



Litigation Management Guidelines

Application of these guidelines

These guidelines set out [REDACTED] claims [REDACTED] minimum standards in the handling of any claims matters referred to outside counsel. Additions to these guidelines may be agreed at a local level to meet requirements.

Unless otherwise indicated, all communication should be directed to the claim handler or contact person at [REDACTED].

Philosophy

It is [REDACTED] philosophy to seek the best possible resolution of a matter in the most expeditious and cost effective way, ensuring that [REDACTED] and its clients' needs are best served.

Acknowledgement of instruction

Outside counsel should submit a written acceptance of the assignment, indicating:

- The key resource, who will be responsible for the assignment
 - Personnel to be involved in the assignment and their rates
 - Confirmation that no conflicts exist in relation to the assignment
 - Whether there are any specific requirements identified in relation to the assignment and associated cost estimates, including the requirement for additional document management
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Conflicts of interest – initial check

Outside counsel should perform a conflicts check prior to accepting an assignment. Any potential conflicts should be reported to [REDACTED].

In general, [REDACTED] Insurance objects to firms representing it to represent any other parties involved in disputes against the company.

Furthermore, [REDACTED] should be informed if a law firm or any lawyer associated with that firm has a personal position or interest that could potentially place that firm or individual in an adverse position.

Conflicts of interest – ongoing

If, at any point during the life of the matter, any possibility of a conflict of interest situation arises, however slight, [REDACTED] should be informed immediately and work should be ceased until the conflict resolved.



Litigation management plan

Timing A litigation management plan and budget should be provided to [REDACTED] within 60 days.


Content The content of the litigation plan is outlined as follows:

- The name of the key person overseeing the assignment
- Names and titles of additional persons involved in the case
- Key issues to be addressed
- Objectives to be achieved
- Strategy for addressing the issues and litigating the case
- Estimated total cost for each anticipated course of action
- Estimated completion dates for each action
- Estimate probability of success for each action identified or recommended
- Further details specific to each assignment as appropriate

Reference: Example litigation management plan - attached.

Budget A budget should also be prepared along with the litigation plan.


**Contributory negligence/
third party contribution** Letters protecting [REDACTED] and the Insured's position should be issued by Counsel after receiving approval from [REDACTED] as soon as it becomes evident that a third party might be liable for the loss or a portion of the loss.



Ongoing reporting and re-evaluation

Re-evaluation of litigation plan and ongoing reporting

On a minimum of quarterly basis, Counsel is expected to:

- Provide a progress report; and
- Re-evaluate the litigation plan and discuss with 

However, if there is a material development having a significant effect on liability, quantum or costs, Counsel is required provide an additional report/update within one week of learning of the material development.

Content

Progress reports should include:

- Activities completed;
- General progress in the litigation and particular steps completed;
- Copies of all significant documents and pertinent correspondence received since the last report including (but not limited to) pleadings, witness statements, depositions;
- Any other relevant facts

All important pleadings, witness statements, depositions and expert reports should be accompanied by an explanation of their relevance to the litigation.

Budget

The budget should be updated quarterly and should include:

- A review of costs to date against the budget, including an explanation for costs under/(over) budget; and
- An update of the budget for future projections.

If an event occurs that significantly impacts the budget, then an update should be provided within one week of the event.

Trial report

At trial stage a report should be issued setting out estimated costs, estimated duration and trial dates. Should Counsel's opinion on liability have changed, this should be evident from the report.



Communication

Settlement negotiations & authority

Settlement negotiations are to be directed by [REDACTED]. Accordingly it is mandatory that [REDACTED] kept fully apprised of all negotiations as settlement authority can only come from [REDACTED].

No negotiations are to be conducted without the requisite authority from [REDACTED].

[REDACTED] should be informed immediately of any settlement offer or overtures regardless of whether settlement authority is requested. Likewise any settlements involving other parties (e.g. co-defendants) should be immediately reported to the relevant Claims Handler.

Copies of important documents

Copies of substantive pleadings, memoranda or legal research should be sent to [REDACTED].

