



Zurich maintains a solid commitment to provide professional, expert and responsive legal services to our customers. Establishing and maintaining effective partnered relationships with claims defense counsel is an integral element of our claims service offering. We believe that a strong relationship with our customers and claims defense counsel will lead to a successful conclusion of each litigated matter.

In order to strengthen our partnership with claims defense counsel and provide ever-increasing levels of service for our customers, we have adopted the Recommended Case Handling Guidelines for Insurers created by The Defense Research Institute. Developed by a committee of defense counsel and insurance industry leaders, we believe they represent a reasonable and effective path for the management of litigated matters.

These guidelines serve our claims defense counsel partners by ensuring consistency in claim litigation management expectations. They assist our claims professionals by ensuring that defense counsel possess an awareness of our litigation management expectations. Ultimately, the guidelines create a more closely aligned litigation management partnership between claims defense counsel and our claims professionals. This enhanced level of partnership translates into a higher level of service for our customers.

Consistent with DRI's policy, we have also included an addendum that specifies our business policies relative to reimbursement of expenses, payment of professional fees and other administrative matters. Please familiarize yourself with the guidelines and the addendum. Communicate them to all other counsel and staff in your office who may be involved in the defense, billing or administration of our customers' matters.

We look forward to working with your firm in utilizing the DRI's Recommended Claim Case Handling Guidelines for Insurers to serve the legal needs of our policyholders. Please feel free to contact one of our claims professionals with any questions you may have.

Litigation Management Guidelines for Claims Defense Counsel

on which your services are requested. The case should be staffed economically and

I. Philosophy

Zurich, (hereinafter referred to as “Insurer”) expects to work with claims defense counsel and its customers to achieve the best result for the customer in an efficient and cost-conscious manner consistent with the law firm’s ethical obligations. Nothing contained herein is intended to, nor shall, restrict counsel’s exercise of independent professional judgment in rendering legal services for the insured or otherwise interfere with any ethical directive governing the conduct of counsel.

II. Case development

An effective and strategically sound legal defense is the responsibility of counsel and Insurer and should be developed in a timely manner.

- A. A goal is to identify those claims for which there is liability and to discuss settlement opportunities early. The activities necessary to defend a given claim and bring it to appropriate resolution should be addressed early and the steps necessary to achieve that resolution should be jointly agreed upon between Insurer and defense counsel.
- B. An early resolution of lawsuits is desirable and the use of alternative dispute resolution is encouraged.
- C. If defense counsel is involved in settlement negotiations, settlement authority must be obtained from Insurer and requests for authority should be made timely.

III. Staffing philosophy

Your law firm should designate one attorney to have primary responsibility for each case

effectively. Obviously, a balance must be struck between the efficiency a more experienced lawyer at your firm brings to a given task and the advantages of having the task performed by a junior lawyer or a paralegal. Duplication of effort within the firm should be avoided.

To achieve the best efficiency and value, the roles and responsibilities of staff members should be clearly defined and appropriate to each individual’s qualifications, level of experience and billing rate. Defense counsel should delegate work to subordinates wherever possible to achieve efficiency and cost-effectiveness without compromising quality.

IV. Reporting requirements

- A. **Reports** – Unless otherwise requested, reporting is required for three events: acknowledgment, the initial evaluation and significant developments. Reports should be provided to both Insurer and the insured.
 1. **Acknowledgment** – Upon receipt of a new case, counsel should send an acknowledgment letter regarding receipt of the file and designating the legal team assigned to the case. Any matters of immediate concern or information that may result in early resolution of the case should be addressed in the acknowledgment letter.
 2. **Initial report** – On a date mutually agreed upon by counsel and the claims professional, but no later than 45 days from receipt of the assignment, counsel should send an initial report with the following information:
 - a) A summary of the allegations in the complaint, the factual basis for the

litigation, a summary of the information developed during the preliminary investigation and a preliminary evaluation of liability and damages

b) A litigation plan providing the following:

- (1) Identify each significant activity counsel proposes to initiate (e.g., investigation, motion, discovery, legal research, etc.)
- (2) Identify discovery and motions that have been or are likely to be initiated by other parties.
- (3) Estimate the completion date for each activity.
- (4) State the estimated expenses for each activity.

c) Discussion of the potential for early disposition of the case by settlement and recommendations with respect to arbitration, mediation or direct settlement negotiations

d) Discussion of the potential success of dispositive motions prior to, or after, the commencement of discovery and when motions to dismiss or for summary judgment are appropriate

e) An estimate of the probable trial date

3. **Significant development report** – Defense counsel should communicate and apprise of significant developments as soon as practical. This will include reports on summaries of depositions, pretrial reports and, if applicable:

- a) Settlement options and/or dispositive motions
- b) Updated evaluation of the client's liability and damages
- c) An updated litigation plan

d) Trial report – If it is anticipated the case will proceed to trial, a date mutually agreed upon by counsel and the claims professional, but no later than 45 days prior to the scheduled trial date, a detailed report should be submitted, detailing the issues and an analysis of same and any other information requested by Insurer.

B. **Documentation** – Reporting shall not include copies of the following documents unless specifically requested:

1. Research memorandum, motion papers and legal briefs
2. Deposition transcripts
3. Expert reports
4. Medical reports

Counsel should provide copies of all pleadings and amended pleadings filed by or against the party whom you are defending and releases and orders of dismissal for final judgments. Counsel should consult with Insurer on the appropriate means of communication whether by e-mail, fax or regular mail to avoid duplication.

Counsel should comply with all reasonable requests for information and documents; however, any documents or information that are privileged shall not be disclosed, absent consent from the insured.

C. **Consultation** – After submission of the initial report, counsel should welcome discussion with, and input and comment from, Insurer. Counsel and Insurer will endeavor to agree on the proposed activities outlined in the litigation plan. However, in the event of disagreement, the final decision will remain the independent professional judgment of defense counsel.

V. Billing

A. Billing procedure

1. Frequency of billing – Bills should be submitted quarterly, unless the total amount of unbilled legal fees and expenses exceeds \$5,000 or it is the final bill for services on the matter. Please submit bills in excess of \$5,000 at the time this threshold is met and final invoices at the conclusion of your services.
2. Billing format
 - a) Heading – the first page of the bill must state: the firm's IRS number, the caption of the case, the name of the customer and the claim number.
 - b) Body – The bill must be prepared with entries showing the date the work was performed, the initials of the person providing the service, a description of the work performed (single activities), and the actual time in tenths of an hour.
 - c) End of bill summary – The bill must include the full name of each attorney/paralegal, the level of each timekeeper (i.e., partner, associate, paralegal), the hourly rate of each timekeeper and the total hours and total amount charged for each timekeeper during the billing period.
 - d) Task codes – Task coding is not required unless requested. Where requested, the uniform billing codes as currently endorsed by the American Bar Association shall be used.
2. Single entry timekeeping – The time for each activity should be separately stated. Grouping multiple activities under a single time charge greater than one-tenth of an hour ("block billing") is not acceptable absent authorization from Insurer.
3. Information descriptions of services – Descriptions of services should inform of the nature, purpose or subject of the work performed and the specific activity or project to which it relates.
4. Compensation – Counsel should consult with Insurer regarding any increase in the rate of compensation.
5. In-firm conferences – Where counsel consults with another attorney in the firm to obtain specific advice or counsel on substantive or procedural aspects of the case that result in a more effective defense, said reasonable and necessary conference time will be reimbursed, providing sufficient detail of the subject of the communication is set forth to demonstrate its relevance and value.
6. Multiple attendance – Counsel should consult with Insurer where it is anticipated that more than one attorney's attendance is necessary at trial, court appearances, meetings, depositions, witness interviews, inspections and other functions.
7. Depositions – Counsel should consult with the claims professional before initiating and attending depositions other than that of the plaintiff(s), the insured, and other depositions already approved in the initial litigation plan or supplement thereto.
8. Legal research – Counsel should consult with Insurer before undertaking a legal research project requiring over three hours of research. Copies of all

B. Charges for service

1. Time charges – All charges for services by attorneys and paralegals must be recorded daily based upon their actual time in one-tenth hour increments.

research memoranda shall be provided to Insurer upon request.

