial stage the idea is carried out to determine its success and in the end, there is an acceptance or rejection of the idea, solution (ibid.). This theory is focused on examination of the possibility of change integration without any significant losses.

Successful communication and avoidance or abatement of conflict can be reached by using **linguistic politeness**. According to Stanford Linguistics Association (1990) there are two ways of reaching mutual understanding and conflict avoidance- examination of already failed communication and study of contextual aspects of communication (1990:119). The actual concept of avoidance strategy is the management of choice of communicative interaction options in terms of language, where the participant of the communication is not rude and does not offend the other participants (ibid.). Polite language use is characterized with the avoidance of power pressing and 'the use of some degree of verbal indirectness, which serves to prevent

confrontation' (ibid.). Generally, the use of polite language is one of conflict avoidance strategies, which show the linguistic competence of the participant of communication.

The knowledge of conflict solving skills is beneficial, however, the manner of how the conflict is solved also plays a major role. The parties, which are involved in a conflict should use appropriate language and consider the communication etiquette in terms of politeness. Thomas (1995) claims that linguistic politeness is, 'the use of situationally appropriate language' (Thomas, 1995:2). However, it is difficult to describe, which aspects establish polite language, because it is closely related to context and social interactions (ibid.).

Polite language is generally used in three cases- in order to establish and maintain relationships and beneficial contacts, to communicate within a serious setting while reaching a goal and to communicate with those people who are close to the person (friends, family) and to create an impression of a pleasant person (Rozina, Karapetjana, 2011:26). Generally, behavior and communication are acquired through time, as well as politeness.

Leech (1983) cited in Rozina and Karapetjana (2011) characterizes the interaction between principles of cooperation and politeness (Rozina, Karapetjana, 2011:32). Leech distinguishes four main types of cooperation and politeness functions- *competitive*, *convivial*, *collaborative* and *conflictive* (Rozina, Karapetjana, 2011:33). *Competitive* function is focused on executing the speech in order to achieve a certain goal by asking, demanding and begging (ibid.). *Convivial* function concerns the goal of communication combined with 'the social goal of interaction when performing the speech acts' by offering, inviting, greeting, thanking and congratulating (ibid.). *Collaborative* function describes a communication when the goal of communication is different from the social goal of communication, this function includes such factors like asserting, reporting, announcing and instructing (ibid.). *Conflictive* function describes a situation when the goal of communication battles the social goal of communication and threatening, accusing, reprimanding and cursing occurs (ibid.).

Usually, the functions mentioned above carry a positive and negative manner. Brown and Levinson (1987) cited in Rozina, Karapetjana (2011) outline several linguistic strategies of positive and negative politeness. The positive linguistic strategies of politeness include such aspects as taking interest of other parties' interests and needs, use of group identity markers, seeking compromise and avoiding conflicts, referring to assumptions on common interests, joking, making offers, promises, invitations, questioning for reasons and offering sympathy (ibid.). Linguistic strategies with a negative politeness include such aspects as being indirect, questioning using hedges, being pessimistic, diminishing imposition, yielding to the judgement, apologizing, impersonalization of the addressee, stating threatening acts as common regulation, nominalization, and overstating a debt on the addressee (ibid.). Generally, linguistic politeness

serves as one of the conflict avoidance strategies that can also lessen the impact and the harmful processes of the conflict.

The nature of legal language is described in the Chapter II.

## 2. LANGUAGE FOR LAW

The area of law has been a part of people's lives. Law and legal language has been a very complex and crucial element for legal authorities for centuries. Nowadays, the analysis of the language used in law has been examined by various linguists (Mattila, Galdia, Garner, Halliday and many other).

Law is the basis of legal language as it constitutes the form, a certain pattern of how legal documentation should be conducted. The meaning of particular aspects used in legal communication are based on discourse in law. Dickstein (1998) implies that law has several peculiarities and it is closely related to the context,

‘Law is contextual: it is rooted in practice and custom, and takes its substance from existing patterns of human conduct and interaction. To an equal degree, law is instrumental, meant to advance the human good of those it serves, hence subject to alternation toward this end. Law so conceived is a set of practical measures for cooperative social life, using signals and sanctions to guide and channel conduct.’

(Dickstein, 1998: 12).

Bhatia (2004) states that in law, ‘information is more holistically structured, so that the learners do not misunderstand any idea or concept out of context’ and that is the reasoning why in legal language ‘there is an extremely high degree of intertextuality and interdiscursivity’ (Bhatia, 2004:35)

Furthermore, the author sends a message while using different words, sentences, or the text itself, which differs in a particular context. Language in the text can be perceived differently in various contexts. For that reason, context plays a major role in terms of text and Yule claims that, ‘The study of a linguistic meaning in context, i.e. ‘intended speaker meaning’ is called pragmatics’ (Yule, 1996: 127). The present paper deals with linguistic meaning of the words and their meaning within a particular-legal context.

Law as such has a certain framework and as Hoecke (2002) states, ‘law offers a framework within which citizens may reach understanding on norms and values, realise collective goals, bargain between interest positions and solve conflicts’ (Hoecke, 2002: 64). Moreover, communication in law occurs between legislators and citizens and many other in order to present an appropriate representation of the law (Hoecke, 2002: 7).

Legal language as such is based on everyday language, because legal language includes all aspects of grammar and general vocabulary. However, language for law is a language for specific purposes. Mattila (2013) explains that legal language includes many legal terms and the language of different countries and different periods differentiate language (Mattila, 2013:1). Generally, this language is used by lawyers and it is often described as technical language, because it is used by a specialist (ibid.).

To characterize legal language, the linguist David Crystal states that,

‘Legal language is always being pulled in different directions. Its statements have to be so phrased that we can see their general applicability, yet be specific enough to apply to individual circumstances. They have to be stable enough to stand the test of time, so that cases will be treated consistently and fairly, yet flexible enough to adapt to new social situations. Above all, they have to be expressed in such a way that people can be certain about the intention of the law respecting their rights and duties. No other variety of language has to carry such a responsibility.’

(Crystal, 1997: 374)

There are several sub-genres of legal language based on various characteristics. Mattila states that the sub-division of legal language is based on a division of law, which is expressed by vocabulary and style (Mattila, 2013:2). For instance, a particular type of documents have been composed by notaries and for that reason the language used by notaries have their own characteristics (ibid.). Furthermore, the language for law can be divided by the branches of law (Mattila, 2013:3). For example, the language of criminal law will not include the same terminology as the language in constitutional law or tax law (ibid.). The differences of the language used in particular context in law include various characteristics.

Each profession has its own peculiar language and so does legal professionals. They use legal jargon, which is used by lawyers and other civil servants. Mattila notes that legal jargon ‘often takes form of abbreviations [...] replacing explanations as to legal institutions by the numbers of articles constitutes a particular genre of abbreviation’ (ibid.).

It is common knowledge that language serves different functions and so does legal language. The most essential function of legal language is achieving justice (Mattila, 2013:41). Justice is achieved by the use of speech acts, which form is very formal and valid by the use of written forms and signatures of legal authorities (Mattila, 2013:42-43). The second function of legal language is transmission of legal messages, which include such legal content as ‘laws and regulations, judgements and administrative decisions, briefs and pleadings of advocates, indictments of prosecutors’ (Mattila, 2013:44). The third legal language function is strengthening the authority of the Law, which manages and controls society (Mattila, 2013:50). The most crucial part of this function is to ensure that citizens understand and are committed to the legal rules and are aware of sanctions (ibid.). The fourth function is strengthening group cohesion in legal circles as it expresses professional identity and traditions, values (Mattila, 2013:65). Latin and legal jargon serve as two main factors of group cohesion creation of legal professionals. Latin has been used by legal professionals since medieval times; thus, some of Legal maxims are used nowadays. Legal jargon creates a certain level of solidarity at a group level, which could differ in several countries or even sub-division of legal authorities (Mattila, 2013:66). On the contrary, the fifth legal language function focuses on the minority protection of the language and its unification (ibid.). Mattila explains that ‘linguistic policy aims to

preserve or to change either the relationship between two or more languages, or the properties of a single language' (ibid.). The sixth legal language function focuses on legal linguistic culture as many laws remain in force for a long-time period and the language used in these laws create a linguistic heritage and helps to create a new legal language (Mattila, 2013:72).

Legal language has its own separate characteristics, which describe the peculiarities of language used in the area of law. Galdia (2009) distinguishes several components of legal language- *phonology*, *phonetics*, *morphology*, *syntax* and *semantics* (Galdia, 2009:96). Forensic linguistics is concerned with the characteristics of the language in legal context and 'examines production and perception of utterances from the legal standpoint' (Mattila, 2013:11). All of the linguistic components establish, describe and compile the essence of legal language.

*Phonology* of legal discourse focuses on the sources of the legal background, for instance, the 'pronunciation of the Latin legal notions, especially the traditional English pronunciation of Latin' (Galdia, 2009:97). Moreover, forensic linguistics comprise the practical use of the phonological issues.

*Morphological* aspects in legal linguistics outline the certain terminology as well as the explanation, derivation of difficult words used in language for law (ibid.). Moreover, Mattila explains that morphology in legal context 'concerns the construction of compound words, from the standpoint of their clarity and modifications then taking place in the original words forming part of the construction' (Mattila, 2013:66).

*Semantics* in legal language is focused on definitions and meanings of certain words used in a legal context (Galdia, 2009:99). Particular terminology used in the legal documentation construct the whole essence of legal language as a professional language and serves as the main difference from an ordinary language.

*Syntax* in legal linguistics is concerned with relationships between words and such aspects as 'sentence length, and frequency of subordinate clauses' (Mattila, 2013:11). Furthermore, the word order or certain expressions in a legal document 'is almost wholly dictated by formula' and in some cases the formulation 'involves opening and closing phrases in documents, as well as expressions that signal that a new section of the text begins from that point' (Mattila, 2013:84). Usually the word order differs in certain languages and it corresponds to language norms, but it can be unique in terms of word order in language used in law.

*Lexicology* in language for law is the most crucial component as the choice of lexical units distinguish legal language from ordinary language, which is used by non-professionals (Galdia, 2009:99). The specific vocabulary in terms of borrowings, synonyms, phraseology, etymology, jargon form legal lexicography, where term plays a much more essential role than concept (Mattila, 2013:21).

