ASHA PUBLISHING

BUSINESS REGULATION AND INTEGRITY LAW



Volume 1, Number 1, 2026

BUSINESS REGULATION AND INTEGRITY LAW

Analysis of the Role of Advocates in Assisting Clients as Legal Counsel in Insurance Disputes through Non Litigation Processes

Hadyan Hashfi[1], Firmansyah[2*], Muh Al Qawwi Davandra[3]
[1,2,3]Universitas Negeri Makassar
Email: firmansyah@unm.ac.id

ABSTRACT

Insurance disputes represent one of the legal issues that frequently arise in the insurance sector, particularly due to differences in the interpretation of policy provisions, negligence in fulfilling contractual obligations, or the rejection of claims by insurance companies. The increasing number of disputes indicates that many policyholders still face difficulties in obtaining their rights in accordance with the insurance agreement. This situation highlights the urgency of strengthening legal assistance and dispute resolution mechanisms that can protect the interests of insured parties while maintaining a balanced relationship between policyholders and insurance companies. In this context, advocates play an important role in ensuring that legal processes run fairly and that the rights of clients are properly represented. This study aims to analyze the role of advocates in resolving insurance disputes through non litigation mechanisms and to examine how advocates facilitate communication between policyholders and insurance companies in seeking fair and mutually beneficial solutions. The research also seeks to understand the effectiveness of non litigation dispute resolution methods in minimizing potential conflicts and reducing the need for formal court proceedings. By focusing on the practical experiences of advocates in handling insurance disputes, the study provides a clearer understanding of how legal professionals contribute to the dispute resolution process. The findings of this study indicate that advocates have a strategic role in assisting clients in understanding policy provisions, evaluating the reasons behind claim rejections, and negotiating with insurance companies to reach acceptable settlements. Non litigation approaches such as negotiation and mediation are found to be more efficient in terms of time and cost compared to litigation processes. These mechanisms enable disputes to be resolved more quickly while maintaining constructive relationships between the parties involved. The study concludes that the active involvement of advocates in non litigation dispute resolution contributes significantly to improving access to justice and promoting more effective and balanced outcomes in insurance dispute cases.

Keywords: Advocate, Insurance Dispute, Non Litigation

INTRODUCTION

The development of the financial services sector, including the insurance industry, has significantly increased the complexity of legal relationships between insurance companies and policyholders. These relationships are established through insurance agreements that define the rights and obligations of both parties, including provisions regarding premiums, insured risks, and claim procedures. In practice, insurance agreements often give rise to disputes between insurance companies and policyholders, particularly when differences arise in interpreting policy provisions or when claims submitted by policyholders are rejected by insurers. This situation highlights the importance of legal protection mechanisms to ensure that dispute resolution processes are conducted in a fair, effective, and efficient manner.

From a legal perspective, the insurance sector in Indonesia is regulated under Law Number 40 of 2014 on Insurance, which replaced Law Number 2 of 1992 concerning Insurance Business. Under this law, insurance is defined as an agreement between an insurance company and a policyholder that serves as the basis for the payment of premiums by the

Volume 1, Issue 1, 2026
DOI: https://doi.org/10.70188/fsjpkw88

policyholder in exchange for protection against certain risks that may cause financial loss. Accordingly, the legal relationship in insurance is fundamentally contractual in nature, encompassing provisions related to risk coverage as well as the claim procedures that must be fulfilled by the parties involved.

In practice, insurance companies generally employ standard form contracts that are drafted unilaterally by the insurer. These contracts contain clauses outlining the rights and obligations of both parties, including specific requirements for submitting claims. Such standard clauses are regulated under Law Number 8 of 1999 on Consumer Protection, which defines standard clauses as provisions prepared unilaterally by business actors and incorporated into agreements that bind consumers. In many cases, the use of standard clauses places policyholders in a weaker position due to complicated claim procedures and contractual provisions that are difficult for consumers to understand. As a result, disputes between insurance companies and policyholders frequently arise.

