

CHUBB & SON, a DIVISION of FEDERAL INSURANCE COMPANY

USA LITIGATION MANAGEMENT GUIDELINES

Chubb Litigation Management Guidelines

The following guidelines have been developed to establish the expectations of Chubb & Son, a division of Federal Insurance Company (hereinafter "Chubb"), with respect to reasonable defense costs (as defined in the policy) of defense counsel retained to defend our insureds. Our objective, which we believe is shared, is to provide an aggressive, efficient, quality defense of claims brought against our insureds. We expect, and the policy requires, full cooperation from defense counsel responsible for the litigation as well as from the insureds. We believe that the partnership developed through adherence to these guidelines will ensure that these mutual objectives are achieved.

Defense counsel fees and expenses should accurately reflect the cost of the work necessary to defend or to resolve the claim. Only those reasonable and necessary fees and expenses allocable to a covered loss will be considered for payment or used to satisfy any self-insured retention or deductible provisions of an insured's policy.

We reserve the right to review and to audit all fees and disbursements submitted by defense counsel. This review includes the right to examine and to audit the corresponding legal file documentation.

Fees, costs or disbursements not submitted in compliance with these guidelines will not be considered for payment.

Questions regarding these guidelines should be directed to the Chubb claim representative assigned to the claim.

I. PREFACE

Chubb expects to work with defense counsel and the insured to achieve the best result for the insured. The defense should be conducted in an efficient and economical manner consistent with defense counsel's ethical obligations. Nothing contained herein is intended to restrict, nor shall Chubb restrict, defense counsel's exercise of professional judgment in rendering legal services on behalf of the insured or otherwise interfere with any ethical obligation governing the conduct of counsel.

MEDIA COMMUNICATION POLICY

It is Chubb's general policy not to respond to any media inquiry involving our relationships with customers, claims or matters in litigation.

Limited exceptions to this policy may be granted on a case-by-case basis when it is in Chubb's and/or its insured's best interest to discuss such subjects with the media.

Outside legal counsel, claim representatives and others are not authorized to speak to the news media in connection with any Chubb-related business matter without prior approval from Chubb. Under no circumstance, however, should our policies inhibit counsel from making immediate statements to news media with the express advice and counsel of the insured that are believed to be in the best interest of the insured. In such situations, we

Chubb Litigation Management Guidelines

request that defense counsel address the facts of the case and refrain from making comments regarding the insurance policy, Chubb and/or any of its subsidiaries and affiliates.

Chubb and any of its subsidiaries and affiliates should not be named in any journal article, firm newsletter, video, presentation or other type of communication of a professional, promotional or educational nature without Chubb's express written permission.

All media inquiries or requests for permission from Chubb should be communicated to the claim representative and will be referred to Chubb's Public Relations Manager.

II. CASE DEVELOPMENT

An effective and strategically sound legal defense to the matter at issue is the responsibility of defense counsel, the insured and the Chubb claim representative. This defense should be developed in a timely manner.

- A. The activities necessary to defend a given claim and bring it to an appropriate resolution should be addressed early, and the steps necessary to achieve that resolution should be jointly agreed upon among defense counsel, the insured and the Chubb claim representative.
- B. Our mutual objective should be to identify those claims for which there is liability and to discuss settlement opportunities early in the life of the case. An early resolution of litigation is desirable and the use of appropriate forms of alternative dispute resolution (ADR) is strongly encouraged.
- C. As provided for in the policy, any authority for settlement must be obtained from the Chubb claim representative.

III. CASE STAFFING PHILOSOPHY

The law firm will designate a senior attorney to have primary responsibility for each case on which legal services are requested. The case should be staffed effectively and economically. Pursuant to these guidelines, the designated senior attorney will be an attorney on staff in the law firm who has the requisite level of expertise to effectively manage the lawsuit. Depending upon the nature of the litigation, the senior attorney may be an associate, partner or senior partner. The assignment of the senior attorney to a matter should be agreed upon by the Chubb examiner. A balance must be struck between the efficiency a more experienced lawyer at the 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 is to be avoided. The assignment of multiple partners or associates on a case should not occur without discussion with the Chubb claim representative.