According to Osbeck (2011) there are three essential qualities of legal writing, that ensure a good legal writing- it is **clear, concise** and **engaging** (Online 1). **Clear** text is one of the main representation of good legal writing and Cardozo says that ‘there can be little doubt that in matters of literary style the sovereign virtue for the judge is clearness’ (Cardozo, 1999:7). A clear presentation of facts and the message ensures the clarity of the text in order to avoid any misunderstandings. As Garner (2006) states ‘a lawyer should keep in mind that the purpose of communication is to communicate, and this can’t be done if the reader doesn’t understand the words used’ (Garner, 2006:183). Difficulty to understand the message is the main reason why the message should be clear, not only in terminology used, but also in terms of grammar, syntax, semantics etc.

The second fundamental quality of legal writing is **conciseness**. Osbeck argues that concise writing ‘is often though not always brief, but it is always efficient’ and ‘within any given context, the writing makes its points in the most economical way’ (Online 1). Moreover, Strunk and White claims that ‘a sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines, and a machine no unnecessary parts’ (Strunk and White, 2000:23).

The third crucial quality of legal writing is **engaging**. This quality consists of such aspects as engaging the reader, the nature of engaging writing and the relation between engagement and clarity (Online 1). Lord Denning says that it is important to interest the reader and ‘if it is presented in a lively and attractive setting, they will sit up and take notice. They will listen as if spellbound. They will read you with engrossment’ (Denning, 1981:39). Furthermore, one factor that makes the writing engaging is sentence length and Oates and Enquist claim that variety in sentence length helps create an interesting and varied pace’ (Oates and Enquist, 1998:598). Engagement and clarity can contradict. For instance, there can be used repetition to make the text clearer and ‘skillful legal writers often use selected repetition to emphasize a point’ (Oates and Enquist, 1998:2). However, the overuse of repetition is not engaging towards the reader.

The corpus of the research consists of written letters, particularly written insurance claims, for that reason, the concept of written legal communication is explained in the following chapter.

## **2.1 Written communication in law**

Language cannot exist if it does not have any fixed written records. Written messages of language are permanent, they have greater power and influence. Legal language occurs mainly through written documentation. Legal documents are usually presented considering all

structure, grammar, linguistic patterns of formal writing and thus these documents are respected. Moreover, legal documentation does not include any overuse of personal opinions, expression of emotions, and colloquial language as it diminishes the quality of formal writing (Daniel 2014:84).

Communication in organizations is considered to be group communication and Tjosvold states that, ‘communication within and between groups is needed for innovation in organizations. Continuous improvement occurs when people within teams and across them are identifying issues, sharing information, influencing each other, and putting ideas together’ (Tjosvold, 1991:81).

The purpose of communication is to give a certain message to someone. Khetarpal and Sehgal (2006) state that there are various purposes of legal communication- to inform, to persuade, to educate, to train, to motivate, to integrate, to relate, to entertain (Khetarpal, Sehgal, 2006:11-12). The most crucial purpose of any communication is to inform someone inside and outside the company; persuasion is applied to the staff to work efficiently and to the customers to buy something, spreading knowledge with a purpose to educate results in a more developed staff (Khetarpal, Sehgal, 2006:11). Motivation in a legal communication ensures a better and continued performance of the staff at a high level, integration helps companies to unite the different goals of various departments of the company to reach a common target. Communication is used to build and maintain successful relationships within the company and it is used also to lessen routine and bring a little of entertainment in the company (Khetarpal, Sehgal, 2006:11-12). The corpus of the present paper is insurance claims and response letters to these claims, for that reason, a brief explanation of this concept is provided in the following chapter.

## **2.1. Insurance claim**

The corpus of the research consists of insurance claims and response letters to these claim letters. For that reason, the characteristics of insurance and insurance claims are described.

Insurance as such is an opportunity to ensure a something or someone where there is a certain guarantee of risk and there is elimination of uncertainty. Rossini (1998) explains insurance as a legal concept, which is ‘the pooling of risks that an event of loss may occur (Rossini, 1998:178). According to Sethi and Bhatia (2012) an insurance is basically a contract,

‘under which the insurer (insurance company) in consideration of a sum of money paid (premium) by the insured (the person whose risk is insured) agrees to: make good the loss suffered by the insured against a specific risk (for which the insurance is affected) or to pay a prefixed amount to the insured or his/her beneficiaries on the happening of a specified event’

(Sethi and Bhatia, 2012:180).

There are basically two insurance types- life and non-life insurance (Sethi and Bhatia, 2012:195). There are mainly two types of non-life insurance, i.e., general insurance, which includes marine insurance, fire insurance, personal accident insurance, motor vehicle insurance and miscellaneous insurance, which includes fidelity guarantee insurance, crop insurance, burglary insurance, cattle insurance, cash in transit insurance and many other (Sethi and Bhatia, 2012:195-196). Nevertheless, if a risk or damage has occurred, an insured person draws up a claim in order to receive a certain sum of money for the insured person or object.

In insurance domain, there is an understanding of such concept as tort, which according to Black's Law dictionary is a 'private or civil wrong or injury, including action for bad faith breach of contract, for which the court will provide a remedy in the form of an action for damages' (Black, 1990:1489). Moreover, a negligence tort 'consists of the existence of a legal duty owed to the plaintiff by the defendant, breach of the duty, proximate causal relationship between the breach and plaintiff's injury, and damages' (ibid.). Generally, negligence tort refers to the responsibility of the situation, which is not taken by the person.

Insurance contract between the insured and the insurer is called insurance policy (Online 5). Insurance policy consists of four basic parts- declaration page, insuring agreement, exclusions and conditions (ibid.). Declaration page the object of insurance, the type of risks that are covered and the time period (ibid.). Insuring agreement summarize the promises of the insurance company as well as the object of coverage (ibid.). There are two types of coverage- named-perils coverage, where only specified risks are covered and all-perils coverage, where all of the losses are covered except for the named ones in the agreement (ibid.). Exclusions include mainly three types of exclusions- excluded perils or causes of loss, excluded losses and excluded property (ibid.). Conditions conclude the main provisions and limitations of the insurance policy (ibid.). Lawyers and insurance company clients base their decisions on the policy provisions stated in the insurance policy.

In order to get a reimbursement, a person draws up a claim for the losses. According to Black (1990), claim has various definitions, however, claim occurs as a 'demand for money or property as of right' (Black, 1990:247). Haigh (2006) claims that the law of tort combines particular areas of law- 'negligent interference with personal property, [...] damage to interests in economic relations, [...] damage to interests in intellectual property, [...] intentional invasion of personal and property interests, [...] infringement of further personal and proprietary interests, [...] damage to reputation of individuals' (Haigh, 2006: 119). Moreover, Haigh states that the material loss is perceived as damages for harm that the claimant has suffered. (ibid.). Insurance claim is the document, that helps to protect the insured person or property in a case of a loss.

According to Hennin (2011), there are two types of claim examination- limited, where the loss of the claim is relatively easy to handle and complex, where a deeper examination of the loss is needed (Hennin, 2011: 5). The claim representative, who deals with the investigation of a claim is called adjuster (Online 6). Adjuster of the claim ‘will investigate the loss, including verifying coverage for the particular risk; they also will determine whether a policy is in force, and prepare a repair estimate’ (ibid.). Moreover, claim adjuster maintains relationships with the insurance policy holders as well as schedules the work, prepare a report of the loss investigation, which is necessary in order to investigate the claim and the insurer’s policy provisions (Landers, 2002: 152). Moreover, claim adjuster is the one that makes the decision, whether company’s policy allows to reimburse the payment for the loss.

While handling a claim, there must be several steps taken. Rejda (2005) states that- first, a notice of a loss has to be provided; second, the claim is examined and consequently the evidence of a loss is a must; lastly, a decision of the reimbursement of a loss is determined (Rejda, 2005:118). There can be situations when the losses are very costly and difficult to estimate. The actual process of claim settlement can take several months as the examination of the loss and determination of the amount of payment are considered to be very complex.

The transaction that is the compensation of the losses for the insured is called reinsurance, where the insurance or ceding company transfers the amount of money to the insurer for the loss (Online 4). ‘Reinsurance allows insurers to increase the maximum amount they can insure. However, most reinsurance contracts do not absolve the ceding insurer responsibility to pay the insurance claims should the reinsurer fail’ (ibid.). There are two types of reinsurance- treaty and facultative. Treaty is a contract, where it bonds the insured and the insurer, because ‘the reinsurer automatically takes the risk for all policies that are covered by the treaty, and not just one particular policy’ (ibid.). Facultative is a more case-based contract, where ‘The reinsurance is issued after an individual analysis of the situation, and by deciding coverage case by case, the reinsurer can determine if it wants some or all of the risk associated with that particular policy’ (ibid.). These types of reinsurance arrangements both consider the risk for the loss that may occur.

Property insurance is one of the main sub-branches of insurance. Moreover, there are two types of property insurance, such as personal and commercial property insurance (Online 6). The insurance transaction is the same as the general insurance, where there is an application for the policy, underwriting, the insurance policy is issued and in the occurrence of a claim, it is examined and renewed (ibid.). Furthermore, basic property insurance covers such losses due to fire or lightning or ‘standard policy that provides coverage for extended perils, such as floods, windstorms, hail, earthquakes, acts of terrorism, explosion, riots, smoke, civil commotions and

vehicles that damage your property.’ (Online 7). Reimbursement for these type of losses is often calculated to the amount that can provide the replace or repair of the property (ibid.). Corpus of the paper is based on the property, particularly on house insurance policy investigation letters and response letters to this investigation.

Conflict resolution theories and linguistic features of legal discourse, particularly in insurance domain will be further examined in chapter 4.

### **3. METHODOLOGY OF THE EMPIRICAL RESEARCH**

Law, Language for law in particular, have to achieve their purposes in a very formal setting, the choice of linguistic elements that help to create the meaning of legal document is very significant. Moreover, the choice of linguistic elements in legal documentation in conflict situations ensure more successful conflict resolution. The chapter focuses on conflict resolution strategy use in legal discourse. The current research is done considering the conventions set for the development of the methodology of the study.

#### Research method and procedure

Research is approached from a qualitative perspective. Therefore, it focuses on exploring, analyzing and describing linguistic aspects of English for Law in conflict resolution. The analysis is conducted using Fearn-Banks (2017) conflict theory use in the process of dispute resolution in legal communication as well as Leech (1983), Brown and Levinson (1987) theories of linguistic politeness, which are cited in Rozina, Karapetjana (2011).

Case study is the type of research applied in the present paper. Consequently, it is used in order to examine the cases of authentic examples, i.e. Insurance claims. The present research focuses on features of legal discourse and conflict resolution strategies are investigated within the context where they occur.

#### Corpus of analysis

The corpus of analysis is established from 14 insurance claim cases, which include 26 different emails at different stage of conflict. These cases were collected from one office for Law in USA. The letters are written in a time period from September 2016 to March 2017. These letters mostly include issues of insurance and correspondence between lawyers and clients in a legal setting.