In addressing insurance disputes, advocates play a crucial role in providing legal assistance to individuals seeking legal protection. The legal profession of advocacy in Indonesia is regulated under Law Number 18 of 2003 on Advocates. Article 1 paragraph (1) of this law defines an advocate as a person who provides legal services both inside and outside the court and who fulfills the qualifications stipulated by law. As legal professionals, advocates are responsible for providing legal assistance in the form of legal advice, representation, and legal support aimed at protecting and advancing the legal rights and interests of their clients.

In the context of insurance disputes, advocates are not limited to representing clients in litigation processes before the court. They also play an important role in resolving disputes through non litigation mechanisms. Dispute resolution outside the court is generally referred to as Alternative Dispute Resolution (ADR), which includes mechanisms such as negotiation, mediation, conciliation, and arbitration. Non litigation processes are often preferred because they are considered faster, more efficient, and capable of preserving relationships between disputing parties. In this process, advocates act as legal advisors who assist clients in understanding their legal position and determining the most appropriate dispute resolution strategy (Guthrie & Rachlinski, 2006; Rada, 2014).

Advocates also play an essential role in mediation and negotiation processes between disputing parties. During these processes, advocates function as negotiators who seek mutually beneficial settlements without resorting to lengthy court proceedings. This approach not only reduces the cost and time required to resolve disputes but also minimizes the adversarial nature of litigation (Kaas & Mccormack, 2024; Roberts & Moscati, 2020) (Kaas & McCormack, 2024; Roberts & Moscati, 2020). Therefore, advocates' expertise in legal analysis, negotiation, and communication significantly influences the success of dispute resolution through non litigation mechanisms.

Beyond providing legal advice and negotiation services, advocates are also bound by professional ethical responsibilities in performing their duties. The relationship between advocates and clients is fundamentally based on trust, which requires advocates to conduct their professional responsibilities with integrity, transparency, and accountability. Any misuse of client trust may result in legal liability and professional disciplinary sanctions (Zamroni, 2020). Consequently, advocates are expected to maintain high ethical standards in delivering legal services.

Furthermore, advocates assist clients in understanding the legal implications of various dispute resolution options and help them make informed decisions. Through comprehensive legal explanations, advocates enable clients to evaluate potential outcomes of negotiation, mediation, or arbitration processes before deciding on a particular course of action (Stomski et al., 2017; Tahan, 2005). Thus, advocates function not only as legal representatives but also as advisors who guide clients throughout the legal decision making process.

Volume 1, Issue 1, 2026
DOI: https://doi.org/10.70188/fsjpkw88

Despite the advantages of non litigation dispute resolution, several challenges remain in its implementation. One of the main challenges involves balancing the interests of clients with the need to maintain constructive relationships with insurance companies during negotiation processes. Advocates must also ensure that dispute resolution mechanisms comply with applicable legal provisions while protecting the rights of their clients. Their ability to manage conflicts and facilitate constructive dialogue between parties is therefore essential in achieving fair and sustainable dispute resolution outcomes.

Based on these considerations, advocates hold a strategic role in assisting clients in resolving insurance disputes through non litigation mechanisms. Their responsibilities encompass providing legal advice, facilitating negotiation and mediation processes, and safeguarding the legal rights of clients throughout dispute resolution procedures. Consequently, examining the role of advocates in assisting clients as legal counsel in insurance disputes through non litigation processes is important to understand the effectiveness of legal advocacy in protecting the rights of policyholders and ensuring fair dispute resolution practices.

METHOD

This study employs a qualitative approach combined with empirical legal research to examine the practical implementation of law in the context of insurance dispute resolution. The qualitative approach is utilized to explore and interpret how legal principles operate within real social and professional settings, particularly concerning the role of advocates in resolving insurance disputes through non litigation mechanisms. Through qualitative analysis, the research seeks to understand the dynamics of legal practice, including the interaction between advocates, clients, and insurance institutions in the dispute resolution process.

Within this framework, law is not viewed solely as a collection of written regulations or statutory provisions, but also as a social institution that is shaped by professional ethics, legal culture, and practical experience. Legal norms are interpreted through the actions and decisions of legal practitioners who apply these norms in resolving conflicts. Therefore, this study does not only describe the formal duties of advocates as stipulated in legislation but also analyzes how their professional roles are carried out in practice, particularly when handling disputes that require negotiation, mediation, or other alternative dispute resolution mechanisms outside the court system.

