Markel Service, Incorporated
Claim Litigation Management Guidelines

Defense

Effective 09/01/2013
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INTRODUCTION

It is the philosophy of Markel Service, Incorporated that we have a responsibility to our insured to assure that all litigation is handled properly and in the most fair and cost-effective manner possible under the unique circumstances of each matter. We want to do business with firms who believe as we do, that a proper defense requires protecting the interest of our insured through prompt evaluation, the identification of a preferred resolution of the litigation and the implementation of a strategy designed to achieve the preferred resolution. We are looking for good results and straight-forward billing practices. These reporting and billing guidelines have been developed to help us reach those goals. Our assignment of this case is contingent on your compliance with these guidelines.

We believe the means to achieving this end is to establish a sound and collaborative tripartite partnership among our insureds, defense counsel and our claims professionals, which should not be construed to be in conflict with applicable laws regarding the attorney-client privilege. We consider the cornerstone of this partnership to be, candid, and effective communication, and at all times treating one another with mutual respect, fairness and courtesy. It is expected that Defense Counsel should take reasonable precautions to ensure that the information shared by the parties, including, attorney-client communications and the mental impressions and work product of Defense Counsel, remain privileged and/or confidential and is not shared with anyone other than Markel Service, Incorporated, the insured, insured's counsel and their respective employees and agents who are reasonably necessary to the defense and/or administration of the common interests of the Insured and Markel Service, Incorporated.

The partnership's shared goal is the successful resolution of claims and suits. We consider the early formulation and careful management of a thoughtful litigation plan to be an essential step in achieving this goal. Recognizing that most claims and lawsuits are resolved by settlement, we stress defense counsel's early analysis and evaluation, leading to a well-defined and clearly articulated strategy, which carefully analyzes alternative ways of resolving disputes and prioritizes defense activities. Working together, our claims professionals and defense counsel continually will revisit and reevaluate the litigation plan and strategy, constantly mindful of the shared goal of appropriately resolving the lawsuit, but also preparing to successfully defend those cases that warrant trial.

It is the expectation of Markel Service, Incorporated that Defense Counsel will not discuss any case with the media. Any contact Defense Counsel does have with the media should comply with ethical and professional standards of conduct and should be discussed and approved in advance by the Insured, and to the extent applicable and absent any conflict, by Markel Service, Incorporated.

Defense Counsel's conduct in the representation of the insured should reflect the highest professional standards and comply with all relevant state and federal rules of professional conduct.

Nothing contained herein is intended to nor shall restrict counsel's exercise of independent professional judgment in rendering legal services for the insured.
Markel Service, Incorporated has the right to change the litigation management guidelines at any time and without notice. Markel Service, Incorporated will endeavor to communicate any changes to our Defense Counsel as soon as possible.

These guidelines apply to all matters assigned to your firm by Markel Service, Incorporated. Please make sure that a copy of these guidelines is provided to all attorneys, paralegals, administrative and clerical personnel, and/or other assistants prior to any work beginning on a Markel Service, Incorporated matter.

**LITIGATION REPORTING**

I. **Acknowledgment and Staffing**

Acknowledgement of the assignment is due upon receipt. Please include the proposed staffing for the defense of the case, including the name and status of each attorney to be assigned. Prior approval from the claims professional will be required before a case can be transferred to another attorney. It is our expectation that the assigned counsel will be the lead attorney throughout the life of the case.

In order to achieve the best efficiency and value, it is essential that the roles and responsibilities of the staff members be clearly defined and appropriate to each individual’s qualifications, level of experience and billing rate. We expect defense counsel to delegate work to appropriate subordinates in order to achieve efficiency and cost-effectiveness without compromising quality. All communications and activity on the case should reflect the goal of effectively resolving the case at the earliest reasonable date. Administrative, clerical and secretarial functions are within a firm’s overhead and are not compensable irrespective of who performs the work.

We believe that efficiency, continuity and value can best be achieved with a stable staff of qualified professionals who are familiar with the facts, legal issues, strategy and tactics involved in the litigation. Accordingly, every reasonable effort should be made to avoid substitutions or additions of personnel to the team of professionals assigned to the defense of a case.

Please include the Markel claim number on all correspondence.

II. **Initial Contact with Client**

Following receipt of the assignment, counsel should initiate immediate contact and when possible meet with our insured and plaintiff’s counsel, as well as interview client witnesses and review the client’s documents. This information should be summarized in the Initial Report.

III. **Initial Report**

An Initial Case Report / Assessment is due within 60 days of the assignment. To assist you in preparing the Initial Case Report / Assessment, a sample format is attached.
IV. **Agreed Litigation Plan**

We, at Markel, view the Agreed Litigation Plan as an essential element in the litigation process, which will require a detailed recitation of the litigation activities to be undertaken in order to achieve the preferred resolution of the claim.

1. Each significant activity counsel proposes to initiate during all phases of the case (e.g., investigation, motions, discovery, legal research, etc.)