To achieve the best efficiency and value, the roles and responsibilities of the law firm 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.

Chubb Litigation Management Guidelines

Defense counsel will confer with the Chubb claim representative with respect to the roles and responsibilities of the proposed members of the defense team before that selection is finalized.

IV. REPORTING REQUIREMENTS

A. REPORTS

It is Chubb's expectation that defense counsel will keep the claim representative and the insured apprised of all significant developments in the case. Unless otherwise requested, reporting is required for three key events during the life of a case: acknowledgment of case referral; initial evaluation; and significant case developments as outlined below. Chubb encourages and prefers the use of email as an alternative to the use of mail, fax or other delivery services. Overnight mail, couriers and other means of express mail delivery are to be avoided unless necessary and required.

1. Acknowledgment of a New Case

Upon receipt of a new case, defense counsel should send an acknowledgment letter regarding receipt of the matter, confirm that the firm has no conflicts in defending the matter, advise of the initial legal staffing of the case, raise any issues of immediate concern and offer insight that may result in the opportunity for early resolution.

2. Initial Evaluation

Unless otherwise agreed with the Chubb claim representative, defense counsel should provide in a timely manner (within 60 days of the assignment of the matter to counsel) an initial report to the Chubb claim representative, either orally or in writing as may be appropriate, that provides the following information:

- a. The factual basis for the litigation, a summary of the information developed during the preliminary investigation, a preliminary evaluation of liability and damages and a discussion of the legal issues presented.

A summary of the allegations in the complaint is not necessary unless requested by the Chubb claim representative.

- b. A Litigation Plan that will:
 1. Identify each significant activity counsel proposes to initiate (e.g., investigation, motions, 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;

Chubb Litigation Management Guidelines

4. If requested, prepare a budget that estimates the cost 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 when motions to dismiss or motions for judgment are appropriate and the potential success of dispositive motions prior to, or after, the commencement of discovery. If this information is unknown at the time of this report, this discussion will be presented prior to the filing of any dispositive motion
- e. An estimate of the probable trial date.

3. Significant Developments

Defense counsel will communicate and apprise of significant developments as soon as practicable. Examples include: deposition reports, pre-trial reports, expert reports and if applicable:

- a. Settlement opportunities and/or dispositive motions.
- b. Updated evaluation of the insured's liability and damages.
- c. An updated Litigation Plan.
- d. Trial report: Unless otherwise agreed to with the Chubb claim representative, sixty days before the scheduled trial date, defense counsel will submit a report detailing the issues, evaluating the opposition, the witnesses and the judge, summarizing the evidence to be submitted and providing an analysis of same, along with any other information requested by the Chubb claim representative.

B. DOCUMENTATION

The Chubb claim representative should be copied on research memoranda, legal briefs, expert reports, medical reports, dispositive motion papers, deposition reports and, if requested, deposition transcripts. Additionally, counsel will provide copies of all pleadings and amended pleadings filed by or against the party being defended. The prior approval of the Chubb claim representative is required prior to entering into any release. The Chubb claim representative should be copied on all orders from the court as well as the entry of stipulations, dismissals or final judgments or papers concerning any appeal.

Defense counsel should comply with requests from Chubb for information and documents, provided, however, that any documents and/or information that are privileged or intended by the insured to be confidential shall not be disclosed, absent consent from the insured.

Chubb Litigation Management Guidelines

C. CONSULTATION

After submission of the Initial Report, as provided above, defense counsel and the Chubb claim representative should discuss and endeavor to agree on the proposed activities outlined in the Litigation Plan.

V. BILLING

A. BILLING PROCEDURES

1. Frequency of Billing

Bills will be submitted quarterly, except in instances where the fees and expenses for the quarter are below \$500.00. In those instances, the billing should be held until the next quarterly billing for that file. The final bill should be processed immediately upon the conclusion of the case.

