

Litigation Management

132A/S&W Guidelines

Sedgwick Claims Examiner should carefully coordinate the handling of any 132a or Serious and Willful issues with the County Risk Department. There may be an opportunity to resolve both issues at the same time and use the same attorney to represent the County for both defense needs.

Hearing Calendar Guidelines

Hearing calendar and settlements calendar: Will be distributed weekly by the Sedgwick designated colleague to the examiners, claims assistants, team leads, and Risk Management.

- Examiners responsible for entering hearing dates on calendars – Legal Mail requirement is to be reviewed within 2 business days. Hearing dates to be noted on hearing calendar within same. Supervisors to confirm entered at their legal mail review.

Round Table Guidelines

- All claims set for Trial require round table call with risk team, examiner, team lead and defense counsel. Call to be coordinated within 3 business days of notice of pending trial for earliest date available with a brief summary to be provided to risk analyst.
- If initial trial date is delayed/moved – Examiner to send email advising of update and determine if another round table is necessary. Example: if facts of the claim have changed/ settlement amount changes. Strategy may need to be revisited.
- If claim exposure is estimated to reach LP or 70% or above, round table with risk team, defense attorney, examiner and team lead is to be scheduled. Call to be coordinated within 3 business days of notice of pending exposure for earliest date available.
- Following the round table, the examiner will provide a summary of the round table discussion in the claim notes.

Assignment of Counsel:

RM authorization is needed to refer a file to defense counsel

- The request for authority should be sent to RM personnel assigned Risk Analyst, via email.
- The email should be entitled "LITIGATION REFERRAL REQUEST".
- The email can come directly from the adjuster or the manager and should include recommendation of who the claims staff would like RM to approve referral to.
- If an internal decision is made by Sedgwick management that particular adjuster(s) is/are not eligible to submit their request directly to RM without first getting approval from Sedgwick's management, Sedgwick will advise RM which adjusters require their internal authority.
- The litigation referral form should be completed at the time of the referral, but the name of the firm to be referred to should be kept blank until authority is granted by RM. Provide RM with top 3 choices for attorney referral.
- Please include any existing claims for claimants at time of referral so defense is aware of prior claims.

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2. Contact your Supervisor and Client Service Manager if you believe there is a conflict between Client Service Instructions and Carrier Claims Handling Requirements.

Client Name: County of Ventura

Line of Business: Workers' Compensation

Contract #: 7385

Responsible Office: West Hills

Client Services: Lisa Wilson

- RM will provide authorization by replying back to the email from Sedgwick, and Sedgwick will document the authorization in the file.
- Any attorney complaints shall be escalated to Elyana Nadres for review.
- Attorney substitutions:
 - Shall be mutually agreed upon between Risk Management and the Examiner.
 - Issues shall be clearly documented in the claims file.
- Communication to the attorney and request for transfer of file will come from Sedgwick Claim Leadership Team
- When a hearing is scheduled, Defense must provide notice of such to Sedgwick Examiner within 24 hours of knowledge.
- Settlement Opportunities:
 - ✦ To be provided to examiner when settlement is viable. Example: Discovery closed, MMI, early settlement opportunity at deposition.
- Defense attorneys must follow the annual County of Ventura Defense Attorney Counsel Meeting Guidelines. The guidelines are located on the COV team site under the [shared documents](#).

Legal Correspondence:

- Request that correspondence be titled with a subject. This will allow the examiners and team leads to better prioritize legal tasks. Please utilize the following:
 - ✦ Settlement Analysis & Authority Request
 - ✦ Legal Budget
 - ✦ Hearing Notice/ Deposition Notice
 - ✦ Status Report – Action Required
 - ✦ Status Report – Priority Time Sensitive ✦ Initial Defense Evaluation

** If the above to do not apply – heading not required**

A dedicated email box has been established for legal correspondence only.

Email: COVWC@Sedgwick.com

- To be used for County of Ventura legal correspondence only.
- Subject line is to **ONLY** include the Sedgwick claim number. This will ensure that it is auto assigned to the correct claim ASAP. If there are multiple claims associated with the correspondence being sent then there will need to be an email for each claim associated with specific claim number noted in each email sent.
- In the event that all of the information on the subject line does not produce a unique match, then the email is inserted into the manual indexing workflow with Office of System Support (OSS). At that time all attachments are reviewed manually to attempt to locate a claim match.

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- If legal budget update is requested by examiner, defense counsel to provide within 7 days. ○
 Legal budget must include plan of action, rational for expenses.

Settlement Authority Process / Expectations by Party:

Defense Attorney Responsibilities:

- Provide timely notice of settlement possibility
- Expectation is analysis to be provided to Examiner and Risk Team within 7 days of recognition of settlement opportunity.
 - Provide detailed settlement analysis
 - ✦ Include rational for settlement
 - ✦ Cost benefit of settlement
 - ✦ Include breakdown of medical / indemnity value including string ratings for any disability estimated
 - ✦ Include review for structured settlement and professional administration of MSA, if justified.
 - ✦ Copy County Risk Team on analysis - Risk.management@venturacounty.gov ✦ File timely DOR once settlement authority received from Examiner/County.
 - ✦ Please do NOT file DOR until you have obtained settlement authority.