Applications/ Motions

Each application/ motion filed must be justified in the litigation plan. Time and effort should not be spent preparing, filing, and arguing applications/ motions unless each will significantly shorten or terminate the suit, or gain a distinct advantage.

Notification of key dates

[REDACTED] should be informed as soon as possible once notice of a trial date is received.

[REDACTED] should be informed of any important interim hearings or other key dates sufficiently well in advance before they take place in order to afford the appropriate action to be taken. This includes, as appropriate, discovery cut-off, mediation, arbitration and settlement conferences.

Witness Interviews/ Depositions

The litigation plan will determine whether a specific witness interview/ deposition is necessary. Counsel should send the claims handler a summary of each deposition along with their opinion on the appearance and credibility of the witness and an assessment on how the testimony relates to the outcome of the case.

Witness preparation/ statements

Counsel should adequately prepare/ proof all witnesses. Additionally, counsel must first obtain approval from [REDACTED] to contact an [REDACTED] employee who might have information on the assigned matter. The [REDACTED] claim handler should also be given the option of being present whenever counsel interviews (by telephone or otherwise) or prepares/ proofs any [REDACTED] employee.



Instruction of Experts, Vendors, and Local Counsel

approval is required for the retention of experts, vendors, or local Counsel. The following must be provided prior to retention:

- Curriculum Vitae or Firm Brochure
- Estimate of cost, including any hourly rate as applicable

Complaints and Regulatory Inquiries

All complaints must be notified immediately to in writing, together with a copy of the complaint (if made in writing) or, if made by telephone, a comprehensive note of the relevant telephone conversation. Counsel must obtain approval from to contact any regulatory or governmental body or respond to an inquiry.

Appeal

Counsel must obtain pre-approval from to file an appeal.

Publicity/ Media

No comment should be made to the media relating to any matter concerning . Any enquiries should be referred to .

approval must be obtained before printing any articles or commentary on a matter where or any related company is or has been involved.

Retention of records

Counsel should retain complete hard/ electronic records of all relevant information for a minimum of six years after final resolution and should permit representatives to inspect and make copies of such documents upon reasonable notice.

Responding to

Correspondence should be reviewed and actioned as appropriate, and in all cases within one week.

All telephone messages should be returned within 24 hours.



Billing

Timing

Bills should be sent on a minimum quarterly basis.

Recipient

Billing arrangements should be confirmed at the start of each assignment.

Whether bills are sent to [redacted], the Insured or elsewhere, a copy should always be sent to the [redacted] claims handler.

Content

Bills should be itemised to show, for each task performed:

- The date the work was performed
- A full description of the specific task performed
- The name and title of the individual performing the task
- The time spent on the task in 1/10 hour increments (or as agreed)
- Charges incurred for the task – split by time and disbursements
- Disbursements must be individually itemised

The following should also be shown in total for each individual billed:

- Name and title
- Hourly rates
- Total number of hours billed
- Total disbursements

Total charges incurred during a billing period should be accounted separately from past amounts carried forward on a bill.

Unless the disbursement is of an unusually high amount the law firm should outlay the disbursement cost itself and seek reimbursement through its regular billing cycles.

Description of charges

Vaguely described or unspecified charges will not be reimbursed. With regard to research time, the research undertaken should be described with sufficient detail to identify the nature and purpose of the research.

Hourly Rates

Hourly charges of all fee earners involved need to have been expressly agreed prior to instruction.



Late payment

If an account remains unpaid by the Insured for 60 days, two reminders should be sent and then [REDACTED] should be consulted about the unpaid bill.

Right to audit

[REDACTED] reserves the right to audit, or to instruct an outside bill-review company to audit bills on an ad hoc basis. Full co-operation and access to files is expected in this circumstance.



Expense control

Pre-approval of personnel and hourly rates

Both use of personnel and hourly rates must be agreed upfront with [REDACTED].
Billings will not be accepted if personnel or their hourly rates have not been approved. Any fee increases must be approved prior to implementation.

Appropriate use of personnel

In all circumstances, tasks should be performed by person(s) at the appropriate level to ensure quality and cost effectiveness. For example, the use of law clerks should be related to the performance of a legal function and not for simple administrative tasks.