2. Discovery and motions that have been or are likely to be initiated by other parties.

3. The attorney who will handle each activity.

4. An estimation of the fees, costs, and completion date for each activity.

The Agreed Litigation Plan should be updated to reflect unexpected activity not considered in the initial Litigation Plan and/or after the tasks in the initial Litigation Plan have been accomplished. To assist you in preparing the **Agreed Litigation Plan/Budget**, a sample format is attached. If you are billing via Legal Exchange (LEX), then the budgeting tool in LEX is expected to be used.

Some of our policies are cost-inclusive. **FOR THESE POLICIES, YOUR FEES AND EXPENSES AND ALL OTHER CLAIMS COST WILL DEPLETE THE AMOUNT OF THE POLICY LIMIT AVAILABLE TO THE INSURED.** Thus, we must jointly monitor the cost of defense closely. Additionally, most policies involve some assumption by the insured for a portion of the risk, either through a deductible, co-pay or self-insured retention. (Our assignment letter contains details of the specific policy applicable to this claim.)

V. **Subsequent Reporting**

The objective of communication between counsel and the claims professional is to reach a decision on the successful disposition of the case. Written reporting should supplement, not take the place of, frequent discussions between counsel and the claims professional. Communications from counsel should be as brief as possible without forfeiting content. Counsel should submit a status report only when significant activity occurs. The status should include counsel’s current opinion as to how this activity affects liability, damages, settlement value, and/or our litigation plan/budget. Contents of documents should be summarized only and not be reiterated verbatim in the report. Discussion of likely outcomes should always be expressed in percentage terms and stated as a range. Copies of any relevant correspondence should be forwarded to us.

Updated evaluations in the form of a detailed (but not repetitive) status report should be provided at no less than four-month or six-month intervals, as agreed upon. A sample format is attached.

Your remarks should be narrowed to the issues or plans affected by a change or development. Unnecessary correspondences, such as routinely preparing enclosure letters with invoices, are not acceptable. Similarly, motions, depositions and other legal maneuvers that do not advance the case or provide strategic value should be avoided. However, copies of motions and discovery should be furnished upon request. In general, observe the following guidelines for reporting:
Be as brief as possible.

Report only significant activity. ALL CORRESPONDENCE THAT DOES NOT ADD VALUE TO THE CASE IS DISCOURAGED. If nothing has occurred, a status in the form of a brief e-mail indicating “no new developments” is sufficient.

When called upon to represent an insured, your reporting obligations include keeping the insured advised of the progress of the litigation, including settlement demands and offers. Unless the insured specifically request not to be contacted with details of the suit, counsel should plan to keep the insured client informed through periodic written reports.

Telephone and e-mail communication is strongly encouraged.

VI. Settlement/ Arbitration

We are particularly interested in mediation as a method to resolve our claims. Please evaluate the potential for mediation at key stages of the case.

All settlement offers or discussions must have our prior approval. Authority should be requested at least (20) days in advance or as promptly as possible in order to facilitate our review of the claim and timely authorization.

Notify us immediately of all discovery dates, settlement conference dates, arbitration dates, pre-trial dates and trial dates.

Defense counsel should maintain regular contact with the insured throughout the case; providing updates on case development and exposure analysis, and involving the insured in discussions regarding settlement or case resolution.

VII. Mediation Report and Mediation Brief

If requested by the Examiner, a Mediation Report should be prepared no later than 30 days in advance of Mediation, if Mediation date is known. A sample format is attached.

A copy of the Mediation Brief should be provided to the Examiner even when a Mediation Report is not requested.

VIII. Pre-Trial Report

A comprehensive Pre-Trial Report is due at least 60 days in advance of trial where possible, however, no later than 45 days in advance of trial. A sample format is attached.

IX. Trial Reporting

When a matter proceeds to trial, Markel must be informed of the proceedings on a daily basis throughout the course of the trial.

X. Post-Trial Report

If requested by the claims professional, a Post-Trial Report is due within 10 days of the conclusion of the trial. A sample format is attached.
The purpose of the bullet points below is to provide you with a check list of information that is typically necessary in order for the insurance company to evaluate the claim. Please include discussion on ALL relevant information in your possession, whether listed below or not. Conversely, we recognize that some of the discussion points listed below may not have relevance to this particular case. While we encourage you to be as concise as possible, do not omit information relevant to our evaluation.

1. **FACTS:**
   - Synopsis of the facts known about the case including all pertinent dates
   - Any pertinent background information
   - Is a summary of your meeting and/or conversation with Insured included or attached?