The empirical legal approach is applied to capture how legal rules function in real situations by examining the experiences and perspectives of advocates who are directly involved in insurance dispute resolution. Empirical data are obtained through interviews with advocates who have experience in handling insurance related cases. These interviews aim to gather in depth information regarding the strategies used by advocates, the challenges encountered in the dispute resolution process, and the effectiveness of non litigation mechanisms in resolving conflicts between policyholders and insurance companies.

Through the empirical perspective, law is understood not only as a normative system consisting of written rules but also as a pattern of behaviour that develops within the legal community. Legal practices, professional judgment, and institutional interactions all contribute to shaping how disputes are managed and resolved. By combining qualitative analysis with empirical legal research, this study seeks to provide a comprehensive understanding of the advocate's role in facilitating fair and effective insurance dispute resolution through non litigation approaches.

Volume 1, Issue 1, 2026
DOI: https://doi.org/10.70188/fsjpkw88

RESULT AND DISCUSSION

The resolution of insurance disputes through non litigation mechanisms is considered more effective than litigation, particularly in terms of time, cost, and procedural flexibility. Non litigation processes such as mediation, negotiation, or arbitration allow the parties to resolve disputes amicably without undergoing lengthy and formal court proceedings. Given the technical and complex nature of insurance disputes, non litigation methods provide opportunities for insurance experts or experienced mediators to assist in addressing substantive issues more accurately. Nevertheless, non litigation mechanisms do not always have binding legal force equivalent to court judgments unless the agreement is formalised in an authenticated legal document.

From the perspective of the principle of pacta sunt servanda, which affirms that agreements must be honoured, non litigation dispute resolution aligns with the commitment of the parties to uphold the contents of the insurance policy. This mechanism preserves the relationship between the insured and the insurer because the process is faster, less costly, and conducted in good faith. However, when serious violations occur, such as refusal to fulfil contractual obligations, litigation remains necessary to enforce the law and protect the rights of disadvantaged parties.

Advocates play a strategic role in facilitating communication between clients (policyholders) and mediation institutions such as the Financial Services Authority (OJK), the Indonesian Insurance Mediation Board (BMAI), and the Financial Services Sector Alternative Dispute Resolution Agency (LAPS SJK). Their involvement covers pre mediation, mediation, post mediation processes, and substantive communication with OJK. Advocates not only provide legal representation but also ensure that the process complies with regulations, that clients' rights are protected, and that all parties remain cooperative.

Advocates play an essential role in the successful resolution of disputes outside the court. Beyond acting as legal counsel, they serve as advisers, informal mediators, and negotiators who bridge the interests of clients and insurance companies. They assist clients in understanding policy provisions, preparing legal documents, presenting legal arguments, and establishing constructive communication with insurers and mediators to achieve a fair and legally sound agreement. Their role extends beyond winning disputes to ensuring justice and legal certainty effectively and efficiently.

Advocates hold a significant strategic role in bridging communication between clients, particularly policyholders, and institutions such as OJK, BMAI, and LAPS SJK. Their involvement begins at the initial stage of filing complaints or mediation requests by preparing necessary documents and ensuring compliance with institutional procedures. During mediation, advocates accompany clients in delivering statements, clarifying data, and preparing responses to the insurance company. They maintain professional communication as intermediaries, ensuring smooth processes and avoiding misunderstandings. In certain cases, advocates coordinate further with OJK after mediation for oversight or formalisation of agreements. Their active involvement demonstrates their commitment to protecting clients' rights and ensuring compliance with financial service regulations.

According to advocates, the main challenges include differences in interpretation between policyholders and insurance companies regarding policy language, which is often ambiguous and technical, leading to gaps in understanding. Other challenges involve incomplete or procedurally flawed administrative evidence, inflexible negotiation attitudes from insurance companies, and the limited authority of mediation institutions such as LAPS SJK and BMAI, which lack executorial power.

