EARL R. POMEROY
COMMISSIONER OF INSURANCE
STATE OF NORTH DAKOTA
STATE CAPITOL BUILDING
BISMARCK, NORTH DAKOTA 58505
701-224-2440

BULLETIN 85-4

TO: All Property & Casualty Insurance Companies admitted to do Business in the State of North Dakota

FROM: Earl R. Pomeroy, Commissioner of Insurance

DATE: April 12, 1985

SUBJECT: Comparative Negligence

The North Dakota Insurance Department is continuing to receive numerous complaints from consumers, agents and even claims managers regarding the settlement of comparative negligence claims. In a number of cases insurance companies have handled comparative negligence claims arbitrarily and have made offers without proper investigation.

The handling of claims in this fashion is in direct violation of N.D.C.C. 26.1-04-03 (9)(d), which defines unfair claims settlement practices as follows:

> "Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear".

When a company offers less than 100% in comparative negligence settlement negotiations, it must be making such offer based upon a documented claims file containing at a minimum, a statement from all parties involved in the accident, a police report, written or photographic evidence of physical inspection of the vehicle(s), and written or photographic evidence of inspection of the accident site.

In the event the Department after investigation determines that claims files are not being properly documented and offers for settlement are being made based upon arbitrary percentages, the Department wil initiate appropriate administrative action.

GM:jmm