2. **LIABILITY**
   - Liability issues
   - Negligence law (contributory, pure, modified)
   - What is the burden for recovery?
   - Identify statutes or case law favorable to plaintiff/claimant
   - Percipient and expert witnesses for plaintiff/claimant and Insured
   - Evaluation of the liability exposure (stated in percentages) for all parties; i.e. insured, plaintiff/claimant, 3rd parties, etc.
     - Contributory negligence
     - Joint and several
     - Vicarious liability
     - Indemnity (inclusive of contractual), contribution, subrogation
       - Cross/3rd Party/Counter Actions contemplated and why?
     - List any other insurance available to any of the named defendants. List insurer, policy number, and limits of liability for each defendant.
     - Theory of Defense/Viable Defense
       - Identify statutes or case law supporting the Insured
   - Chances of a judgment or verdict in favor of the Insured

3. **DAMAGES**
   - Claimed damages/injuries
   - Documented damages/injuries
   - Actual damages (include breakdown) past and future, RCV vs ACV, loss of use, loss of profits/income, bodily injury, pain & suffering, emotional distress, delay damages, compensatory damages, other consequential damages, etc.
   - Permanency
   - Presence of excess or punitive or exemplary damages claims
   - Can plaintiff/claimant recover attorneys’ fees by statute, contract or case law?
   - Is there a Tort Limit (cap) or Patient Compensation Fund available by statute?
   - Are there any cross-claims or counter-claims against Insured for contribution or indemnification?
   - Collateral Source Doctrine
   - Billed vs. Paid Damages (amount plaintiff/claimant can recover)
   - Any liens?
4. **VENUE/JURISDICTION**
   - Was suit served timely with respect to the Insured?
   - Was the appropriate entity named and served?
   - Is venue appropriate?
   - Is venue proper in more than one location? If yes, is a forum non-conveniens motion available to insured?
   - Does the court have subject matter jurisdiction over the case? (If federal court, identify the statute providing subject matter jurisdiction)
   - Does the court have personal jurisdiction over the Insured? Set forth the date that the Insured was served.
   - Plaintiff(s)/Claimant(s) attorney’s reputation and experience. If possible, please attach or incorporate any available verdict/settlement research on plaintiff’s attorney.
   - If there is a cross-claim or joint and several liability, what is Co-Defendant attorney’s reputation and experience?
   - What is the climate of venue?
   - What is the Judge’s background and reputation?
   - Address the viability and timing of ADR/Mediation
   - Anticipated trial date

5. **EXPERTS**
   - Is it contemplated that the defense of the case will require the hiring of experts? If yes, identify the areas of expertise in which expert testimony will be needed. If yes, provide c.v. of expert, hourly rate, deposition rate/trial rate if different, and the parameters or totals of their contemplated rates.
   - Address reputation/experience of all plaintiff/claimant experts

6. **MOTIONS**
   - List all motions and pleadings you feel that are necessary and explain the purpose. State the anticipated date of filing and resolution.
   - Discussion of the potential success of dispositive motions prior to, or after, the commencement of discovery. When motions to dismiss or for summary judgment are appropriate, we expect that they will be filed at the earliest possible time and vigorously pursued through briefing and oral argument.

7. **ADDITIONAL INVESTIGATION/DISCOVERY**
   - Is investigation complete? If not, what additional investigation is needed? Identify in the agreed litigation plan what and by whom.
   - Detailed recommended plan of action and timeline (see **Agreed Litigation Plan/Budget**)
     - List all proposed depositions you anticipate taking and explain purpose. Do you anticipate any out-of-state depositions?

8. **SETTLEMENT VALUE**
   - Do we have consent to settle from the Insured? If no, why not? If yes, up to how much?
   - All Current Demand(s)/Offer(s)
   - Any settlement discussion between attorneys or parties
   - Evaluation of the damage exposure (please state in ranges)
   - Opinion as to settlement value (please state in ranges)
     - Please include any relevant verdict or settlement research.
   - Comment on any aggravating or mitigating factors which could effect the verdict
   - What is the potential verdict range?
   - Should case be settled at this time? Discussion of the potential for early disposition of the case by settlement, and recommendations with respect to arbitration, mediation or direct settlement negotiations.
   - Can it be settled at your recommended settlement evaluation? If not, what are the obstacles?
o Address the viability of an Offer of Judgment/Proposal for Settlement and recommendations of amount.

9. COMMENTS
   o Any further recommendations or comments.

Please complete Litigation Plan/Budget and attach to this report. If you are billing via Legal Exchange (LEX), then the budgeting tool in LEX is expected to be used.
1. FACTS
   o What significant developments in the facts, if any, have you discovered that have a direct impact on the valuation of this case?

2. LIABILITY
   o Has your opinion on legal issues/liability changed in any material respect?

3. DAMAGES
   o Are there any significant changes in your evaluation of damages?
     o Is interest running on damages alleged in the suit? Yes_____ No_____ @ what rate _____%.
     o From what date does interest start running?

4. EXPERTS
   o Has the Plaintiff/Claimant designated any experts at this stage of the litigation?
     o Who are they? (attach CV if available)
     o Field of expertise?
   o Have you retained a consultant or expert on behalf of the Insured?
     o Who are they? (attach CV is available)
     o Field of expertise?