The role of advocates in resolving insurance disputes through non litigation mechanisms has become increasingly important as legal relationships between insurance companies and policyholders grow more complex. Insurance disputes frequently arise due to differences in

Volume 1, Issue 1, 2026
DOI: https://doi.org/10.70188/fsjpkw88

the interpretation of policy clauses, inconsistencies between the expectations of policyholders and the decisions made by insurers, or complications in claim procedures. In such situations, litigation through the court system is often considered inefficient because it involves lengthy procedures, high costs, and adversarial processes. Consequently, Alternative Dispute Resolution (ADR) mechanisms have become a widely adopted approach for resolving insurance disputes in a more efficient and constructive manner.

Non litigation dispute resolution in insurance cases is commonly conducted through several primary mechanisms, particularly mediation and arbitration. Mediation refers to a dispute resolution process involving a neutral third party who facilitates communication and negotiation between disputing parties in order to reach a mutually acceptable agreement. This process is characterized by flexibility, informality, and the opportunity for parties to develop mutually beneficial solutions without undergoing lengthy court proceedings. In the Indonesian financial services sector, insurance disputes may be resolved through mediation institutions such as the Indonesian Insurance Mediation and Arbitration Board (BMAI), which provides dispute resolution mechanisms that are faster, confidential, and relatively less costly compared to litigation processes (Huda et al., 2017).

In addition to mediation, arbitration also represents an important non litigation dispute resolution mechanism frequently used in insurance disputes. Arbitration involves one or more arbitrators who possess expertise in relevant legal or technical fields and who deliver binding decisions after hearing the arguments presented by both parties. One of the primary advantages of arbitration lies in its efficiency and its ability to provide legal certainty, as arbitral awards are generally final and binding without the possibility of appeal (Mayca & Esther, 2025; Mishra & Kushwaha, 2023).

Within the ADR framework, advocates play a strategic role in assisting clients to protect their legal rights during dispute resolution processes. One of the primary responsibilities of advocates is to provide legal advice and representation during mediation or arbitration proceedings. Advocates assist clients in understanding their legal position, interpreting insurance policy provisions, and evaluating the strengths and weaknesses of submitted claims. Through their legal expertise, advocates are able to formulate appropriate legal strategies for clients when navigating non litigation dispute resolution mechanisms (Utami et al., 2025; Woods et al., 2023).

Beyond providing legal advice, advocates also facilitate negotiation processes between disputing parties. During mediation and negotiation sessions, advocates help clarify the legal position of their clients, interpret relevant laws and regulations, and identify potential solutions that may be acceptable to both parties. Their role in managing communication between disputing parties is crucial in reducing misunderstandings and creating opportunities for fair and sustainable agreements (Forsyth et al., 2026; Sihombing et al., 2024).

Advocates also play an essential role in ensuring that agreements reached through non litigation processes possess clear legal validity and can be effectively implemented. In this context, advocates assist in drafting settlement agreements that clearly outline the rights and obligations of each party while ensuring that such agreements comply with applicable legal provisions. In certain circumstances, settlement agreements may also be registered with relevant legal institutions or courts to ensure enforceability in the event of non compliance by either party (Sacerdoti, 2005).

The involvement of advocates in ADR mechanisms provides significant benefits for disputing parties. With professional legal assistance, the dispute resolution process becomes more structured, transparent, and directed toward mutually beneficial outcomes. Advocates help ensure that dispute resolution processes adhere to principles of fairness while safeguarding the legal interests of their clients. Moreover, the presence of advocates enhances

DOI: https://doi.org/10.70188/fsjpkw88

the quality of negotiation processes by ensuring that each party possesses a clear understanding of their legal rights and obligations.

verall, non litigation dispute resolution mechanisms offer several advantages compared to litigation, including reduced costs, shorter resolution timeframes, greater confidentiality, and increased flexibility in achieving mutually acceptable solutions. Within this framework, advocates function as intermediaries who bridge the interests of disputing parties, provide legal guidance, and ensure that dispute resolution processes comply with applicable legal principles.

