TECHNICAL BRIEF — PART 3 OF 4

The 60-Day Bad Faith Clock

A Contractor's Timeline Guide to Georgia O.C.G.A. Section 33-4-6

Ducere Construction Services, Inc. | Founded 2017 | 9 Years in Business | GA License GCCO006711

Introduction: The Clock Most Contractors Never Know Is Running

When an insurance carrier denies your claim — or fails to respond adequately — most contractors do one of two things: they call their attorney, or they give up. Very few know that Georgia law has already started a clock that, if managed correctly, can double the value of their claim and shift attorney's fees to the carrier.

That clock is O.C.G.A. Section 33-4-6 — Georgia's insurance bad faith statute. It is one of the most powerful contractor tools in Georgia law. It is almost universally missed or accidentally waived before the contractor knows it exists.

60	50%	+Fees
days from written demand for carrier to respond adequately or face penalty	penalty on full claim amount in addition to the original claim	reasonable attorney's fees added if bad faith is established

1. What Bad Faith Actually Means Under Georgia Law

Bad faith under O.C.G.A. 33-4-6 is not simply a carrier denying your claim. It is a carrier refusing to pay a valid, covered claim — within 60 days of a proper written demand — without a reasonable basis for doing so.

The statute creates a separate cause of action entirely independent of your underlying lawsuit. Even if your contract dispute is still in litigation, you can simultaneously pursue the bad faith claim against the carrier. The penalty structure: original claim amount PLUS up to 50% penalty PLUS reasonable attorney's fees.

This is not available to every claimant automatically. It requires that you have issued a legally sufficient written demand and that the carrier failed to adequately respond within 60 days. Both conditions must be met.

Bad faith is not about the carrier being wrong. It is about the carrier refusing to pay what they owe — without a legitimate reason — after you gave them the required 60 days to respond.

2. How the 60-Day Clock Starts — And Where to Send the Demand

The clock does not start when the carrier denies your claim. It does not start when you file a lawsuit. It starts on the date the carrier receives your formal written demand. Four requirements must be met:

■ **Written format — certified mail to the correct address**

A phone call does not start the clock. An email may not start the clock depending on the carrier's notice requirements. A certified letter, return receipt requested, to the carrier's legal notice address is the gold standard. HOW TO FIND THE NOTICE ADDRESS: open the Policy Declarations page — look for a section labeled 'Notices' or 'Reporting a Claim.' That address is where the demand must go. Not the agent. Not the broker. Not the adjuster's email. The carrier's legal notice address.

■ **Specific dollar amount stated in the demand**

The demand must state the specific dollar amount being claimed. 'Damages to be determined' does not start the clock. A specific number does. If the exact amount is not yet determined, use your best documented estimate and state it as such.

■ **Correct recipient — the carrier, not its representatives**

The demand must go to the insurance carrier directly — not the insurance agent, not the broker, not opposing counsel. Verify the carrier's legal notice address in the Policy Declarations before sending.

■ **Policy identification — correct number and period**

Reference the specific policy number and the coverage period. If the carrier has issued multiple policies over multiple years, identify which policy year governs the claim. If a carrier later produces the wrong policy year, your demand letter — specifying the correct policy — is your documentation of their error.

3. What Happens When the Clock Expires

If 60 days pass after your proper written demand and the carrier has not paid the claim or provided a legally adequate denial with a reasonable basis, you have an active bad faith claim under O.C.G.A. 33-4-6.

At that point, the bad faith cause of action is separate from your underlying insurance claim. You can pursue both simultaneously. The carrier cannot retroactively cure the bad faith by paying after the 60-day window closes.

What Is an 'Adequate' Response?

'Adequate response' does not mean any response. A carrier that sends a boilerplate denial letter without specifically applying the cited exclusions to the facts of your claim may still be in bad faith. Courts look at whether the denial was legally reasonable — not just whether a letter was sent. If you receive a denial, have an attorney assess whether it meets the legal standard before assuming the clock stops.

4. The Three Ways Contractors Accidentally Waive the Clock

■ **Accepting Partial Payment Without Reservation of Rights**

If a carrier pays part of your claim and you cash the check without explicitly stating in writing that the payment is accepted as partial and does not waive further claims, you may have settled the entire dispute. A reservation of rights letter must be sent BEFORE accepting any partial payment. The letter states: 'Payment accepted as partial satisfaction only. All rights to pursue the full claim — including bad faith remedies — are expressly reserved.'