2. Billing Format

- a. Firms participating in Chubb's panel counsel program must submit bills electronically through the Legal Solutions Suite™ software and comply with Chubb's electronic submission format.
- b. Firms outside of Chubb's panel counsel program are required to submit bills electronically utilizing the Legal Solutions Suite™ software format, where possible. Otherwise, bills should be e-mailed to Chubb and formatted in one of the following:
 - Word
 - .tif file extension
 - .txt file extension

Bills submitted on paper will not be considered unless an exception has been granted in advance by the Chubb claim representative.

- c. Regardless of the format, the following information must be included in your billing statement:
 1. **Heading.** The bill heading must state (a) the firm's tax identification number, (b) the caption of the case, (c) the name of the insured and (d) the claim number.
 2. **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

Chubb Litigation Management Guidelines

service, (c) a description of the work performed (single activities) and (d) the actual time in tenths of an hour (.10).

3. **End of Bill Summary.** The bill must include: (a) the full name of each timekeeper, (b) the timekeeper category (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.
4. **Task Codes.** Entries will be coded with the Litigation Task Codes as endorsed by the American Bar Association.

B. CHARGES FOR SERVICES

1. **Time Charges - Actual Time in One-Tenth Increments.** All charges for services by attorneys and paralegals must be itemized based upon their actual time in one-tenth hour increments (.10).
2. **Single Entry Timekeeping.** The time for each activity will be separately stated. Grouping multiple activities under a single time charge greater than one-tenth of an hour ("block billing") is not acceptable. However, multiple tasks that aggregate to less than six minutes should be billed as a single entry.
3. **Description of Services.** Descriptions of services must inform of the nature, purpose or subject of the work performed, and the specific activity or project to which it relates.
4. **Compensation.** Any request for an increase in the rate of compensation must be agreed to, in writing, by Chubb.
5. **In-Firm Conferences.** Unless otherwise agreed, only the senior attorney's time will be billable.
6. **Multiple Attendees.** Unless otherwise agreed, only one timekeeper will be reimbursed for attending trial, court appearances, meetings, depositions, witness interviews, inspections and other functions. Chubb does not expect to be billed for the training and development of less experienced personnel.
7. **Depositions.** Defense counsel should consult with the Chubb claim representative before initiating and attending depositions other than that of the plaintiff(s), the insured, and other depositions already agreed upon in the Litigation Plan.
8. **Legal Research.** Defense counsel should consult with the Chubb claim representative before undertaking any legal research. In conducting legal

Chubb Litigation Management Guidelines

research, the law firm is expected to utilize all appropriate sources reasonably available, including previously prepared briefs and memoranda. Copies of all research memoranda should be provided to the Chubb claim representative.

9. **Motions.** Defense counsel should consult with the Chubb claim representative before undertaking any dispositive or significant motion 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 should be billed, rather than the time originally spent drafting such standard language.
11. **Clerical, secretarial or administrative activities.** Clerical, secretarial or administrative work is not billable to Chubb. Examples include, but are not limited to, receipt and distribution of mail, new file set up, maintenance of office and attorney calendars, transcription, copying, posting, faxing, e-mailing, service of documents, court docket searches, inserting documents into and retrieving documents from the file, maintaining order in the file, date stamping documents, tabbing sub-files, routine document management, Bates labeling, routine scheduling and routine document filing with the court.
12. **Travel time.** The actual time spent for travel to an activity related to the defense of a matter will be reimbursed so long as the time billed is not also billed to another file.
13. **Deposition Transcript Summary.** Deposition transcript summaries should not be prepared without prior consultation with the claim representative. Following every deposition, defense counsel should provide a brief summary of the witness' testimony to the claim representative.

C. INTERNAL EXPENSES

Unless otherwise agreed, Chubb will reimburse counsel for internal expenses, as follows:

1. **Photocopying.** Chubb will reimburse in house photocopying costs at the actual cost to the firm. A rate of seven cents (\$0.07) per page will be applied in lieu of a representation by the firm of its actual costs. In calculating actual cost, secretarial time is not to be considered.