Based on these considerations, advocates play a crucial role in resolving insurance disputes through non litigation mechanisms. Their responsibilities include providing legal advice, assisting clients during mediation and arbitration processes, facilitating negotiations between parties, and drafting legally binding settlement agreements. Through these roles, advocates not only contribute to more efficient dispute resolution but also ensure that the legal rights of the parties involved remain protected throughout the dispute resolution process.

CONCLUSION

Based on the analysis, non litigation mechanisms for resolving insurance disputes are more effective, particularly in terms of time, cost, and procedural flexibility, compared with litigation. However, this effectiveness largely depends on the good faith and legal compliance of the parties in upholding the terms of the agreement under the principle of pacta sunt servanda. The role of advocates is crucial in safeguarding clients' rights during mediation and negotiation, as well as facilitating communication with institutions such as OJK, BMAI, and LAPS SJK. The success of non litigation dispute resolution is strongly influenced by the active involvement of advocates in providing legal assistance, negotiation support, and advisory functions.

REFERENCES

Forsyth, T., Drake, G., & Altheimer, I. (2026). Understanding unexceptional civil claims against the police: an examination of the relationship between claimant, claim, and situational factors on final settlement amounts. *Journal of Crime and Justice*, 1–27.

Guthrie, C., & Rachlinski, J. J. (2006). *Insurers, illusions of judgment & litigation*. *59*(6), 2015–2049.

Huda, M. K., Hernoko, A. Y., & Khairandy, R. (2017). *The characteristics of non-litigation resolution for life insurance lawsuit in Indonesia*. *8*(8), 2419–2424. https://doi.org/10.14505/jarle.v8.8(30).12

Kaas, C. W., & Mccormack, B. F. (2024). *The evolving role of lawyers in family dispute resolution* (pp. 314–330). https://doi.org/10.1093/oso/9780197545904.003.0017

Mayca, O. R., & Esther, J. (2025). The Role of Advocates in Handling Divorce Cases When the Plaintiff Is Not Present at The Decision Hearing. *Golden Ratio of Data in Summary*, *5*(1), 42–49.

Mishra, S. K., & Kushwaha, H. (2023). Managing litigation risk through business legal expense insurance: Facilitators and inhibitors for MSMEs. *IIMB Management Review*, *35*(1), 57–70.

Rada, A. (2014). *Essence of Advocate Existence Based on Islamic Law*. *14*(1), 115–122. https://doi.org/10.15408/ajis.v17i1.1248

Roberts, M., & Moscati, M. (2020). *Family Mediation: Contemporary Issues*. https://doi.org/10.5040/9781526505446

Sacerdoti, G. (2005). *The role of lawyers in the WTO dispute settlement system* (pp. 125–131). https://doi.org/10.1017/CBO9780511754340.013

Sihombing, J. S. P., Saraswati, R., Yunanto, Y., & Turymshayeva, A. (2024). The regulation of legal protection for poor communities toward justice in Indonesia and the Netherlands. *Journal of Human Rights, Culture and Legal System*, *4*(2), 331–353.

Stomski, N., Morrison, P., Whitely, M., & Brennan, P. (2017). *Advocacy processes in mental health: a qualitative study*. *14*(2), 200–215. https://doi.org/10.1080/14780887.2017.1282567

Tahan, H. A. (2005). *Essentials of advocacy in case management*. *10*(3), 136-145;quiz146.

Utami, N. A. T., Raharjo, A., Prayitno, K. P., Wahyudi, S., Bintoro, R. W., & Ismail, N. (2025). Evaluation of Legal Aid Service Quality and Supervision in Indonesia and Malaysia. *Journal of Human Rights, Culture and Legal System*, *5*(1), 187–216.

Woods, D. W., Böhme, R., Wolff, J., & Schwarcz, D. (2023). Lessons lost: Incident response in the age of cyber insurance and breach attorneys. *32nd USENIX Security Symposium (USENIX Security 23)*, 2259–2273.

Zamroni, M. (2020). *Legal Liability of Advocates in Legal Services Contracts*. *3*(1), 1–14. https://doi.org/10.33096/sjijl.v3i1.50