5. MOTIONS
   o What are the dates you or opposing counsel filed (or will file) dispositive motions?
   o What is the status of the motion(s)?
   o What are the results?

6. ADDITIONAL INVESTIGATION/DISCOVERY
   o What is the present status of your discovery plan?
   o What remains to be done?
   o What other investigation, if any, does the Company need to do?
   o Are all witnesses that you anticipate calling at trial available and ready?

7. SETTLEMENT/VERDICT RANGE
   o Do you believe this is a case we should settle?
   o Do we have consent to settle from the Insured? If no, why not? If yes, up to how much?
   o Demand at present $__________ Offer(s) $__________
     o If no demand by plaintiff/claimant, explain:
     o If no offer on behalf of the Insured, explain:
   o Do you expect a judgment or verdict in favor of the Plaintiff(s)/Claimant(s)?
     o Why or why not?
   o Insured’s chances of prevailing: _____% (Be specific-Be realistic-Avoid 50/50 predictions. This is your best evaluation based on the facts, the law, and the venue as you know them today.)
   o Potential Verdict Range: (dollar amount) $_______ to $_______ (as to all defendants/parties)
   o Can apportionment of liability be determined against any parties not named in this suit?
     o Apportion percentage as to each defendant/party:
     o What is the financial status of co-defendants? Are there insurance coverages adequate to cover their exposure?
   o Is contributory negligence a factor?
   o Is joint and several liability a factor?
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- Is vicarious or contractual liability a factor?
- Realistic Settlement Value?
- If in Federal Court, should a Rule 68, Offer of Judgment, be made?
  - What dollar amount do you recommend?
- If in State Court, is an Offer of Judgment or Settlement available and what are the benefits/consequences?
  - What dollar amount?
- If Offer of Judgment is available but not recommended, why not?
- Is the Plaintiff(s)/Claimant(s) entitled to attorneys’ fees if they prevail?
  - Estimate of the Plaintiff’s attorney fees to date:
- Is the Plaintiff(s)/Claimant(s) entitled to prejudgment interest if they prevail? If so, how much?
- Is any form of Alternative Dispute Resolution being considered?
- Verdict Form: Can the verdict form be proposed by the parties in this venue?
- Trial Date:

8. **COMMENTS**

**EXPENSE PROJECTION (From the date of this report forward)**

Please complete Litigation Plan/Budget and attach to this report. If you are billing via Legal Exchange (LEX), then the budgeting tool in LEX is expected to be used.
MEDIATION REPORT OUTLINE
DEFENSE LITIGATION

MARKEL FILE NO.:_________________  DATE: ________________________________
DEFENSE FIRM:____________________  HANDLING ATTORNEY: ________________
INSURED:_________________________  DATE OF ASSIGNMENT:_____________
DATE OF LAST REPORT:_____________  CASE CAPTION:_____________________
MEDIATION DATE:__________________  TRIAL DATE:_______________________

1. CURRENT POSTURE OF CASE
   o Facts and Allegations
     β Recap legal theories against Insured and what defenses Insured may have to each of them
     β What does Plaintiff/Claimant have to prove to prevail?
   o Discovery and Investigation Completed
   o Liability Assessment
     β Express liability values in percentage ranges as to each party to whom liability may be assessed and why; consider effect of joint and several liability
     β Explain the basis of liability evaluation
     β List insured's defenses, including any statutes or case law that supports them
     β What is the applicable comparative or contributory negligence law? Will our assessment of the case be a bar to plaintiff(s)/claimant(s) recovery?
     β Is vicarious liability an issue? If so, discuss effect on case.
     β Does Joint & Several apply? If so, what affect will this have on case?
     β Discuss effect of any Additional Insured involvement
     β Discuss effect of any contractual issues
     β Are there any aggravating circumstances?
     β Nature and effect of venue
   o Damages Evaluation
     β Provide breakdown of damages into categories of damages
       ♦ Claimed vs. what we should consider in evaluating the case
       ♦ Medical (breakdown treatment vs. diagnostic charges)
       ♦ Are there any pre-existing medical conditions? Describe
       ♦ Are plaintiff's/claimant's injuries permanent?
       ♦ Wage Loss
       ♦ Future Loss of Earnings
       ♦ Pain & Suffering / Loss of Consortium
       ♦ Reverse attorneys' fees and for what causes of action (if applicable)
       ♦ Property Damage (potential for multiplier)
       ♦ Compensatory and other Consequential Damages
       ♦ Are punitive or exemplary damages being sought? What is potential for plaintiff to be awarded punitive or exemplary damages?
       ♦ Other
     β What amount of medical specials can Plaintiff/Claimant enter into evidence at trial? If so, is there an offset for collateral sources (what are the collateral sources and when is the offset indicated - prior to going to jury or does judge reduce after the award)?
     β Recap IME evaluation or Expert's evaluation on property damages
     β Opinion on full settlement value range (please discuss with claims professional prior to submitting your report.)
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- Potential Jury verdict range
- Judge's evaluation/recommended value (if any)
- Application of Pre-Judgment Interest / Delay Damages

**Prior Settlement Discussions**
- Note current demand by Plaintiff/Claimant, if any
- Note any offers made by co-defendants (amount / date of offer)
- What is the financial status of co-defendants? Are their insurance coverages adequate to cover their exposure?