Every effort should be made to minimize the turnover of personnel involved in a case.

Daily hours worked

Any billing in excess of 8 hours per day per person needs to be approved by [REDACTED].

Meetings, Interviews, Inspections, Hearings

Only one attorney should be present at meetings, interviews, inspections and hearings unless the attendance of additional personnel is beneficial and necessary, in which case express approval should be sought from [REDACTED].

Extraordinary legal projects

Prior approval must be sought for any legal research projects involving over ten hours of time. A report summarizing the research should also be sent to [REDACTED].

Education

The education of inexperienced personnel is not a reimbursable expense. No training or education materials will be reimbursed.

Conferences

Conferences between or among personnel at the same firms are sometimes appropriate, but potentially expensive. Conferences will only be reimbursed if they advance the litigation in an efficient and cost effective manner.

Pre-approval at a specified rate must be obtained for reimbursement.



Experts hired by counsel

Bills from any experts hired by counsel should be paid for by the firm and included in billing to [REDACTED]. Receipts must be made available.

Note: That there may be exceptions where experts are paid directly by [REDACTED]. These should be agreed on a case by case basis.

Document revisions

Reasonable and non-excessive charges for substantially revising documents are reimbursable. However revisions made as a result of proof reading a document will not be reimbursed.

**Document management/
Electronic Discovery
Vendors**

If the case involves document management which the law firm is not equipped to handle and would require an addition to current facilities, the company must be advised in the acknowledgement letter or as soon as the burden is apparent.

Counsel must obtain pre-approval from [REDACTED] to retain an electronic discovery vendor or incur any additional expenses relating to document management.

Overheads

Overhead charges should form part of the agreed hourly rate. In particular, [REDACTED] considers the following to be overhead charges and will not, without express approval, pay for:

- Secretarial, clerical, temporary staffing and word processing expenses;
 - Standard telephone calls and fax transmissions, in house messenger services, storage, hardware, electricity, and rent;
 - Charges for bill preparation or negotiations over bill disputes;
 - Westlaw, Lexis and other electronically assisted research.
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Photocopying

Unless separately agreed, photocopying charges will be reimbursed at either US\$0.10 per page or the standard rate in the jurisdiction concerned. The number of copies made should be recorded and included in the bill.

Phone calls & faxes

Charges for long distance calls and faxes will only be reimbursed at standard cost with no mark up.



**Express
delivery**

Express delivery charges will be reimbursed at cost in the event of necessity and not as a result of Counsel's delay.

Court fees

Court fees will be reimbursed at cost with no mark up.

**External
printing**

External printing costs will be reimbursed at cost with no mark up.

**Meals &
hospitality**

No meals (apart from when travelling) or hospitality costs will be reimbursed.



Travel

General guidelines

Necessary travel for one person will be reimbursed. If any trip requires the presence of more than one person, pre-approval must be obtained from [REDACTED]

Coach/ economy class fares for travel will be reimbursed. The lowest available fare for the journey should be obtained. Any exceptions require pre-approval from [REDACTED]

Alternatives to travel, such as the retention of local counsel should be considered. [REDACTED] must have prior approval of the selection of local counsel.

Charge for travel time

Time spent travelling will be reimbursed at 50% unless expressly agreed otherwise.

If work is undertaken for another client whilst on the business trip, the bill must be reduced accordingly. In addition, if the travel has been necessitated by other clients' needs, disbursements must be pro-rated accordingly.

Receipts for expenditure

All disbursements relating to travel should be itemised and proof of receipts for all disbursements over USD \$50 (or local equivalent) retained for inspection upon request.

Overnight stays

If a matter requires an overnight stay, this should be in moderately priced accommodation.

Personal expenses incurred whilst on a business trip will not be reimbursed. Reasonably priced meals will be reimbursed.

Own vehicle use

Reimbursement for use of own vehicles will be at the prevailing rate as published by the appropriate authority in the country / state in question, or at a reasonable rate if no prevailing rate applies.

Car rental

Only rental of medium sized vehicles will be reimbursed. The lowest available rate for the journey should be obtained.