Examiner Responsibilities:

- Review defense attorney settlement analysis timely and prepare Settlement Authority Request.
- Submit timely Settlement Authority Request to Risk Team ○ At Minimum - Two weeks prior to hearing
- Within 30 days of MMI on Represented Files/45 days of MMI on unrepresented files ○ Provide additional information to County Risk Team if needed for settlement justification and/or set Litigation Status Round Table call if needed with all parties.
- Provide timely settlement authority to Defense Counsel.
- Authorize DOR to be filed for MSC ○ Do not authorize DOR to be filed until you have obtained settlement authority.
- Do not authorize a DOR for a Status Conference without settlement authority if there is an expectation that an MSC will be scheduled shortly after the Status Conference.

County Risk Team Responsibilities: ○ Risk management

settlement authority is limited to \$150k.

- If the SAR is above \$150k, the SAR will be sent to the Senior Deputy Executive Officer – Risk Management/Work Comp & DMD, and then from there it goes to the Assistant County Executive Officer or their designee for final approval.
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- Settlement authority takes time to obtain through the County's internal process. We need to ensure we are allowing appropriate time to both the examiner and the risk team to obtain such.
- Examiners are required to submit settlement authority requests to the County Risk Team at least 2 weeks prior to a hearing or within 30 days of MMI, whichever ever comes first.
- **Medicare Releases:**
 - When completed Medicare releases are received from Applicant, please forward directly to MedicareCompliance@Sedgwick.com with a cc to the examiner and COVWC@Sedgwick.com.
 - Please note Claim Number ONLY in the subject line.
- **Timely Response from Examiner:**
 - If defense attorney has not received a timely response from the examiner, please escalate to the Team Lead so they can intervene sooner than later.
- **Invoicing:**
 - Please make sure that invoicing is done at minimum on a quarterly basis
 - If there are multiple claims per claimant – please invoice under a single claim number for all claims. If you need help determining which claim to bill under, please consult with examiner.
 - Only include that single claim number on invoice.
- **4850 Benefits:**
 - An employee is only eligible for 4850 on accepted basis:
 - Calculations of 4850 due are done by payroll once advised by Risk Management of the accepted and approved period (only for active employees).
 - Auditor/Controller is able to reimburse liens for long term disability from the entities such as PORAC, CAPF, CLEA, and 4850. Provided there is enough due to the employee to cover the lien.
 - Auditor/Controller is unable to pay a percentage of the 4850 to an applicant's attorney.
 - Do not wait for settlement to resolve 4850 if it is determined to be due before settlement.
 - Settlement documents should not contain a dollar amount of 4850, only the period paid with "adequately compensated" language.
- **Litigation Budgets:**
 - Initial Legal Budget due within 30 days of receipt of referral.
 - Legal budget updates required if legal strategy has changed. Please provide rationale for why additional resources are needed outside prior review.

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- Please note there are limitations to this email process. It is unable to support embedded images, links to retrieve documents, password protected, encrypted, or zipped files for security reasons. The Maximum email size is 30MB. Only the file types listed below can be sent through this email process.

BMP	PDF	MSG	MP3
DOC	RTF	XLS	MP4
GIF	TIF	XLSX	WMV
HTM	TIFF	XPS	WAV
HTML	TXT	EML	AVI
JPG	DOCX	MPEG	
JPEG	PNG	ASF	

- Documents will populate in SIR as unread Legal mail available for the examiner and supervisor to review within 2 hours of receipt.
- Upon initial referral – acknowledgement letter within 7 days, defense counsel to provide initial analysis and recommendations within 30 days. If additional time is required defense to provide reasoning or request additional information to provide. Must also include initial expected counsel budget.
- Status updates requested after new information is received or new facts are known. Written update required within 7 days. Update should be material to moving the claim forward and towards resolution. Please provide outline of your legal strategy and recommendations.
- Denied claims: If there is new evidence that may affect compensability, defense counsel to provide recommendation. Round table will be required if recommendation is to keep claim denied.
- If medical status update is provided, please provide recommendations for action. A recap of a medical report only is not necessary.
- On the unusual claim with no material change within 90 days, a brief status update stating such is still pending is requested. Plan of action to be included.
- Please provide clear legal opinion and recommendation within claim status reports.

Additional Defense Attorney Expectations – Communicated 11/9/22 to Defense Counsel:

- **Declaration of Readiness (DOR):**

- A DOR should not be filed prior to settlement authority being obtained. Please confirm with examiner prior to filing a DOR.

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- Anticipated turn around is 45-90 days.
- Once approved, Risk Analyst will upload the approval to the claim, notify the examiner and document the approval in the claim notes.

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