**Pending Motions**
- Note the nature of any pending motions and the expected hearing date(s). What do you feel are the chances of prevailing on these motions?
- Motions anticipated and reasons for such motions.

**Cross-Complaints/Counter-Suits/Third Party Complaints**
- What are the effects on any settlement that may be made prior to trial
- Impact on Insured's overall exposure

2. **FURTHER WORK NEEDED**
- Investigation and Discovery Recommended
  - Note estimated deadlines for completing each needed task

3. **TRIAL**
- Trial date set?
  - Strengths and weaknesses of Plaintiff's/Claimant's case
  - Key defense issues
  - Strengths and weaknesses in defending the case
  - Name and reputation of Trial Judge
  - Plaintiff/Claimant counsel's trial reputation
  - Probabilities and verdict ranges
    - What is the maximum potential exposure to insured?
    - What is the maximum probable exposure to insured?
    - Can the case be settled at this time?
  - Estimated trial cost and expenses
  - Can pre-judgment interest be awarded? If so, how much?
  - Can attorneys' fees be awarded? If so, how much?

4. **Mediation Strategy**
- Can the case be settled at this time?
- How do we anticipate plaintiff will approach negotiations
- What is our recommended strategy
- Reputation of the Mediator and how best to leverage for successful outcome
# PRE-TRIAL REPORT OUTLINE
## DEFENSE LITIGATION

| MARKEL FILE NO.:_________________ | DATE: ____________________________ |
| DEFENSE FIRM:___________________ | HANDLING ATTORNEY: _______________ |
| INSURED:_______________________ | DATE OF ASSIGNMENT:______________ |
| DATE OF LAST REPORT:___________ | CASE CAPTION:___________________ |
| MEDIATION DATE:________________ | TRIAL DATE:______________________ |

## 1. CURRENT POSTURE OF CASE

### Facts and Allegations
- Recap legal theories against Insured and what defenses Insured may have to each of them
- What does Plaintiff/Claimant have to prove to prevail?

### Discovery and Investigation Completed

### Liability Assessment
- Express liability values in percentage ranges as to each party to whom liability may be assessed and why; consider effect of joint and several liability
- Explain the basis of liability evaluation
- List insured's defenses, including any statutes or case law that supports them
- What is the applicable comparative or contributory negligence law? Will our assessment of the case be a bar to plaintiff(s)/claimant(s) recovery?
- Is vicarious liability an issue? If so, discuss affect on case.
- Does Joint & Several apply? If so, what affect will this have on case?
- Discuss effect of any Additional Insured involvement
- Discuss effect of any contractual issues
- Are there any aggravating circumstances?
- Nature and effect of venue

### Damages Evaluation
- Provide breakdown of damages into categories of damages
  - Claimed vs. what we should consider in evaluating the case
  - Medical (breakdown treatment vs. diagnostic charges)
  - Are there any pre-existing medical conditions? Describe
  - Are plaintiff's/claimant's injuries permanent?
  - Wage Loss
  - Future Loss of Earnings
  - Pain & Suffering / Loss of Consortium
  - Reverse attorneys' fees and for what causes of action (if applicable)
  - Property Damage (potential for multiplier)
  - Compensatory and other Consequential Damages
  - Are punitive or exemplary damages being sought? What is potential for plaintiff to be awarded punitive or exemplary damages?
  - Other
- What amount of medical specials can Plaintiff/Claimant enter into evidence at trial? If so, is there an offset for collateral sources (what are the collateral sources and when is the offset indicated - prior to going to jury or does judge reduce after the award)?
- Recap IME evaluation or Expert's evaluation on property damages
- Opinion on full settlement value range (please discuss with claims professional prior to submitting your report.)
Potential Jury verdict range
Judge's evaluation/recommended value (if any) – Does this refer to prior mediation or settlement conferences?
Application of Pre-Judgment Interest / Delay Damages

Settlement Discussions
- Discuss any ADR / mediation results
- Note current demand by Plaintiff/Claimant, if any
- Note any offers made by co-defendants (amount / date of offer)
- What is the financial status of co-defendants? Are their insurance coverages adequate to cover their exposure?

Pending Motions
- Note the nature of any pending motions and the expected hearing date(s). What do you feel are the chances of prevailing on these motions?
- Motions anticipated and reasons for such motions.