The corpus of text includes 12 letters; each approximately consists of 678 words. The research corpus totally consists of 7 458 words.

Research object is written documents in form of claims in English for Law.

## 4. RESEARCH DISCUSSION

The purpose of this chapter is to present the findings on linguistic and features of the text as well as conflict theory use in legal communication. The empirical part of the research is based on the findings derived from the analysis of the theoretical framework on communication conflict and language for law discussed in Chapter 1 and Chapter 2 of this study.

The particular corpus can be divided into two main groups- letters to legal professionals and letters from legal professionals as the particular study examines a two-way communication. However, not in all cases there is a message and a response to it.

The following chapter will include the investigation of peculiarities of legal discourse from the perspective of and Linguistic analysis, as well as the analysis of conflict theory use in conflict resolution, which also includes an examination of dispute resolution from the perspective of linguistic politeness.

### 4.1 Analysis of Linguistic Features of Legal Discourse

The present paper deals with language used in Law, particularly in documentation concerning Insurance. Legal writing concerns lexical features, which further concern the peculiarities of Language for law. For that reason, the particularities of legal discourse in terms of word meaning in context and particular linguistic aspects are examined.

Legal discourse is particularly used in Legal context by authorities of law. In writing, lawyers usually take into account the possibilities of the addressee to understand the text and the particular word meaning in a particular context. Consequently, linguistic investigation of the text will include analysis of text internal feature and discourse feature aspect analysis such concepts as *coherence* and *cohesion*.

Legal language is considered to be a formal specialist language, used mainly by lawyers. The most applicable peculiarity of legal language is the high level of grammar, precision and lack of ambiguity, which is achieved by various linguistic means. The following chapter examines such linguistic aspects of legal discourse as particular terminology of *specialist language*, meaning of words and *grammatical structures*, which include *verbs*, *nouns*, *adverbs* and *prepositional phrases*.

The choice of vocabulary, words, terms and other lexical units are very crucial in legal context. Used words in legal discourse serve a certain function and for that reason the examination of these lexical units in language for law is crucial. For that reason, the paper examines these lexical aspects on a linguistic level.

### 4.1.1 Cohesion

The results of the analysis show that the legal professionals have considered several aspects of cohesion as anaphora, cataphora, substitution of a noun by a pronoun, lexical cohesion and conjunctions as they serve as the basic forms of meaning of the ideas in the text in terms of reference. In legal language cohesion is used as the main instrument to link the ideas together in the text or sentence in order to create a concise and clear meaning of the intended message.

*Anaphora:*

- ‘This correspondence is sent in response to our teleconference last week’ (Appendix 7).
- ‘This letter is in response to yours of... requesting that we proceed under the appraisal portion of... homeowner policy’ (Appendix 5).
- ‘including ..case cited in your letter’ (Appendix 11).
- ‘I represent ... in the above referenced matter’ (Appendix 9).

*Cataphora:*

- ‘Please be advised that your client’s policy number... contains following terms and conditions...’ (Appendix 1).
- ‘Section 1... is deleted and replaced by the following: ...’ (Appendix 4).
- ‘Unfortunately, ... cannot provide coverage for these damages because of the following provision in your ... policy:’ (Appendix 5).
- ‘For the reasons outlined below, we must respectfully reject you request’ (Appendix 5).

*Substitution of a noun by a pronoun, e.g.:*

- ‘It is (*name of the company*) position that the appraisal is limited to the alleged damages caused by wind or hail on the above-referenced date of loss and not any damage unrelated to wind or hail on the above-referenced date of loss.’  
‘However, although it is not customary or even proper to have an appraisal about coverage, we will at least agree this time to participate in an appraisal.’ (Appendix 1).
- ‘As a part of your claim that resulted from hail, you have requested (*name of the company*) to provide coverage of your claim’  
‘Our investigation revealed that the damage to the roof soft metals and ceiling and wall addressed on prior claim’ (Appendix 5).

*Lexical cohesion e.g.:*

- ‘(Name of the company) may continue to investigate this claim. However, (Name of the company) reserves any and all rights and defences allowed under the policy of insurance by the law. No action taken by (Name of the company) employees/or agents is intended to or to be considered to be a waiver of any of these rights or defences under the policy of insurance by law ’ (Appendix 9).

*Conjunctions e.g.:*

- Time and order- then, further, as soon as, when
- Cause and reason- so, because,
- Coordinating- and, but, or, nor, for

### **Discussion:**

The text in legal documentation is organized in a meaningful manner in order to avoid repetition using several strategies of referencing. There are used both cataphoric and anaphoric referencing, where previous and following ideas are mentioned. Generally, a reference is made to refer to previously mentioned conversations and communication and the following conditions and policies of the company.

Substitution of a noun by a pronoun is mostly performed in order to create a concise text to avoid repetition. In most cases the reference to the company’s name and it is further mentioned in plural forms, such as *we*, *our*, that refer to the company and its policies as whole, not a single representative’s opinion of the company or to create a perception that the opinion is based on a common provision of the company.

Lexical cohesion focuses on repetition of crucial aspects; for example, the name of the company in order to draw the attention of the reader to the main points of the text.

Conjunctions have been used mainly to describe causes and support the reasoning for a certain decision. Conjunctions serve as an instrument to link ideas in the sentence.

The cohesion devices make the text logical, meaningful so that the reader can track the linked ideas and identify the main message of the text. Generally, cohesion in legal texts create and develop a meaning of the text, creates an emphasis on significant aspects and creates a reader-friendly text by using several approaches of referencing in order to avoid repetition.

Cohesion cannot be performed successfully while omitting principles of coherence, which will be investigated further in the next chapter.

#### **4.1.2 Coherence**

In the analysed legal documents, there have been found various approaches of linking ideas in the legal discourse. It is essential that the ideas expressed in the legal documentation are connected in a way that reader understands the message clearly, the text is conducted in a

logical sequence and have a certain and concise meaning. For that reason, coherence is analysed and such examples of coherent text structure as transitional devices, pronouns and key nouns have been found:

*Transitional devices and connectors e.g.:*

- However, unfortunately, hence, based on, in doing so, with that said, and, essentially, obviously, neither...nor, therefore, additionally

*Pronouns e.g.:*

- It, I, you, we, this, your, any, all, me, our

*Key nouns e.g.:*

- Claim, appraisal, policy, coverage, insurance company, cause of loss, date of loss, provisions, examination

Transitional phrases link the ideas in the document as well as constitute the whole structure of the text. These phrases and connectors characterize the relationships of these ideas and emphasize the most important ideas. Appropriately linked and constructed ideas ease the understanding of the legal documentation.

The use of pronouns serves as an instrument to avoid repetition and refer to previously mentioned notions. Moreover, personal pronouns like *I, we, you, our* refer to the client or the legal representative in order to lessen the formality.

Key nouns put an emphasis on the crucial aspects of the text and track them. Moreover, the focus on key terms is based also on the actual claim and policy numbers, amounts of loss and other personal information, which due to confidential reasons cannot be published in the present paper.

In legal discourse, coherence is used in order to link the text and ideas together so that the text and main ideas are easy to understand. Legal language is directly connected to the law professionals that use this language use certain terms. For that reason, features of specialist language are examined in the following chapter.

#### **4.1.3 Features of specialist language**

Legal language is a specialist language as it is used in legal domain by professionals of law. Domain of law includes such terminology that differs from everyday language, because the commonly used terms serve a different, but precise meaning in legal context and documentation. The results of the analysis show that such aspects of specialist language as

collocations, terms, verbs, nouns, adverbs and prepositional phrases have been used in legal documentation.

First, there are certain **collocations** used in order to characterize the peculiarities of the main actions of insurance company, especially in the process of handling an insurance claim e.g.:

- *File a complaint, agree on the amount of loss, deny coverage, wave rights under policy, assert a defense, determine the loss, suit and seek attorney's fees, demand is made, claim is presented, produce estimates, allocate damage, proceed to appraisal, claimed by insured, provide coverage etc.*

This type of lexical collocations often appears in insurance claims and response letters to them. The verbs mentioned previously inform the reader about the main functions in insurance field and the people, who are performing these functions. The use of these collocations show that in particular context the collocations are unambiguous and have a relatively definite meaning.

Second, an important aspect of vocabulary in written legal documentation consist of legal **terms**, especially in insurance field. Legal specialist language includes mostly the actual components and main actions of insurance e.g.:

- *Claim, insurance, appraisal, damages, property, loss, policy, waiver, payment, reimbursement, depreciation, conditions, provision, interest, evidence, investigation, coverage, provision etc.*

These type of terms and collocations characterize legal discourse in a particular context. For that reason, commonly used words change their meaning in legal context or some words are used only in this particular context. Moreover, lexical characteristics of legal discourse can be achieved by various **grammatical structures**.

In legal discourse the choice of grammatical structures are relatively complex; however, they perform as engaging components of the legal writing. The results of the grammatical structure examination show such aspects as verbs, nouns, adverbs and prepositional phrases.

Generally, **verbs** in describe a process and in legal language there can be found various forms of verbs. The results of the analysis show that in legal discourse there are used such verb forms as infinite, simple past, gerund form, modal verbs and phrasal verbs. First, there can be found form of *infinite* verbs, for instance:

- ‘In the event of a loss to any property that may be covered by this policy you must a) promptly *give* us or our agent notice, report any theft..., *give* notice to the company, b)

*protect* the property from further loss, c) *separate* damaged from undamaged property, d) *give* us all accounting records..., e) *produce* receipts for any increased costs... ’ (Appendix 5).

The above-mentioned example and generally the examined insurance claims of the corpus mostly use this form of verb in order to provide clear, concise message. Infinite form of verb aims to avoid ambiguity and vagueness so that the reader receives a clear message.

Second, *simple past* forms of verbs in legal discourse are used to express an action at a specific time in the past. Such examples were found:

- *Revealed, insured, addressed, alleged, limited, caused, determined, received, agreed, attempted, provided, enclosed, entitled, subtracted, repaired, replaced, informed*

Simple past forms in insurance claims and response letters express the previously performed actions by the client or the company. There is used simple past verb form in order to avoid complex verb structures and make the text more reader-friendly.

Third, *gerund* form of verb in legal discourse is used as an instrument to link important, complex ideas and clauses in order to achieve clarity and avoid misunderstanding. Such examples were found:

- *Doing, depending, reserving, representing, writing, regarding, attempting, concerning, instructing, requesting, decking, surrounding, following, including, resolving, owing, showing, completing, supporting, owning, protecting, taking, opening, falling, dwelling, addressing*

Gerund form in legal writing express the tendencies and continuous actions. Consequently, the analysis of present participle reveal that this form of verb expresses the continuity of the idea. Furthermore, they serve as a linking instrument to reference previously mentioned or following ideas in the text.

