

**DEFENSE RESEARCH INSTITUTE
RECOMMENDED CASE HANDLING GUIDELINES FOR LAW FIRMS**

I. PREFACE

Philosophy

[The firm] expects to work with the insurer and the insured to achieve the best result for the insured in an efficient and cost-conscious manner consistent with the Firm's ethical obligations. Nothing contained herein is intended to nor shall restrict Counsel's exercise of 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 in consultation with the insurer and should be developed in a timely manner.

A. A goal is to identify, timely, 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 the insurer and defense counsel.

B. An early resolution of lawsuits is generally desirable and the use of alternative dispute resolution is encouraged.

C. If counsel is requested to be involved in settlement negotiations, settlement authority must be obtained from insurer and requests for authority should be made timely.

III. STAFFING PHILOSOPHY

[The firm] will designate one attorney to have primary responsibility for each case on which its services are requested. The case should be staffed economically and effectively. Obviously, a balance must be struck between the efficiency a more experienced lawyer 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 role and responsibilities of the staff members should be clearly defined and appropriate to each individual's qualifications, level of experience and billing rate. Lead 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, Initial Evaluation, and Significant Developments. Reports should be provided to both the 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:

Within _____ days after 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 which have been or are likely to be initiated by other parties.
 3. Estimate the completion date for each activity.
 4. State the estimated expenses of 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:

Counsel should communicate and apprise of significant developments as soon as practical. This will include reports on summaries of depositions, and pre-trial 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, 30 days before the scheduled trial date, a detailed report should be submitted, detailing the issues and an analysis of same and any other information requested by the 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 filed by or against the insured client along with releases, orders of dismissal and final judgments. Counsel should consult with the 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, provided however, that any documents or information that are privileged or intended by the insured to be confidential shall not be disclosed, absent consent from the insured client.

C. Consultation

After submission of the Initial Report, counsel welcomes discussion with and input and comment from the insurer. Counsel and the insurer will endeavor to agree on the proposed activities outlined in the Litigation Plan, but in no event shall the Litigation Plan interfere with the independent professional judgment of defense counsel.

V.

BILLING

A. Billing Procedure

1. Frequency of Billing
 - a. Bills should be issued at intervals to be agreed upon by counsel and the insurer.
2. Billing Format
 - a. Heading. The first page of the bill must state: (a) the firm's IRS number; (b) the caption of the case; (c) the name of the insured; and (d) the claim number.
 - b. Body. The bill must be prepared with daily entries showing: (a) the date the work was performed; (b) the initials of the person providing the service; (c) a description of the work performed (single activities); and (d) the actual time in tenths of an hour.
 - c. End of Bill Summary. The bill must include: (a) the full name of each attorney/paralegal; (b) the status of each timekeeper (i.e., partner, associate, paralegal); (c) the hourly rate of each timekeeper; and (d) 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.

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.
2. Single Entry Timekeeping. Unless otherwise directed, 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") should not be employed, absent authorization from the 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, provided that sufficient detail of the subject of the communication is set forth to demonstrate its relevance and value.
6. Multiple Attendance. Unless otherwise agreed, only one attorney should attend trial, court appearances, meetings, depositions, witness interviews, inspections and other functions.
7. Depositions. Counsel should consult with [Insurer] before initiating depositions other than that of the plaintiff(s), the insured, and other depositions already approved in the initial Litigation Plan or supplement thereto and shall advise the [Insurer] of upcoming depositions initiated by other parties that Counsel plans to attend.
8. Legal Research. Counsel should consult with insurer before undertaking a legal research project requiring over three hours of research. Copies of all 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/Pleadings. Only the actual time spent in personalizing standardized pleadings, documents, or 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. Counsel should request insurer to advise counsel of its guidelines as to reimbursement of internal expenses.
2. External Expenses. Charges for service by outside vendors will be reimbursed at their actual cost. Expenses over \$_____ may be forwarded to the 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 the insurer prior to incurring travel expenses. Counsel should secure agreement that insurer will reimburse defense

counsel for reasonable travel expenses. All expenditures of \$25 or more must be supported with receipts attached to the law firm's statement.

4. Professional Services. Counsel should consult with the 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 are not billable to the 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

[The Firm] recognizes that an insurer has the right to review all legal bills for services and disbursements pertaining to the matter for which the firm has been engaged by the insurer, and, further, that an insurer has the right to review counsel's file. However, such bill and file review, including the review of documents, must be done in a manner that does not compromise the attorney-client privilege, reveal client confidences or diminish the protection afforded counsel's work product or otherwise interfere with any ethical directive governing the conduct of counsel unless appropriate written consent is first obtained from the insured. If the insurer declines to pay or seeks reductions and/or refunds with respect to charges made by [the Firm], full explanation for such action shall be given by the insurer, and [the Firm] shall be given the opportunity to explain the disputed items and appeal such declinations to a representative of claim management of the insurer. It is expected that the insurer will pay the undisputed portion of any legal bill received from [the Firm] within _____ days.

This is an example of case handling guidelines which promotes effective and efficient case management, consistent with the defense attorney's professional responsibilities. These are designed for use by a law firm's attorneys in their representation of an insured client, in the absence of other controlling guidelines. Nothing contained herein constitutes or shall be construed as a standard of care.