Cross-Complaints/Counter-Suits/Third Party Complaints
- What are the effects on any settlement that may be made prior to trial
- Impact on Insured’s overall exposure

2. FURTHER WORK NEEDED
- Investigation and Discovery Recommended
  - Note estimated deadlines for completing each needed task

3. TRIAL STRATEGY
- Who will be called as witnesses by each side and why
- Identify the significance of all witnesses, including expert witnesses. How will their testimony impact this case?
- Strengths and weaknesses of Plaintiff’s/Claimant’s case
- Key defense issues
- Strengths and weaknesses in defending the case
- Who will try the case? Is any assistance needed (explain)?
  - Name and reputation of Trial Judge
  - Plaintiff/Claimant counsel’s trial reputation
  - Is trial date certain? If not, explain

4. EVALUATION OF TRIAL OUTCOME
- Probabilities and verdict ranges
  - What is the maximum potential exposure to insured?
  - What is the maximum probable exposure to insured?
  - Does the venue affect this case and if so, how?
  - Can the case be settled at this time?
- Expected duration
- Estimated trial cost and expenses
- Can pre-judgment interest be awarded? If so, how much?
- Can attorneys’ fees be awarded? If so, how much?
- Any other issues or pertinent information which may affect the conduct and outcome of trial?
POST-TRIAL REPORT

MARKEF FILE NO.: _______________    DATE: ____________________________

COVERAGE FIRM: _______________    HANDLING ATTORNEY: _______________

DEFENSE FIRM: _______________    HANDLING ATTORNEY: _______________

INSURED: _______________    DATE OF ASSIGNMENT: _______________

DATE OF LAST REPORT: _______________    CASE CAPTION: _______________

MEDIATION DATE: _______________    TRIAL DATE: _______________

1. **Trial Result**
   - Was the result expected? If not, why not?
   - Describe any post-trial discussions with Judge/Jury, if applicable

2. **Evaluation**
   - Evaluation of Judge/Jury. Was the outcome as expected?
   - Evaluation of Experts. Were their opinions as expected?
   - Evaluation of Favorable Evidence. Was it admitted into the record as expected?
   - Evaluation of Unfavorable Evidence. Was it admitted into the record as expected?

3. **Potential for Appeal**
   - Recommended Motion for New Trial/Remittitur and/or Settlement?
   - Identify any Appealable Error/Issues
   - Pro/Cons & Evaluation of Probabilities For Success of Appeal
   - Estimated Expenses of Appeal (including the estimated cost of any appeal bond)
   - Present Settlement Recommendations
**LITIGATION BILLING GUIDELINES**

Markel Service, Incorporated billing procedures apply equally to law firms on its approved list of defense counsel as well as law firms selected by our insureds. We reserve the right not to pay for charges that fail to comply with these requirements as well as charges, which are excessive, unreasonable, or unauthorized, and will disallow credit for such charges to the satisfaction of self-insured retentions and deductibles in our policies.

**Staffing**

It is the expectation of Markel Service, Incorporated that each legal matter will be handled by one attorney assisted by one associate.

**Bill Submission**

If we have approached your firm to submit your invoices to us electronically, then all billings must be electronically submitted via our electronic bill review system managed by Bottomline called Legal eXchange (LEX). Exceptions may be approved when independent Counsel needs to be retained or in the case of high SIR/Deductible when the insured retains their own legal bill review platform.

For invoices in which Markel's share is less than 50%, the invoices should be submitted to markelclaims@markelcorp.com.

Markel Service, Incorporated recognizes not all defense firms have, as of the release date of these guidelines, been set up on LeX. Those firms awaiting set-up in LeX may continue to send in paper invoices. However, these invoices must be submitted via email to markelclaims@markelcorp.com.

Before submitting a first invoice through LeX, the following steps must be taken:

- Send an e-mail to mattersetup@markelcorp.com ensure your firm is set up in LeX AND to ensure that the specific matter you wish to bill is also set up.
- If the matter requires a budget, then a budget must be submitted and approved through LeX
- Once the budget is approved, a bill can be submitted through LeX for approval by the bill review team.

**Billing Rates and Rate Request Reviews**

All rates will be negotiated and approved by the Managing Director of Claims or designate and confirmed in writing after approval.

Rate adjustments should be requested in writing. Once approved, we will require the completion of a new Request for Proposal to ensure all are aware of confirmed rates. All rates must be approved in writing and the approved rates will be effective for a minimum of 2 years. Unilateral rate changes will not be accepted.
**Frequency of Billing**

Markel Service, Incorporated will accept billings on a quarterly basis - or when an interim bill reaches $10,000.00. Other billing arrangements must be approved in writing by the appropriate Claims Director.

Billing on closed matters should be submitted within 30 days after the end of the billing quarter in which the matter is closed unless requested earlier by the Examiner. Billings submitted more than 180 days late on matters which have been closed will not be accepted except in the case of extenuating circumstance, as determined by the appropriate Claims Leadership.

**Deductibles**

Invoices on claim files with outstanding deductibles must be submitted to Markel Service, Incorporated for review and approval prior to tendering the invoice to the insured for the approved amount.