Fourth, *modal verbs* in legal discourse characterize attitude, certainty and possibility. Such examples of modal verbs were found:

- ‘There *may* be other coverage limitations or policy exclusions’ (Appendix 1)
- ‘If payment in full is not received within the time period prescribed by..., Insured *will* file suit and seek attorney’s fees...’ (Appendix 10).
- ‘Even if appraisal were to be considered in this case, we *would* first need to determine whether there is a dispute regarding the amount of the loss’ (Appendix 11).

- ‘The dispute between an insurer and its insured involves both damage and liability questions, an appraisal *should* not be prohibited...’ (Appendix 7).
- ‘We regretfully *must* deny and disclaim that you are entitled to any benefits’ (Appendix 5).
- ‘If the appraisers are unable to agree upon an umpire within 15 days, you or we *can* ask a judge of a court...’ (Appendix 1).
- ‘Neither the writing of this letter nor the investigation of this claim *shall* be constructed as an admission of liability under the policy’ (Appendix 4).

Modal verbs are not commonly used in legal documentation. There have been found some examples of modal verbs; however, the most commonly used verbs are *must* and *will*, which are used mostly to announce the decision of accepting or denying payment to the customer. Consequently, the use of modal verbs express the certainty or strong necessity while explaining the decisions in order to avoid any misunderstandings.

*Phrasal verbs* in legal documentation is not common; however, there has been found such examples:

- ‘Essentially, our disagreement *hinges on*...’ (Appendix 7).
- ‘I agreed to *follow up* our conversation with case law supporting my position’ (Appendix 7).

As stated above, there is an avoidance of phrasal verbs. In first case *hinge on* means to depend on. In the second case *follow up* means to provide information in the form of facts in order to check or improve an earlier action. Considering the fact that phrasal verbs carry out several meanings, legal documentation does not include much or any phrasal verbs at all in order to avoid misunderstanding in terms of meaning of the main idea. However, the used phrasal verbs carry an unambiguous meaning, which can be understood only in one particular manner.

**Nouns** in legal discourse often are related to specialist language terms and nouns in legal discourse are expressed in singular, plural form, noun phrases and personal pronouns.

Generally, nouns refer to specific legal and insurance terminology and such examples were found:

- *Claim, insurance, appraisal, company, property, loss, policy, waiver, payment, reimbursement, depreciation, provision, interest, evidence, investigation, coverage, provision, inspection, court, decision*

Moreover, nouns are presented in plural form:

- *Damages, conditions, proceeds, repairs, questions, differences, appraisers, expenses, examinations, representatives*

More complex ideas and concepts are expressed by noun phrases:

- *Insurance company, policy provision, amount of loss, coverage limitations, cause of loss, case law, coverage issue, property policy, excluded perils*

In most cases, nouns in legal documentation are the terms of law and insurance, which are perceived in the particular legal context.

Personal pronouns like *I, you, we, this, your, any, all, me, our* are used to replace other words marked by gender. In majority of the cases personal pronouns refer to the insured client or to the company or its representatives. Furthermore, pronouns are mostly used to replace the names of the participants of the discussion as well as the names of the companies.

The use of pronouns creates a more easily understandable text as it avoids repetition. For instance:

- ‘It is (*name of the company*) position that the appraisal is limited to the alleged damages caused by wind or hail on the above-referenced date of loss and not any damage unrelated to wind or hail on the above-referenced date of loss.’

‘However, although it is not customary or even proper to have an appraisal about coverage, *we* will at least agree this time to participate in an appraisal.’ (Appendix 1).

- ‘As a part of your claim that resulted from hail, you have requested (*name of the company*) to provide coverage of your claim’

‘*Our* investigation revealed that the damage to the roof soft metals and ceiling and wall addressed on prior claim’ (Appendix 5).

Generally, pronouns are used to refer to the name of the company and further in the text it is referred in plural form *we, our*. These forms shorten the text, avoid repetition and draws attention to other crucial aspects.

**Adverbs** in legal documentation modify the verb. There are generally found one type of adverbs in legal discourse. For instance, the most common form of adverb is created by suffix-ly:

- *equally, unsuccessfully, specifically, personally, carefully, respectfully, separately, faulty, wholly, indirectly, actually*

Compound adverbs in legal discourse create a more authoritative and more formal. For instance, *notwithstanding* is a more archaic compound, which could be easily replaced by whenever due to similar meanings. There are also found time adverb as *last week*. Adverbs are not common in legal documentation as they change or add a meaning to the word, which is not relative to legal documentation.

**Prepositional phrases** in legal writing constitute a commonly used one possible form, which introduces an object with a prepositional phrase. First, prepositional phrases characterize the person who is doing and who is receiving the action. For instance:

- ‘Amount of loss, or cost of repair cannot be agreed to *by* the appraisers are submitted *to* the umpire..’ (Appendix 1).

Second, prepositional cases describe the used instruments:

- ‘I agreed to follow up our conversation *with* case law supporting my position’ (Appendix 7).

Third, prepositional phrases characterize the time of the action:

- This correspondence is sent in response to our teleconference *last week*’ (Appendix 7).

Fourth, prepositional phrases specify the location of certain aspects:

- ‘For the reasons outlined *below*, we must respectfully reject you request’ (Appendix 5).

Last, prepositional phrases characterize the reasoning for action:

- ‘Thank you for taking the time to meet with the adjuster on... regarding your recent claim for storm damages to your home’ (Appendix 4).

Moreover, there can be used preposition phrases, that consist of many words. For instance:

- ‘This claim was reported as wind damage to exterior of your home, *as well as* interior water damage’ (Appendix 4).
- ‘*As a result*, we will not be able to make any payment...’ (Appendix 3).

Prepositional phrases as such are common in legal discourse as they link the prepositional object with the rest of the ideas in the sentence. Prepositions and prepositional phrases are used to create clear meaning so that the reader can perceive a logical and coherent text.

Correctly and properly used linguistic features serve as a representation of clear and meaningful communication. Legal professionals use such aspects of linguistic precisions as appropriate terminology, linking and referencing in order to avoid misunderstandings.

To sum up, linguistic precision helps to avoid ambiguous communication and further conflicts. Moreover, conflict resolution strategies are the main instrument to resolve a conflict. For that reason the analysis of conflict resolution strategies used in the corpus of the analysis is provided in the following chapter.

## **4.2 Conflict resolution theory use of legal discourse**

The present paper discusses conflict resolution strategies, particularly in legal documentation. There can be used various approaches of conflict resolution. First, conflict resolution theory use by Fearn Banks are examined and second linguistic politeness as a strategy

to resolve a conflict is examined. The applied conflict resolution strategies concern the Fearn Banks (2017) conflict resolution strategies.

After analysing all of the corpus material, it has been found out that people involved in the conflict and law professionals have used various theories and approaches of conflict resolution.

First, *Apologia* theory is used and there have been found three approaches of this theory used in the documents:

*Apologia theory Redefinition approach:*

- ‘...is not waiving any of its rights under the policy, nor it is conceding coverage or any coverage defences’ (Appendix 1).
- ‘Therefore, when we apply the specific facts of your circumstance to the above referenced policy provision, we regretfully must deny and disclaim that you are entitled to any benefits under your policy for this loss’ (Appendix 4).

*Apologia theory Dissociation approach:*

- ‘Please be advised that the most you can receive from any given item is the agreed upon replacement cost’ (Appendix 2).
- ‘Because we do not believe that there is coverage from this loss under the policy, we respectfully reject your request to proceed with the appraisal process’ (Appendix 5).
- ‘Based on the results of our investigation... residence is not a covered loss for the reasons outlined in our prior communications to you’ (Appendix 5).

*Apologia theory Conciliation approach:*

- ‘I apologize that I have not included your name on the drafts which we have provided’ (Appendix 6.)

### **Discussion:**

The parties involved in the conflict in legal discourse use several aspects of *apologia* theory. The basis of the *apologia* theory use in conflict resolution is an explanation of a certain action. In most cases where the payment is denied, the company expresses regret. Moreover, even when a party has to deny something, they support their decision with facts, in the cases mentioned above, a reference to a company’s policy and other reasons and facts are stated. An actual apology is not common; however, a comment of the reasons and facts, from which the decision is made is more valuable than apology with no supporting arguments.

Second is *Image restoration theory*, where several examples of this theory use have been discovered.

*Image restoration theory:*

- ‘However, although it is not customary or even proper to have an appraisal about coverage, we will at least agree this time to participate in an appraisal’ (Appendix 1).
- ‘If additional funds are due, we will issue a supplement payment to cover the difference’ (Appendix 2).
- ‘If you believe there is case on point that supports ... position, I would be more than happy to consider it’ (Appendix 7).
- ‘If you have any questions...please contact me’ (Appendix 4).
- ‘Please call me at the number below and refer to your claim number if you wish to discuss any aspect of this case, including this letter’ (Appendix 3).
- ‘I will continue to work with you to evaluate your damages’ (Appendix 5).
- ‘Thank you for protecting your home with...’ (Appendix 2).

**Discussion:**

The results of the analysis of this approach of conflict resolution imply that parties involved in the conflict care about their reputation and goodwill. Consequently, participants of the conflict are ready to make certain actions that will have a certain benefit for the other party and thus, benefit their own position. In one case, a certain level of an exception of company’s policy was made towards the other party in order to maintain good reputation. Furthermore, majority of the letters involved a request to contact the party, if they have any concerns or any questions. Some of the letters included an appreciation for choosing their service and a promise to continue working with the particular client. This could be considered as a part of the format that lawyers have to include in this type of letters; however, not all of the letters included an invitation for further communication.

Third is *Decision theory*, which have three approaches, all of them have been found in legal documents.

*Decision theory Maximizing approach:*

- ‘As I explained in our teleconference, I am attempting to minimize attorney’s fees in this matter’ (Appendix 7).

*Decision theory Satisficing approach:*

- ‘We will cover sudden and accidental direct physical loss to the property described...except as limited or excluded in this policy’ (Appendix 3).
- ‘However, although it is not customary or even proper to have an appraisal about coverage, we will at least agree this time to participate in an appraisal’ (Appendix 1).
- ‘However, we will only pay the difference between the depreciated value already paid and in the agreed replacement cost’ (Appendix 2).
- ‘Unfortunately, ... cannot provide coverage for these damages because of the following provision in your ... policy.’ (Appendix 5).