9. Motions – Counsel should consult with Insurer before filing any motions not previously identified and approved in the initial litigation plan or supplement thereto.
10. Revising standardized forms and pleadings – Only the actual time spent in personalizing standardized pleadings, documents, discovery responses or requests to the case at hand should be billed, rather than the time originally spent drafting standard language.

C. Disbursement

1. Internal expenses – Insurer shall advise counsel of its guidelines as to reimbursements of internal expenses. See attached addendum.
2. External expenses – Charges for service by outside vendors will be reimbursed at their actual cost. Expenses of over \$500.00 may be forwarded to Insurer for payment. Disbursements should be itemized on the law firm's statement with the following information, unless back-up documentation is provided: (a) the name of the vendor; (b) the date incurred; and (c) a specific description of the expense. Where back-up documentation is provided, the law firm statement need only set forth a description of the expense and amount incurred.
3. Travel expenses – Counsel should consult with Insurer prior to incurring travel expenses. All expenditures of \$25.00 or more must be supported with receipts attached to the law firm's statement.
4. Professional services – Counsel should consult with Insurer prior to incurring expenses for experts, consultants, investigators, temporary attorneys or outside

paralegals or other professional services.

5. Secretarial and clerical activities – Secretarial and clerical work is not billable to Insurer. As examples and not as a complete list, secretarial and clerical work includes receipt and distribution of mail, new file set-up, maintenance of office and attorney calendars, transcribing, copying, posting, faxing, e-mailing, inserting documents into, and retrieving documents from the file, maintaining order in the file, stamping documents, tabbing sub-files and assembling materials.

VI. Bill and File Review

Insurer reserves the right to review all charges for services and disbursements pertaining to litigation, including without limitation all charges paid by Insurer with respect to such litigation, whether pursuant to self-insured retentions or deductibles under Insurer policies or otherwise. Insurer reserves the right to conduct on-site audits and to review the defense file and/or defense bills, consistent with the defense attorney's ethical obligations, and in a manner that will not compromise the attorney-client or work product protection accorded material in the file or communications by and between counsel, the customer and Insurer. Counsel agrees to comply with all reasonable requests for information and documents, provided that such documents or information are not privileged. In such instance, Insurer must obtain the consent of the insured. Insurer fully reserves all rights to decline to pay or to seek reductions and/or refunds with respect to charges that fail to comply with the requirements set forth here in, and which are not fully explained or documented by the firm after reasonable inquiry. Insurer shall allow the law firm to appeal any declination of payment by Insurer. Insurer agrees to pay the undisputed portion of bills received from counsel.

Litigation Management Guidelines for Claims Defense Counsel

Professional fee and expense addendum

I. Professional fees

A. Hourly rates

The hourly rates for legal services offered by counsel must be agreed to in advance and confirmed in writing by Insurer's head office claims Litigation Management department.

B. Rate increases

Counsel must submit requests for hourly rate increases in writing to Insurer's head office Litigation Management department at least 90 days prior to the proposed effective date of the increase. Hourly rate increases will be honored only if approved in writing. Neither insurer nor its customer shall be responsible for unilateral rate increases.

C. Previously prepared legal research, pleadings and discovery

Insurer will not pay for research or any other work that counsel initially prepared for other files. Only the initial matter for which such research/work was actually performed may be charged. Any charges for the subsequent use of the research is limited to the time spent adapting the research to the current case.