Deductible payments received by the firm should be summarized and provided to the Markel examiner as part of the overall file management.

**Time Charges**

Markel Service, Incorporated will accept billings for actual time only in 1/10th of an hour increments. We will only pay for actual time to prepare pleadings - not the time originally used to draft standardized pleadings.

All reported time must be identifiable to a timekeeper.

Billings for time entries or expenses submitted more than 6 months after they have been incurred will not be accepted.

Where cost sharing agreements have been arranged, Markel Service, Incorporated is to be billed only for our percentage allocation of the total invoice amount, except where invoices are electronically submitted through LeX, in which case the entire amount should be billed. Invoices should clearly indicate the percentage share to be paid by Markel Service, Incorporated.

Markel Service, Incorporated does not pay attorney rates for work which the industry has deemed that it is appropriate to be normally performed by paralegals. If the firm does not use paralegals, Markel Service, Incorporated agrees to pay ½ of the approved Senior Partner rate. We rely on guidelines from the National Association of Legal Assistants (NALA) to identify the tasks suitable to that profession.

**Billing Format**

A billing charge should be submitted in single-task format and exhibit concise and informative description of the work performed. Billing must utilize UTBMS codes. The billing entry must be prepared with entries showing:

- Date the work was performed
- Initials of the person providing the service
- Description of the work performed (single activities)
- The actual time in 1/10th of an hour increments
Note that “block billing” (grouping multiple activities under a single time charge greater than 1/10\textsuperscript{th} of an hour) is prohibited. Markel Service, Incorporated will not pay for any “block billing” charges.

It is essential that each legal activity be identified with specific descriptions in the invoice. Descriptors such as “strategize,” “consider,” “attention to” and “work on” are vague and will not be accepted. Use concrete descriptions that clearly set forth the work performed and its specific purpose or outcome.

All billing for calls and written correspondence must include the parties and purpose of the call or correspondence.

Billings for activities with the same description and on the same day will be questioned as duplicative. If determined as duplicative, Markel Service, Incorporated will pay for the service once, at the higher of the hourly rates indicated.

Abbreviations should be avoided when possible, even if counsel deems the abbreviation self-evident (i.e., TC - telephone call, OC – opposing counsel)

A billing invoice should provide a timekeeper summary and disbursement summary. The invoice must include the following:

- Claim Number
- Examiner Name
- Insured Name and Policy Number
- Plaintiff Name and Case Caption
- Invoice or statement number and Invoice Date
- Full name of timekeeper and/or ID
- Level of each timekeeper (i.e. partner, associate, paralegal)
- Hourly rate for each timekeeper
- Total hours and total amount charged for each timekeeper during the billing period
- Total number of hours worked by each person
- Total billed to date on the file include current billing
- Any payments received on the case
- Balance due on the file

**Appeals**

If you wish to appeal a specific deduction or invoice, an appeal will be accepted for review no later than 60 days after payment on the original invoice is processed.

All appeals on invoices not billed in Legal Exchange should be emailed to legalbillappeals@markelcorp.com

All appeals on invoices billed in Legal Exchange will have to be handled in Legal Exchange.

Please allow 30 days for review of an appealed bill.
**Authorization**

Prior consultation and approval from the Examiner to engage in certain activities must be obtained and documented. These activities include:

- IMEs
- Selection of Experts
- Identification and pursuit of Witnesses
- Surveillance. Use of an adjuster or private investigator requires approval by the Examiner. Where available and appropriate, approved independent adjusters and investigators should be used
- Prior approval is required for use of computerized document management and retrieval systems.

**Depositions**

Counsel should consult with the Examiner 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.

**Disbursements**

Receipts are required for disbursement charges of $50.00 or more. Charges for services by outside vendors will be reimbursed at their actual cost. Outside vendors should be paid directly by the firm for charges under $500.00 (unless other arrangements have been approved).

Expenses over $500 may be forwarded to Markel for payment. Disbursements should be itemized on the law firm’s statement, unless backup documentation is provided and include the following information: (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 the amount incurred.

**Hours per Day**

Billing in excess of 10 hours per day, across all Markel matters, will not be allowed except under the following circumstances:

- During trial or mediation
- While traveling
- If prior approval has been granted from the Examiner and it is documented in writing and entered on the invoice in the text of the line entry

**Legal Research and Rework Time**

Counsel must obtain prior authorization from the Examiner for legal research billed in excess of 5 hours and such authorization must be documented on the invoice in the text of the billing entry. Fees for reworking existing documents will not be paid except if the rework is necessary because of a change in the circumstances of the case.
**Messenger/ Courier/ Delivery/ Express/ Overnight Mail Services**

Markel Service, Incorporated 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 is strongly discouraged unless necessary and required. Markel Service, Incorporated will not reimburse for overnight mail or express courier service, unless requested and/or approved by the Examiner.