**Discussion:**

The results of the analysis show that the majority of the cases focus on describing that the policy of the company denies the payment or describes that they could cover only a part or minimal sum of money. In most cases, the reimbursement was denied; however, the reasons were supported by actual arguments. There was only found a case, where a lawyer tried to minimize fees in order to maximize the requirements of the client.

*Diffusion theory* is characterized by several stages- awareness, interest, evaluation, trial and adoption or failure to adopt to the conflict. All of the previously mentioned cases have been detected.

*Diffusion theory Awareness stage:*

- ‘This correspondence is sent in response to our teleconference last week’ (Appendix 7).
- ‘This letter is in response to yours of... requesting that we proceed under the appraisal portion of... homeowner policy’ (Appendix 5).

*Diffusion theory Interest stage:*

- ‘I thought it would be helpful to review the calculation with you’ (Appendix 2).

*Diffusion theory Evaluation stage:*

- ‘We have carefully examined the circumstances surrounding this loss and believe, at this time, we have sufficient information to make a decision regarding your claim’ (Appendix 3).
- ‘Our investigation of the reported damage indicates that a portion of the loss is not covered or excluded from...’ (Appendix 4).
- ‘As a result of your claim, the Company may conduct a future inspection of your property to confirm the claimed damages have been repaired’ (Appendix 2).

*Diffusion theory Trial stage:*

- ‘Please advise how you would like to proceed- if you need me to reissue I can overnight the payment to your office or the insured’ (Appendix 6).
- ‘If you find that the replacement cost of our estimate is insufficient to complete the repairs, please have your contractor write an itemised estimate that is similar to the one enclosed...’ (Appendix 2).
- ‘If repairs are not properly completed at the time of the inspection, the company may elect to discontinue the insurance at the next renewal date following the inspection’ (Appendix 2).

*Diffusion theory Adoption or failure to adopt stage:*

- ‘Obviously, the cease and desist letter failed to put a stop to the practice’ (Appendix 8).
- ‘However, we will only pay the difference between the depreciated value already paid and in the agreed replacement cost’ (Appendix 2).
- ‘We will cover sudden and accidental direct physical loss to the property described...except as limited or excluded in this policy’ (Appendix 3).
- ‘It is our position that appraisal is not appropriate in this matter and reject the demand’ (Appendix 9).
- ‘Unfortunately, ... cannot provide coverage for these damages because of the following provision in your ... policy.’ (Appendix 5).

**Discussion:**

This stage includes the actual acceptance and awareness of the conflict or claim. Moreover, majority of the documentation refers to a previously discussed matters. All claims, except the one mentioned above, do not include any personal interest to the case as the examination and communication with the client or lawyer is a part of their duty and in their own interest even if it is not expressed in the actual documentation.

The majority of contexts of the documentation were focused on the actual evaluation and examination of the loss that occurred. The focus of the appraisals were the explanation of the procedure of the evaluation and the actual value of the sum of money that could or could not be repaid.

There were found several cases where the parties tried to deal with the dispute and to prevent any further disputes. Moreover, the parties tried to advise to contact the other party in order to deal with the problem more efficiently and more effectively before making any disputes before actually informing the other party about the problem.

In many cases, the parties expressed the final decision, where there could be seen positive and negative outcomes of the conflict. In majority of cases there were expressed a denial of

payment or a decision of a partial payment or any other negative decision towards to the one of the party. Moreover, the decisions are supported by facts and policies, they refer to law.

Generally, diffusion theory concerns the actual process of conflict, where the actions taken from the start from the final decision.

Conflict resolution strategies stated by Fearn-Banks (2017) are not the only ones that characterize the essence of strategies of conflict resolution. Linguistic politeness can be considered as one of the strategies that can be used in order to lessen the extent or solve the conflict. This concept is described in the following chapter.

#### **4.2.1 Linguistic politeness as a strategy of conflict resolution**

The results of the research show that in legal documentation have been used several linguistic politeness approaches- *competitive*, *convivial*, *collaborative* and *conflictive*. (Leech 1983 and Brown, Lewinson 1987). Each of them have their own objectives and strategies, which have been found during the analysis of the corpus of the research.

*Competitive approach:*

- ‘I am requesting the Commissioner to take further action’ (Appendix 8).
- ‘You must let us know by... that you would like to make a claim for the depreciated amount’ (Appendix 2).
- ‘Please review the estimate and discuss it with the party that will be completing the repairs’
- ‘Has the insured processed them?’ (Appendix 6).

*Convivial approach:*

- Several forms of greeting as mentioning the last name, ‘Dear Ms or Ms...’
- ‘Thank you for protecting your home with... ’ (Appendix 2).
- ‘As I explained in our teleconference, I am attempting to minimize attorney’s fees in this matter’ (Appendix 7).
- ‘However, although it is not customary or even proper to have an appraisal about coverage, we will at least agree this time to participate in an appraisal’ (Appendix 1).

*Collaborative approach:*

- ‘If you find that the replacement cost of our estimate is insufficient to complete the repairs, please have your contractor write an itemised estimate that is similar to the one enclosed...’ (Appendix 2).
- ‘If you have any questions...please contact me’ (Appendix 4).

- ‘Please call me at the number below and refer to your claim number if you wish to discuss any aspect of this case, including this letter’ (Appendix 3).
- ‘As a result of your claim, the company may conduct a future inspection of your property to confirm the claimed damages have been repaired’ (Appendix 2).
- ‘No action taken by... employees/or agents is intended to or to be considered to be a waiver of any of these rights or defences under the policy of insurance by law’ (Appendix 9).
- However, we will only pay the difference between the depreciated value already paid and in the agreed replacement cost’ (Appendix 2).
- ‘Please be advised that your client’s policy number... contains following terms and conditions’ (Appendix 1).

*Conflictive approach:*

- ‘... has not received the full amount of the scheduled ...payments. Makers are now in default’ (Appendix 9).
- ‘...will declare the unpaid principal amount, earned interest, and any other amounts owed on this note immediately due’ (Appendix 9).
- ‘If payment in full is not received within the time period prescribed by..., Insured will file suit and seek attorney’s fees, interest and costs in addition to the ... due and owing’ (Appendix 10).
- ‘It is our position that appraisal is not appropriate in this matter and reject the demand’ (Appendix 9).

**Discussion:** There have been found several cases of competitive approach where the lawyer or the client has used the form of demand, question and request. These examples show that the participants of the conflict feel free to ask a certain information and keep a formal style and politeness at the same time. There were not found any signs of begging as it is not a part of formal style.

The convivial approach cases mentioned above show the actual situation in the completely selected corpus, where majority of aspects of this approach are applied. However, in several cases there was a lack of actual greeting, just the reference to the previously mentioned case. The documentation does not deal with offering; however, there was one case there could be seen an attempt to show a certain type of offer to the other party.

There were found several collaborative approach cases of reporting or announcing a particular decision or actions taken or that could be taken. Almost all of the cases included an invitation for further communication if the other party had an interest for further discussion or

an explanation of discussed matters. Moreover, in the majority of the cases there is announced the decision of payment or denial of a payment for a loss. Instructions had a polite form, where the author of the message advised to contact in case of any questions or more detailed information. Furthermore, assertion is achieved by referencing policies, terms or any other forms of law.

Threatening is not common in formal writing, especially in legal documentation; however, there were found several cases. The threats are applied and can be perceived as a form of warning, where the parties explains the actions they will perform if the other party does not repay a certain sum of money. The accusing is presented in a form of rejection of an appraisal or the evaluation of a loss.

There is an understanding of *linguistic politeness* where with the use of certain strategies show the whole attitude and position of the participants of the communication can be perceived. In legal discourse it is crucial to resolve a conflict and linguistic politeness can be used as an approach to lessen the extent of the conflict as well as help to resolve the conflict. There are two basic types of linguistic politeness- *positive* and *negative linguistic politeness* examples. There were found several examples of both of these strategies.

*Positive linguistic politeness:*

- ‘If you believe there is case on point that supports ... position, I would be more than happy to consider it’ (Appendix 7).
- ‘I thought it would be helpful to review the calculation with you’ (Appendix 2).
- ‘Has the insured processed them?’ (Appendix 6).
- ‘As I explained in our teleconference, I am attempting to minimize attorney’s fees in this matter’ (Appendix 7).
- ‘I will continue to work with you to evaluate your damages’ (Appendix 5).

*Negative linguistic politeness:*

- ‘If payment in full is not received within the time period prescribed by..., Insured will file suit and seek attorney’s fees, interest and costs in addition to the ... due and owing’ (Appendix 10).
- ‘...will declare the unpaid principal amount, earned interest, and any other amounts owed on this note immediately due’ (Appendix 9).
- ‘It is our position that appraisal is not appropriate in this matter and reject the demand’ (Appendix 9).

**Discussion:**

Generally, it is not common to express personal attitude and interest towards the particular case. However, in legal documentation a personal interest of the lawyer towards the client creates a certain level of pleasant engagement. As it can be seen in the above-mentioned examples, positive linguistic strategies are common legal documentation as they serve as a representation of an adequate level of formality, but with a certain level of friendly politeness. There are several cases of offers mentioned in the corpus as well as signs of personal interest in the particular case. Questions are not that common; moreover, promises are also not so frequent in legal documentation.

It is common knowledge that representation of negative information cannot be perceived positively; however, there can be case, when the negative information could be implied in another form. For instance, there have been found some case of threats of warnings, which serve a negative position of the author of the text.

To sum up, linguistic politeness serves as an instrument to change the pace and the process of communication in conflict situations in order to lessen the extent of the conflict as well as it helps to resolve it, because politeness creates an impression of respect and thoughtfulness.

## Conclusions

Nowadays, the negative side of communication is increasing. Conflicts happen every day and everyone experiences or notices them. This paper has been devoted to dispute resolutions in legal context, particularly in insurance claim cases. The purpose of the study was to examine of conflict resolution theory and strategy use in legal communication. In the Introduction, the aim, as well as research method and enabling objectives were stated, which helped to conduct the investigation.

Having analysed theoretical background relevant to the topic, it was found out that conflict occurs with potentially negative outcome. Conflict can affect the company's and individual's reputation, profit and many other aspects. Conflict has several stages and there are numerous theories that legal professionals and companies use in order to solve the conflict. Moreover, linguistic politeness can be perceived as a strategy to lessen the extent and development of conflict as well as its result.

The study of pragmatic elements of insurance claims shows that the language used in legal discourse is clear, distinct and concise. This achieved by various means of cohesion and coherence, where the meaning and linking of main ideas. These ideas are clearly understandable and concise in order to avoid vagueness and misunderstandings in particular context.