Internal Color photocopying – Chubb will reimburse the firm its actual cost up to \$1.00 per page for internal color photocopying charges.

Chubb Litigation Management Guidelines

2. **Postage.** Chubb will not reimburse for postage. Postage is considered firm overhead.
3. **Telephone.** Telephone charges including cell phone usage and long distance charges are considered part of the firm's overhead and will not be reimbursed.
4. **Facsimile Charges.** Facsimile charges are considered part of the firm's overhead and will not be reimbursed.
5. **Messenger/Courier/Delivery/Express/Overnight Mail Services.** The use of expedited delivery services is discouraged and will be reimbursed only if its use is necessary to the defense of the case.
6. **Computer Assisted Research.** Chubb will not pay for expenses associated with the use of Westlaw, Lexis, Dialog, Information/America and other computer research databases and Internet access charges. These charges are considered to be part of the firm's overhead.
7. **Overtime.** Chubb will not pay for overtime charges. These charges are considered part of the firm's overhead.
8. **Printing documents from CD Roms.** The firm will be reimbursed at the photocopy rate set forth above
9. **Court Reporters.** Chubb utilizes the services of a national court reporting service. Please consult with the Chubb examiner for procedures for retaining court reporter services.

D. EXTERNAL & OTHER EXPENSES

1. Travel Expenses.

- (a) **Local Travel.** Travel within a 75 mile (seventy-five) radius (150 miles round trip) of the firm's office is considered local travel and is not reimbursable - unless otherwise agreed upon by Chubb.
- (b) **Long Distance Travel.** Defense Counsel will consult with the claim representative if anticipated travel will involve an overnight stay.
- (c) **Automobile Travel.** For automobile travel, the date of travel, person engaging in the travel, destination, purpose of the travel, number of miles traveled, reimbursement per mile and the total cost must be indicated on the invoice. Chubb will pay the current IRS mileage rate for personal automobile travel.
- (d) **Air Travel.** Only economy or coach airfare rates will be reimbursed. Air travel arrangements should be made as early as possible to avoid unnecessary cost. Travel agent fees are considered firm overhead.
- (e) **Meal Expenses.** While engaged in long distance travel, defense counsel's meal expenses will be reimbursed at reasonable rates. When meals involving appropriate parties to the litigation are involved (clients, witnesses, etc.), counsel will, upon request, furnish the actual restaurant receipt in support of the charges.

Chubb Litigation Management Guidelines

- (f) **Ground Transportation.** All modes of ground transportation will be by the most economical means available.
- 2. **Outside Vendor Expenses.** Charges for services by outside vendors may be forwarded directly to the Chubb claim representative for payment. If external expenses are paid by the firm, the firm will be reimbursed at its actual cost. These expenses must be itemized and include (a) the name of the vendor, (b) the date incurred and (c) a specific description of the expense. Back-up documentation will be provided to Chubb upon request.
- 3. **Professional Services.** Counsel will consult with the Chubb claim representative prior to incurring expenses for experts, consultants, investigators, temporary attorneys, outside paralegals, or other professional services.

VI. BILLING AND FILE REVIEW

Chubb reserves the right to review all charges for services and disbursements pertaining to the litigation, including without limitation, all charges paid by or on behalf of the insured with respect to such litigation, including those charges pursuant to self-insured retentions or deductibles under the insured's insurance policies or otherwise.

Chubb reserves the right to conduct on-site audits and to review defense counsel's files and/or bills. Said on-site audits and reviews will be completed in a manner that will not compromise the attorney-client privilege or work product protection afforded to materials in the file or communications by and between defense counsel, the insured client and Chubb.

Defense counsel and the insured agree to comply with all reasonable requests for information and documents, provided that such documents or information are not privileged or intended by the insured to be confidential. In such instance, Chubb must obtain the consent of the insured.

Chubb fully reserves all rights to decline to pay or to seek reductions and/or reimbursement with respect to charges that fail to comply with the requirements set forth herein, and which are not fully explained or documented by defense counsel after reasonable inquiry.