■ **Informal Email Chains Instead of a Formal Demand Letter**

Months of email negotiation with an adjuster do not start the 60-day clock. Only a formal written demand — certified mail, specific dollar amount, correct carrier address — triggers the statute. Every day spent in informal email negotiation is a day the bad faith clock is not running.

■ **Sending the Demand to the Wrong Party**

Sending the demand to the insurance agent, the broker, or opposing counsel instead of the carrier directly does not start the clock. The carrier's legal notice address is in the Policy Declarations under 'Notices.' Verify it before sending.

5. The Wrong Policy Year Trap — A Documented Pattern

A documented pattern in construction insurance disputes: a carrier produces a policy in response to a demand — but produces the wrong policy year. The claim arose in Year 3 of a multi-year policy relationship. The carrier sends Year 2. The carrier then denies coverage based on Year 2's terms.

This is not always accidental. Producing the wrong policy year delays the dispute, extends the timeline, and forces the contractor to spend time proving they have the wrong document rather than litigating the actual coverage issue.

If a carrier produces a policy in response to your demand, verify the policy period immediately against the date of the underlying incident. The operative policy is the one in effect on the date the covered event occurred. If the policy period does not match, send a written follow-up demanding the correct policy within 10 business days — and document the carrier's delay in writing.

> **The operative policy is the one in effect on the date the covered event occurred — not the policy currently in force, and not a policy from an adjacent year.**

6. The OCI Complaint Lane — What It Can and Cannot Do

The Georgia Office of the Commissioner of Insurance (OCI) accepts complaints against insurance carriers licensed in Georgia. Filing a complaint at oci.ga.gov creates a formal regulatory record and requires the carrier to respond to OCI directly.

What OCI can do: investigate the carrier's conduct, require a written response from the carrier, impose fines, and in serious cases recommend license suspension or revocation. An active OCI complaint creates institutional pressure — carriers under regulatory review have incentive to resolve disputes to avoid escalating consequences.

What OCI cannot do: order the carrier to pay your claim or provide legal advice on your case. The OCI complaint is a parallel track — it does not replace your civil claim and does not automatically trigger a penalty. It creates documented regulatory pressure while your civil case proceeds.

Keep your OCI complaint number. Reference it in all subsequent communications with the carrier. A carrier that knows a government agency is watching their file handles the file differently.

7. Your 60-Day Action Timeline

Day 0	**Send the formal written demand letter** Certified mail, return receipt. To the carrier's legal notice address (find it in the Policy Declarations under 'Notices'). Specific dollar amount. Correct policy number and period explicitly stated.
Day 1	**File and photograph the complete demand package** Keep a copy of the full demand letter, the certified mail receipt, and the USPS tracking number. This is your evidence that the clock started.
Day 5-10	**Confirm delivery via USPS tracking** If the carrier claims non-receipt, you have documented proof. If mail is returned unclaimed — photograph the envelope and document the tracking history. Unclaimed mail establishes avoidance.
Day 15	**File OCI complaint if not already filed** Go to oci.ga.gov. Reference policy number, your demand date, and the carrier's response or non-response. Creates a parallel regulatory track.
Day 30	**Send written follow-up to carrier** Reference your Day 0 demand by date and certified mail tracking number. Request written confirmation of receipt and current claim status.
Day 60	**Deadline — evaluate the carrier's response** Has the carrier paid the claim? Provided a legally adequate, fact-specific denial? If not — consult a licensed Georgia attorney immediately. Do not accept partial payment without a written reservation of rights.
Day 61+	**Bad faith claim is active** A 'reservation of rights' is a written statement that you accept any payment as partial only and reserve all legal rights. Send it before accepting anything.

This brief describes general principles under Georgia O.C.G.A. Section 33-4-6 for educational purposes only. It does not constitute legal advice. Consult a licensed Georgia attorney for guidance specific to your claim. Ducere Construction discusses insurance documentation from a licensed GC's perspective — not legal strategy. OCI complaints: oci.ga.gov | (404) 565-0631 | korey@ducereconstruction.com | DucereConstruction.com

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