The analysis of linguistic elements of insurance claims and response letters to them show that the used lexical units are clearly stated and precise so that the chosen units are clearly defined and understandable. The grammatical units are instrumental, because they serve a certain purpose of linking, explanation and emphasis of the main ideas.

The empirical part has dealt with case analysis of 12 conflict resolution cases where conflict resolution strategies and approaches were used as dispute resolution, which were chosen as a corpus of this paper. While dealing with the analysis, it was found out that all participants of the conflict used one or several conflict resolution tactics as well as linguistic politeness as conflict resolution strategy.

In most cases, all of the conflict resolution strategies were used as all of them serve a different function. Lawyers presented a decision of accepting or denying a payment, which was usually supported by facts, policies and any other arguments so that the reasoning for the decision is clearly understandable and valid. Moreover, in most cases there were seen invitations from lawyers for further discussions and communication if the client needed some kind of clarification. There are also found aspects of the actual stages of conflict, where

previous references, evaluation of the matter, trial and final decisions or maintenance are described and discussed.

Linguistic politeness serves as a strategy of conflict resolution as it can have an impact of the extent of the conflict as well as the development and resolution of the conflict. Some norms of politeness are served and performed as a requirement and is a must in everyday legal communication. It is not common for legal documentation to have aspects of personal interest; however, there are several approaches used to state the attitude towards the matter.

Despite the fact that in majority of the cases the result was not beneficial for the client, the decisions were supported with valid arguments so that the argument could not develop. The successful resolution is achieved by various tactics and approaches that ensure peaceful and considerate conflict resolution.

The current investigation was limited mostly by the incompetence of the researcher and the lack of experience in the particular field. The current study has only examined 12 letters of insurance claims and responses to these letters, where several case of conflict were examined. The conducted research might not be conveyable to more qualified researchers. Which refers to the further research, a better understanding of case study analysis of conflict and conflict resolution strategies. A further study of other cases and other legal documentation where conflicts are discussed would be useful.

## **Theses**

1. Communication occurs with a purpose to express thoughts, ideas and emotions.
2. Knowledge of conflict solving methods helps to maintain the one's reputation.
3. Conflict has numerous variables and aspects that influence conflict.
4. The main goal is to solve conflict.
5. Linguistic precision helps to avoid ambiguous communication and further conflicts.
6. Linguistic units create a meaningful text by the use of clear and precise terminology and grammatical structures.
7. Conflict resolution strategies serve a different function; however, they all help to resolve a conflict.
8. Decisions of the parties are supported by valid facts and arguments.
9. Linguistic politeness is used to lessen the extent of the conflict, development of the matter as well as result of the conflict.
10. Evaluation of possible alternatives assures the most beneficial solution.

## References

1. Anolli Luigi, Ciceri Rita, Riva G. (2002) *Say Not to Say: New Perspectives on Miscommunication*, The Netherlands, IOS Press
2. Arcand, R. And N. Bourbeau, (1995) *La communication efficace. De l'intention aux moyens d'expression*, Anjou (Québec): CEC,
3. Azis Iwan Jaya (2009) *Crisis, Complexity and Conflict*, UK, Emerald Group Publishing
4. Baron Robert A. (1990) *Reducing organizational conflict: the role of socially-induced positive affect*, International Journal of Conflict Management, Vol. 1
5. Bartos Otomar J. and Wehr Paul (2002) *Using conflict theory*, Cambridge University Press
6. Benjamin N. Cardozo, (1931) *In Law And Literature And Other Essays And Addresses* (Fred B. Rothman Publications 1999)
7. Bhatia Vijay K. (2004) *Worlds of Written Discourse: a Genre-Based View*, Continuum, London
8. Black Henry Campbell , M. A. (1990) *Black's Law dictionary: sixth edition*, USA, St. Paul, Minn, West Publishing Co.
9. Brown Gillian, Yule George (1989) *Discourse Analysis*, Cambridge University Press, Cambridge, New York
10. Brown Penelope, Levinson Stephen C. (1987) *Politeness: Some Universals in Language Usage*, Cambridge University Press
11. Bryan A. Garner (2006) *The Redbook: A Manual On Legal Style*, 2d Ed.
12. Danesi Marcel (2000) *Encyclopedic Dictionary of Semiotics, Media, and Communications*, University of Toronto Press
13. Daniel Sandra (2014) *Impactful Academic Writing*, Xlibris Corporation,
14. Deutsch Morton, Coleman Peter T., Marcus Eric C. *The Handbook of Conflict resolution: Theory and practice*, San Francisco, JohnWiley and Sons
15. Dickstein, M. (1998) *The Revival of Pragmatism*. Durham: Duke University Press.
16. Fearn-Banks Kathleen (2017) *Crisis Communication: A casebook Approach*, New York, Routledge
17. Galdia Marcus ( 2009) *Legal Linguistics*, Frankfurt am Main

18. Haigh Rupert (2006) *Oxford Handbook of Legal Correspondance*, Oxford University Press
19. Halliday, M.A.K. (1975) *Learning How To Mean*. London: Edward Arnold.
20. Halliday, M.A.K.(2004) *An Introduction to functional grammar*, Fourth edition London, Routhledge
21. Hennin (2011) *Insurance Adjusting Real Property Claims*, Eiram Publishing
22. Hoecke Mark Van (2002) *Law as Communication*, Hart Publishing, Oxford and Portland
23. Jacobson Romen (1960) *Closing statements: Linguistics and Poetics, Style in language*, T.A. Sebeok,
24. Janusz Bugajski (2011) *Presentation for the 2011 Annual Security Review Conference*, Center for Strategic and International Studies, Washington D.C.
25. Khetarpal Vandana, Sehgal MK (2006) *Business Communication*, New Delhi
26. Klinkenberg, J.-M., *Précis de sémiotique générale*, Paris: Seuil, 1996.
27. Landers Theodore A (2002) *The Career Guide to the Horse Industry*, Delman Thomspson Learning, USA
28. Langacker, R.W. (1973) *Language and Its Structure: Some Fundamental Linguistic Concepts*. Orlando: Harcourt College Publishers
29. Laurel Currie Oates & Anne Enquist (1998) *The Legal Writing Handbook*, Aspen Law & Business
30. Leech Geoffrey N. (1983) *Principles of Pragmatics*, Longman
31. Lord Alfred Denning (1981) *The Family Story*, London
32. Mattil Heikki E.S. (2013) *Comparative Legal Linguistics: language of Law, Latin and Modern Lingua Francas* 2nd Edition, England Ashgate Publishing Limited,
33. Pruitt Dean G., Kim Sung Hee, Rubin Jeffrey Z. (2004) *Social conflict: escalation, stalemate, and settlement*, McGraw-HillNew-York
34. Rejda G. Wiening A. (2005) *Risk management and insurance*. Pearson Custom Publishing
35. Renkema Jan (2009) *The Texture of Discourse: Towards an outline of connectivity theory*, The Netherlands, Jonh Benjamin Publishing
36. Rossini Christine (1998) *English as a Legal Language*, United Kingdom, London, Kluwer Law International Ltd
37. Roziņa Gunta, Karapetjana Indra (2011) *Pragmatics and Linguistic Politeness: A Practical Introduction*, University of Latvia, Faculty of Humanities, Department of English studies, Riga

38. Sethi Jyotsna, Bhatia Nishwan (2012) *Elements of Banking And Insurance*, Second edition, New Delhi,
39. Sims Ronald R. (2002) *Managing Organizational Behavior*, London: Greenwood Publishing Group
40. Stanford Linguistics Association, Center for the Study of Language and Information (1990) *Japanese/Korean Linguistics*, Center for the Study of Language (CSLI), US
41. Thomas John Clayton (1995) *Public Participation in Public Decisions: New Skills and Strategies for Public Managers*, Wiley
42. Tidwell Alan (2001) *Conflict Resolved?: A Critical Assessment of Conflict Resolution*, London, Continuum,
43. Tjosvold Dean (1991) *Team Organization: An Enduring Competitive Advantage*, New York, Wiley
44. William Strunk & E.B. White (2000) *The Elements of Style*, 4th ed.
45. Wright Sue (1998) *Language and Conflict: A Neglected Relationship*, Multilingual matters, Great Britain
46. Yule, G. (1996) *Pragmatics*, Oxford: Oxford University Press.

#### **Online sources**

1. Osbeck Mark K. (September 2011) *What is "Good Legal Writing" and why does it matter?* University of Michigan Law school: Public Law and Legal Theory Working Paper Series, Available from [https://vk.com/doc4389407\\_442431561?hash=5325200c69c0dedef2&dl=cb60497bb24e97bbe9](https://vk.com/doc4389407_442431561?hash=5325200c69c0dedef2&dl=cb60497bb24e97bbe9) [Accessed on April 10, 2017]
2. Louis Hébert (n.d.) The functions of Language <http://www.signosemio.com/jakobson/functions-of-language.asp> [Accessed on April 10, 2017]
3. Available from [http://www.justinecassell.com/discourse/pdfs/brown\\_yule\\_chap1.pdf](http://www.justinecassell.com/discourse/pdfs/brown_yule_chap1.pdf) [Accessed on April 11, 2017]
4. Chapter five: Reinsurance & alternative risk transfer, (n.d.), Available from <https://www.thefreelibrary.com/Chapter+five%3A+Reinsurance+%26+alternative+risk+transfer.-a0350676764> [Accessed on May 5, 2017]
5. UNDERSTANDING YOUR INSURANCE POLICY (n.d.) Available from [https://www.scc.virginia.gov/boi/pubs/naic\\_und\\_plcy.pdf](https://www.scc.virginia.gov/boi/pubs/naic_und_plcy.pdf) [Accessed on May 5, 2017]

6. Property–Casualty Insurance Basics (n.d.)  
[http://www.aiadc.org/File%20Library/Resources/Industry%20Resources/Insurance%20101/Ins\\_101.pdf](http://www.aiadc.org/File%20Library/Resources/Industry%20Resources/Insurance%20101/Ins_101.pdf) [Accessed on May 6, 2017]
7. Matt Stephens (2016) The Basics of Property Insurance Available from  
<http://www.clarkeandsampson.com/blog/the-basics-of-property-insurance> [Accessed on May 6, 2017]

## **Appendix**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Re: Cause No. [REDACTED]  
[REDACTED] Insurance Company  
Date of Loss: [REDACTED]  
Claim Number: [REDACTED]  
Loss Location: [REDACTED]

[REDACTED]