**Motions**

Counsel must obtain approval from the Examiner before filing any motions not previously identified and approved in the Initial Litigation Plan or supplement thereto.

**Non-Reimbursable Costs/ Overhead**

The following are considered law firm overhead and will not be accepted by Markel Service, Incorporated. The list is intended to be illustrative and not comprehensive:

- Intra-office conferences
- Any file review done when the file is transferred to a new attorney
- Lexis, Westlaw or other computer assisted legal research
- Postage, except for certified mail (which requires prior approval from the Examiner)
- Conference call charges, except for court appearances (such as Court call).
- Internal messengers and courier. Express courier service, unless requested and/or approved by the Examiner.
- Routine memoranda to the file (memoranda prepared for future incorporation in briefs, discovery or for use in trial preparation are permitted but must be clearly described as such)
- Preparation of invoices or responses to billing inquiries
- Conflict checks
- Secretarial and clerical work. As examples and not a complete list, such work includes, receipt and distribution of mail, new file set up, maintenance of office and attorney calendars, scheduling, transcribing, copying, posting, faxing, e-mailing, inserting documents into and retrieving documents from the file, bates stamping, file organization, velo binding, charges to open and close a file and making travel arrangements.,
- Case management or litigation software or systems
- Office overhead including: rent, conference rooms, equipment rental, utilities, computer, software, books, publications, seminars, office supplies, refreshments during meetings, local or overtime meals and non-attorney or non-paralegal staff (e.g. library staff)
- Training and/or continuing education for any personnel
- Attempted phone calls and leaving and/or retrieving voice mail messages
- Fees for unnecessary or routine status reviews
- Interest charges
- Supervisory oversight and direction to attorneys, paralegals and staff

**Paralegal Usage**

As previously stated, Markel Service, Incorporated relies on guidelines established by the National Association of Legal Assistants (NALA) and the below activities are identified as appropriate to be performed by the paralegal profession. Consequently, we expect that paralegals will be used to complete support work wherever possible. If the firm does not use paralegals, Markel Service, Incorporated agrees to pay ½ of the approved Senior Partner rate. Paralegal tasks include, but are not limited to:

- Preparing subpoenas and deposition notices

Effective 09/01/2013
• Arranging for service of process
• Requesting records, medical records and authorizations
• Preparing chronologies
• Drafting form pleadings and discovery
• Preparing page/line deposition summaries
• Checking dockets
• Summarizing discovery responses and/or medical records
• Preparing exhibits for motions and depositions
• Indexing documents
• Perform legal, non-legal and medical research
• Cite checking and Shepardizing
• Freedom of Information Act requests
• Work with outside copy and litigation support vendors
• Develop information retrieval and management systems
• Prepare trial notebooks and demonstrative exhibits

**Photocopying**

Markel Service, Incorporated will allow $.15 per page for black/white copies and $.25 per page for color copies (if required and approved by the Examiner). The firm will be allowed to pass through the copy costs or document preparation costs incurred by third party vendors or independent contractors.

**Telephone and Facsimile Charges**

Markel Service, Incorporated will not reimburse your law firm local telephone calls or facsimile charges; however, Markel Service, Incorporated will reimburse actual telephone charges for both long distance calls and facsimiles.

**Travel**

When billing for travel time, counsel must include the type of travel in the entry so that Markel can determine the applicable travel billing rate. If travel is by auto, counsel should include the distance one way or round trip.

**Time related Travel**

• All attorney travel time will be paid at ½ the attorney’s hourly rate, without distinguishing local or long distance travel. Billing should reflect full travel hours incurred.

**Mileage related Travel**

• Travel within 25 miles of the attorney’s office will be considered local travel and is not reimbursable
• Local parking and toll charges are not reimbursable
• Travel greater than 25 miles one way will be reimbursed at the applicable IRS mileage rate.

**Other Expenses related to Travel**

• Airfare will be reimbursed at coach/economy rate only.
• Expenditures / disbursements of $50 or more require receipts. Meals are allowed at a maximum allowable combined daily rate of $75.
• Markel Service, Incorporated will not reimburse for alcoholic beverages, dry cleaning, entertainment, rental movies, personal grooming services, and private limousine.
• Markel Service, Incorporated will reimburse for non-luxury car rentals and moderately priced accommodations.
• If in the course of traveling, it is required to entertain experts, adjusters, or insureds, a reasonable cost of entertainment is allowed, not to exceed $100 per person, per occasion.
• Airport car services are allowable expenses if the provided documentation identifies that the car service is equal to or less than the cost of airport parking.

Audit and Use of Bill Review

Markel Service, Incorporated retains the right to audit the firm’s billings and invoices at any time without notice and reserves the right to use any combination of internal and external bill reviewers as we enforce compliance with our billing guidelines. This review includes the right to examine and to audit the corresponding legal file documentation.

Please note that payment of any invoices and expenses by Markel Service, Incorporated does not constitute a waiver of further auditing rights or related requests.