D. Contract legal professionals

Requests for the use of a contract legal professional should be accompanied by a proposal setting forth the following information:

1. The purpose for the contract legal professional's involvement
2. The nature of the legal work the contract legal professional will undertake
3. A detailed budget for the proposed service
4. The actual rate charged to the firm for the contract legal professional and the rate or charge the firm proposes to charge Insurer for the contract legal professional's work

II. Expenses

A. Insurer will reimburse the following expense charges:

1. Internal

- a) Photocopying up to 10 cents per page - The per-page photocopy rate, the date copies were made and the number of copies made should be noted on the bill.
- b) Actual long distance telephone charges - Bills should indicate that telephone charges are long distance (v. local) to qualify for payment.
- c) Actual long distance telephone charges associated with outgoing facsimiles. Insurer will not reimburse any per-page charges for outgoing or incoming facsimiles.

2. External

- a) Reasonable travel expenses, including airline transportation not to exceed coach fares - Actual meal allowance not to exceed \$60.00 per day; Reasonable reimbursement for rental car expense, not to include additional insurance.
- b) Mileage is reimbursable for round trips greater than 50 miles. Parking is reimbursable.
- c) Messenger delivery and air freight/courier (e.g., Federal Express, Airborne Express, UPS, etc.) expenses only if incurred due to circumstances outside the law firm's control
- d) Court filing fees, jury fees and witness fees
- e) Expenses incurred for the production of litigation exhibits. Counsel should discuss with the assigned claim professional in advance the need for and anticipated cost of such exhibits.
- f) Expenses for services provided by contractors or other non-employees of the law firm - Counsel should discuss with the assigned claim professional in advance the need for and anticipated cost of such contract personnel.
- g) Expert and investigator expenses - Counsel should discuss with the assigned claim professional all anticipated expenses to be incurred by experts. Requests for the use of an expert should be accompanied by a proposal setting forth the following information:
 - (1) The purpose for the expert's involvement;
 - (2) The nature of any examinations, tests, studies or other activities the expert will undertake;
 - (3) A detailed budget for the proposed service;
 - (4) The corresponding rates and payment terms the expert expects; and
 - (5) The expert's current curriculum vitae.

B. Documentation for internal and external expenses

- 1. All bills for expenses must have available documentation for review upon our request.
- 2. Single expenses of \$100.00 or more must be accompanied by supporting documentation.
- 3. All invoices must contain a detailed itemization by category, cost item and date.

III. Administrative expenses and overhead

- A. Insurer has established a policy in compliance with legal and ethical standards relative to reasonable and appropriate legal expenses. Insurer does not consider the following expenses reasonable nor appropriate and will not reimburse counsel for them. The following sections are intended to be illustrative and not comprehensive.

1. Administrative

- a) Preparation of invoices or responses to billing inquiries
- b) Time spend reviewing or analyzing the law firm's conflict issues, opening or closing the file or other administrative activities
- c) Clerical work performed by attorneys and/or paralegals

- d) Charges directly related to the departure of a lawyer or paralegal (including start-up work or higher rates for replacement personnel)
- e) Fees and expenses for secretarial, work processing, proofreading, Bates stamping, overtime transportation and meals, collating, velobinding, copying, faxing, scheduling, making travel arrangements, charges to open or close a file and organization and management of clerical work

2. Overhead

- a) Case management or litigation software or systems
- b) Continuing education for any personnel
- c) Office overhead, including: rent, conference rooms, equipment rental, utilities, computer equipment, software, books, publications, seminars, office supplies, routine postage, refreshments during meetings, local telephone charges, fax usage charges, employee courier/messenger services, local or overtime meals and non-attorney or non-paralegal staff (e.g. library staff)
- d) Law office staff overtime charges
- e) Cell phone charges
- f) Computerized legal research charges for the use of Westlaw, Lexis or other computerized legal research services or products. Insurer will pay for the time spent researching at the attorney's/paralegal's agreed hourly rate.