[REDACTED] initial inspection of your client's property revealed the damage was addressed on a prior claim. However, [REDACTED] agrees to participate in the appraisal limited to the areas including the alleged wind and hail damage to the roof and the interior damage to the main structure. In doing so, [REDACTED] is not waiving any of its rights under the policy, nor is it conceding coverage or any coverage defenses. It is [REDACTED] position that the appraisal is limited to the alleged damages caused by wind or hail on the above-referenced date of loss and not any damage unrelated to wind or hail on the above-referenced date of loss. With that said, the previous determination was that there was no damage caused by wind and/or hail. However, although it is not customary or even proper to have an appraisal about coverage, we will at least agree this time to participate in an appraisal. There may be other coverage limitations or policy exclusions that apply to the damages depending upon the findings of the appraisers. [REDACTED] is reserving its right to assert a defense of no coverage under the policy and will avail itself of any other policy defenses that may arise or assert any applicable term, condition, or provision of the policy, to the extent applicable. Specifically [REDACTED] reserves the right to challenge the appraisal award, if any, and leaves "the question of liability for such loss to be determined, if necessary, by the courts." See [REDACTED]  
[REDACTED]

Please be advised that your client's [REDACTED] Insurance Company's [REDACTED] Policy [REDACTED] contains the following terms and conditions:

**Section I Conditions**

**8. Appraisal**

If **you** and **we** fail to agree on the amount of loss, either party may make written demand for an appraisal. Upon such demand, each party must select a competent and impartial appraiser and notify the other of the appraiser's identity within 20 days after the demand is received. The appraisers will select a competent and impartial umpire. If the appraisers are unable to agree upon an umpire within 15 days, **you** or **we** can ask a judge of a court of record in the state where the **residence premises** is located to select an umpire.

The appraisers shall then determine the amount of loss, stating separately the actual cash value and the amount of loss to each item. If the appraisers submit a written report of an agreement to **you** and to **us**, the amount agreed upon shall be the amount of loss. If they cannot agree, they will submit their differences to the umpire. A written award agreed upon by the appraisers or an appraiser and the umpire will determine the amount of loss.

Each party will pay the appraiser it chooses and equally bear expenses for the umpire and all other appraisal expenses

Please note that this policy provision states that only differences regarding actual cash value, amount of loss, or cost of repair that cannot be agreed to by the appraisers are submitted to the umpire and requires the two appraisers to choose the umpire. The court may be asked to name an umpire only after the two appraisers have unsuccessfully attempted to reach an agreement regarding an umpire.

We appoint the following individual as our appraiser:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] has been provided with the name and contact information for your appraiser and will be in contact regarding the inspection of the property and selecting an umpire, if necessary.

[REDACTED] reserves all rights and defenses available under the policy and [REDACTED] law.

If you should have any questions or concerns please contact me.

[Redacted]

[Redacted]

APPRAISAL  
REQUEST

- 1 - Underpayment on roof
- 2 - second Building <sup>shed</sup> ~~steps~~
- 3 - INSIDE DAMAGES Hallway, Bathroom, <sup>ceiling on porch</sup> [Redacted]

[Redacted]

RE: Insured: [Redacted]  
 Claim No [Redacted]  
 Policy No [Redacted]

Cause of Loss [Redacted]  
 Date of Loss: [Redacted]

Dear [Redacted]

Enclosed is a copy of the estimate for the damages to your home. Your total payment is equal to the last line entitled "Net Claim" under the [Redacted] column. That payment is being sent separate from this letter. Please note that cashing this check does not prevent you from making further claim for damages.

I thought it would be helpful to review the calculation with you. You were paid the "actual cash value" of your loss. This means I subtracted [Redacted] for depreciation from the replacement or estimated repair cost of your loss. The depreciation is an adjustment because of wear and tear or age of the item.

When you purchased your policy, you received "replacement coverage." This means that your policy allows you to make further claim for the depreciation amount of [Redacted]. You must let us know by [Redacted] that you would like to make a claim for the depreciated amount. Please note that you must actually repair or replace any damaged or missing item, in order to qualify for reimbursement of the depreciation.

To qualify for reimbursement you will need to provide receipts and/or invoices of the items that have been repaired or replaced. Please be advised that the most you can receive for any given item is the agreed upon replacement cost. You may want to pay more for a better quality item. However, we will only pay the difference between the depreciated value already paid and the agreed replacement cost. You will not receive the additional amount for the upgraded item. If you pay less than the agreed upon price, you will only receive the difference between the depreciated amount and the amount spent to repair or replace the item.

Please review the estimate and discuss it with the party that will be completing the repairs to your home. If you find that the replacement cost of our estimate is insufficient to complete the repairs, please have your contractor write an itemized estimate that is similar to the one enclosed so that we

[Redacted]

[Redacted]

[Redacted]

may compare the two and determine where the differences are in the two estimates. We will work with the party you have selected to reach an agreed cost of repairs. If additional funds are due, we will issue a supplement payment to cover the difference.

Additionally, because you have a loan on your home, we are required to make the check payable to both you and your loan company; therefore, you must have them sign the check before you can cash it. Please contact your loan company to discuss their process for signing the check.

As a result of your claim, the Company may conduct a future inspection of your property to confirm the claimed damages have been repaired. It is expected that proceeds from this claim payment will be used to repair your property to the pre-loss condition. If repairs are not properly completed at the time of the inspection, the Company may elect to discontinue the insurance at the next renewal date following the inspection.

Please send me any communication to the fax number, email address, or mailing address as shown below.

Thank you for protecting your home with [redacted] If you have any questions or would like to discuss the estimate of the replacement cost coverage please contact me at [redacted]

Sincerely,

[redacted signature block]

[redacted footer area]

Re: Your Claim Status

Dear ,

We have carefully examined the circumstances surrounding this loss and believe, at this time, we have sufficient information to make a decision regarding your claim.

We have found that there is no coverage available for the loss that occurred on  As a result, we will not be able to make any payment for the following reasons: Losses We Cover Under Coverages A, B and C: We will cover sudden and accidental direct physical loss to the property described in Dwelling Protection-Coverage A, Other Structures Protection-Coverage B or Personal Property Protection-Coverage C caused by the following, except as limited or excluded in this policy:

2. Windstorm or hail. We do not cover: a) loss to covered property inside a building structure, caused by rain, snow, sleet, sand or dust unless the wind or hail first damages the roof or walls and the wind forces rain, snow, sleet, sand or dust through the damaged roof or wall;

Please call me at the number below and refer to your claim number if you wish to discuss any aspect of this case, including this letter.

Sincerely,

[Redacted]

[Redacted]

3-tab

**APPRAISAL REQUEST**

- 1- ROOF <sup>3-40'</sup> DOWN L<sup>1</sup> FLAT ROOF
  - 2- SHED 20'x21' 3-7th
  - 3- INTERIOR BATHROOM
- WIND & HAIL DAMAGE

Claim Number: [Redacted]  
 Policy Number: [Redacted]  
 Insured [Redacted]  
 Loss Da [Redacted]  
 Dear [Redacted]

Thank you for taking the time to meet with the adjuster on [Redacted] regarding your recent claim for storm damages to your home. Please find enclosed information relative to your recent claim below.

This claim was reported as wind damage to the exterior of your home, as well as interior water damage. The adjuster did not observe any wind or hail damages to your roof or exterior elevations. The inspection did not find an opening made by the direct force of wind or hail that allowed water to enter and cause the patio ceiling and walls water damage. The adjuster also reported the dwelling roof, rain caps and soffits all show signs of long term exposure, wear, tear, deterioration, mechanical defect and faulty installation.

Our investigation of the reported damage indicates that a portion of the loss is not covered or excluded from Please refer to Page 1 and 2 of your [Redacted]

This endorsement changes the policy. Please read it carefully.

Section 1- Perils Insured Against is deleted and replaced by the following:

Section 1- Perils Insured Against Coverage A (Dwelling) and Coverage B (Personal Property)

We insure against physical loss to the property described in coverage A (Dwelling) and Coverage B (Personal Property) caused by a peril listed below, unless the loss is excluded in Section 1- Exclusions.

1. Fire and Lightning.
2. Sudden and Accidental Damage from Smoke.  
This peril does not cover loss caused by smog or by smoke from industrial or agriculture operations.
3. Windstorm, Hurricane, and Hail. This peril does not cover:

[Redacted]

[Redacted]

**Loss to the following:**

- 1) cloth awnings, greenhouses and their contents, buildings or structures located wholly or partially over water and their contents.
- 2) Radio and television towers, outside satellite dishes, masts and antennas, including lead-in wiring, wind charges and windmills.
- b. Loss caused by rain, snow, sand or dust, whether or not driven by wind, unless the direct force of wind or hail makes an opening in the roof or wall and the rain, snow, sand or dust enters through this opening and causes the damage.
4. Explosion.
5. Aircraft and Vehicles.  
Loss must result from actual physical contact of vehicle with covered property or with the building containing the covered property.
6. Vandalism and Malicious Mischief.
7. Riot and Civil Commotion.
8. Theft. Including attempted theft and loss of property from a known place when it is likely that the property had been stolen.
9. Fall of trees or limbs, including felling, topping or trimming.
10. Objects falling from the weight of ice, snow or sleet.
11. Collapse of building or any part of the building.

We do not cover loss either consisting of, or caused directly or indirectly by:

- a. earthquake, earth movement, landslide, subsidence or earth sinking, or the rising, shifting, expansion, contraction, settling or movement of surface or subsurface soils; or
- b. insects, vermin, wet or dry rot, wear and tear, inherent vice, decay, deterioration, or any quality in property that causes it to damage or destroy itself.
12. Breakage of glass which is part of the building including glass in storm doors and storm windows.
13. Sudden and Accidental Discharge, Leakage, Overflow or Release of Water or Steam from within a plumbing, heating or air conditioning system or household appliance.

Therefore, when we apply the specific facts of your circumstance to the above referenced policy provision, we regretfully must deny and disclaim that you are entitled to any benefits under your policy for this loss.

Neither the writing of this letter nor the investigation of this claim shall be construed as an admission of liability under the policy. Neither the rights of the insurer nor those of the insured are waived. However, there may be other good and valid terms, conditions, warranties and/or other portions of the policy which may be applicable to this claim. Therefore, this letter will not constitute an estoppel relative to this claim and/or any other policy provisions.

If you have any questions or information to the contrary, please contact our office at   
send an email to  or

Sincerely,

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Dear [Redacted]

This letter is in response to yours of [Redacted] requesting that we proceed under the appraisal portion of [Redacted] and Casualty Insurance Company's homeowner policy. For the reasons outlined below, we must respectfully reject your request.

Please be advised that the "Appraisal" clause of the policy is for resolving disagreements regarding the "actual cash value, amount of loss, or cost of repair or replacement." It is not a forum for resolving disagreements or disputes regarding coverage.

Based on the results of our investigation, the loss at the [Redacted] residence is not a covered loss for the reasons outlined in our prior communications to you (a copy of that correspondence is enclosed). Because we do not believe that there is coverage for this loss under the policy, we respectfully reject your request to proceed with the appraisal process.

If you should have any questions or concerns, please feel free to call me at [Redacted]

Sincerely,

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

INSURED: [Redacted]  
DATE OF LOSS: [Redacted]  
CLAIM NUMBER: [Redacted]

PHONE NUMBER: [Redacted]  
FAX NUMBER: [Redacted]  
OFFICE ADDRESS: [Redacted]

Re: Your Claim Status

Dear [Redacted]

As part of your claim that resulted from hail, you have requested [Redacted] Insurance Company to provide coverage for your claim. Our investigation revealed the damage to the roof soft metals and roof a/c, living/dining room ceiling and wall addressed on prior claim. Damages do not exceed deductible amount [Redacted]. Unfortunately, [Redacted] and Casualty Insurance Company cannot provide coverage for these damages because of the following provision in your [Redacted] Insurance Company policy:

[Redacted]

Section I Your Property; Section I Conditions

Losses We Cover Under Coverages A and B:  
We will cover sudden and accidental direct physical loss to property described in Coverage A Dwelling Protection and Coverage B Other Structures Protection except as limited or excluded in this policy.

Deductible

1. We will pay when a covered loss exceeds the applicable deductible shown on the Policy Declarations. We will then pay only the excess amount, unless we have indicated otherwise in this policy.

3. What You Must Do After A Loss

In the event of a loss to any property that may be covered by this policy, you must:

- a) promptly give us or our agent notice. Report any theft to the police as soon as possible. If the loss involves a credit card, debit or automated teller machine card, or bank fund transfer card, give notice to the company or bank that issued the card.

[Redacted]

**b) protect the property from further loss. Make any reasonable repairs necessary to protect it. Keep an accurate record of any repair expenses.**

c) separate damaged from undamaged personal property. Give us a detailed list of the damaged, destroyed or stolen property, showing the quantity, cost, actual cash value and the amount of loss claimed.

d) give us all accounting records, bills, invoices and other vouchers, or certified copies, which we may reasonably request to examine and permit us to make copies.

e) produce receipts for any increased costs to maintain your standard of living while you reside elsewhere, and records supporting any claim for loss of rental income.

f) as often as we reasonably require:

1) show us the damaged property.

2) at our request, submit to examinations under oath, separately and apart from any other person defined as you or insured person and sign a transcript of the same.

3) produce representatives, employees, members of the insured person's household or others to the extent it is within the insured person's power to do so; and

g) within 91 days after the loss, give us a signed, sworn proof of the loss. This statement must include the following information:

1) the date, time, location and cause of loss;

2) the interest insured persons and others have in the property, including any encumbrances;

3) the actual cash value and amount of loss for each item damaged, destroyed or stolen;

4) any other insurance that may cover the loss;

5) any changes in title, use, occupancy or possession of the property that have occurred during the policy period;

6) at our request, the specifications of any damaged building structure or other structure; and

7) evidence supporting any claim under the Credit Card, Debit or Automated Teller Machine Card, Bank Fund Transfer Card, Check Forgery and Counterfeit Money protection. State the cause and amount of loss.

We have no duty to provide coverage to you or



an insured person under this section if you, an insured person, or a representative of either fail to comply with items a) through g) above, and this failure to comply is prejudicial to us.

This letter only applies to the areas stated above. I will continue to work with you to evaluate your other damages.

**We're Here to Help You**

I hope that you understand the basis for this decision. Please call me at the number below and refer to our claim number should you wish to discuss any aspect of this case, including this letter.

Sincerely,



PROD010



**From:** [REDACTED]  
[REDACTED]  
**Sent:** [REDACTED]  
**Subject:** [REDACTED]

Ms. [REDACTED]

I have reviewed your letter and wanted to address a few points.

1- Our letter indicates that we are appraising the scope of damages. That is all that we are addressing in this appraisal. We had not received all of the needed documentation regarding the [REDACTED] and [REDACTED] loss until now so I will be sending that over to our [REDACTED]. I will provide him with your e-mail addresses and the worksheets you have provided for his review.

2- I have attached a copy of the estimate that was prepared by our adjuster which does include the assumption that the Building components are Improvements and Betterments.

3- I apologize that I have not included your name on the drafts which we have provided. Has the insured processed them? If not, I can put a stop pay and reissue with your name added as an additional payee. Please advise how you would like to proceed- if you need me to reissue I can overnight the payment to your office or the insured.

If you have any questions please let me know.

Thank you,

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

RE: Cause No [REDACTED]  
[REDACTED]

Dear Ms. [REDACTED]

This correspondence is sent in response to our telephone conference last week. You informed me that [REDACTED] is refusing to proceed to appraisal because 1) [REDACTED] believes the damage to the roof is cosmetic and 2) the [REDACTED] policy at issue contains a cosmetic damages exclusion. According to your analysis, because [REDACTED] is denying coverage, [REDACTED] is not required to proceed to appraisal.

In our telephone conference, I attempted to explain to you that [REDACTED] asserted defense is not supported by [REDACTED] law and whether the damage to the roof is merely cosmetic is a contested fact. Essentially, our disagreement hinges on 1) whether appraisers can allocate damages between covered and excluded perils, and 2) whether [REDACTED] may refuse to proceed to appraisal because it has raised a liability/coverage issue. I agreed to follow up our conversation with case law supporting my position.

[REDACTED] "When an insurer denies coverage, appraisers can still set the amount of loss in case the insurer turns out to be wrong [REDACTED]"

[REDACTED] "Wear and tear is excluded in most property policies (including this one) because it occurs in every case. If [REDACTED] is correct that appraisers can never allocate damages between covered and excluded perils, then appraisals can never assess hail damage unless a roof is brand new. That would render appraisal clauses largely inoperative, a [REDACTED] construction we must avoid [REDACTED]"

[REDACTED] " [REDACTED] contends that it is not required to proceed to appraisal to determine the amount of loss claimed by its insured because its liability for the loss has not been established. However, when, as here, the dispute between an insurer and its insured involves both damage and liability questions, an appraisal should not be prohibited as an initial matter, notwithstanding that liability for the damage claimed by the insured remains unresolved." [REDACTED]  
[REDACTED]

As I explained in our telephone conference, I am attempting to minimize attorneys' fees in this matter. [REDACTED] continued refusal to follow [REDACTED] law and proceed to appraisal will force my client to file a motion for summary on the issue. This is a costly process. If you believe there is case on point that supports Safeco's position, I would be more than happy to consider it.

Respectfully,

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

Consumer Complaints Division:

In the [REDACTED], I personally filed a complaint with your department against [REDACTED] [REDACTED] for violations of [REDACTED] concerning the charging of a surcharge for the use of a credit card. While the [REDACTED] contends this charge is a 'convenience charge,' your legal department disagreed and sent [REDACTED] a cease and desist letter instructing the apartment complex to drop the charge as it violated [REDACTED] law.

To date, [REDACTED] continues to charge a convenience charge (surcharge) for the use of a credit card. A screen shot of the webpage is enclosed and documents the charge.

Obviously, the cease and desist letter failed to put a stop to the practice. I am requesting the Commissioner take further action.

Respectfully,

[REDACTED]

--	--	--

[ ]

[ ]

Insured Name:  
Policy Number:  
Loss Date:  
Claim Number:

[ ]

Dear Mr. and Mrs. [ ]

This letter is in response to the Appraisal demand we received from your Public Adjuster on [ ] regarding the above-referenced loss. It is our position that appraisal is not appropriate in this matter and reject the demand. Please refer to our letter of [ ] which details our coverage position. I have enclosed a copy for your review. As this is not a dispute over the amount of covered damages or scope, but a coverage dispute, appraisal is not appropriate.

[ ] Insurance Company of [ ] may continue to investigate this claim. However, [ ] Insurance Company of [ ] reserves any and all rights and defenses allowed under the policy of insurance and the law. No action taken by [ ] Insurance Company of [ ] employees and/or agents, is intended to be or should be considered to be a waiver of any of these rights or defenses under the policy of insurance or the law.

Sincerely,

[ ]

[ ]

[ ]

[REDACTED]  
[REDACTED]

Ms. [REDACTED]

Re: Insured: [REDACTED]

Claim Unit Number: [REDACTED]

Policy Number: [REDACTED]

Loss Date: [REDACTED]

Location of Loss: [REDACTED]

**DEMAND FOR PAYMENT PURSUANT TO [REDACTED] CIVIL PRACTICES AND REMEDIES CODE**

Ms. [REDACTED]

I represent [REDACTED] ('Insured') in her effort to collect sums due and owing in the above-referenced matter. This correspondence is sent pursuant to [REDACTED] Civil Practices and Remedies Code.

**Presentment of Claim**

1. Insured has retained [REDACTED] and [REDACTED] to pursue collection of an outstanding sum due and owing pursuant to the appraisal award issued in the above-referenced matter in the amount of \$ [REDACTED] representing the repair cost awarded for roof decking.
2. The claim is being presented to you as the duly authorized agent of [REDACTED].
3. Demand is made that the \$ [REDACTED] be paid in full before the expiration of the 30<sup>th</sup> day after receipt of this demand.

If payment in full is not received within the time period prescribed by [REDACTED] Insured will file suit and seek attorneys' fees, interest and costs in addition to the [REDACTED] due and owing.

Respectfully,

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Re:

[Redacted]

Dear Mr.

[Redacted]

I am writing in response to your letter of [Redacted] While the landmark appraisal case of [Redacted] interpreted the standard appraisal provision of most [Redacted] homeowners policies to allow consideration of the cause of the loss, no [Redacted] case, including the [Redacted] case cited in your letter, has allowed appraisal where the only question to be considered is whether the loss is covered by the policy. In [Redacted]

[Redacted] no pet.) the dispute involved both causation and amount of loss issues. The [Redacted] court, followed [Redacted] and required the parties to complete appraisal despite the causation issues. *Id.*

Even if appraisal were to be considered in this case, we would first need to determine whether there is a dispute regarding the amount of the loss. Please consider this letter to be a formal request, pursuant to [Redacted] that you produce any and all estimates regarding the cost to repair or replace what your client contends is the covered damage.

Please give me a call if you have any questions or would like to discuss this matter further.

Best Regards,

[Redacted]

[Redacted]