Litigation Management Guidelines

CALIFORNIA AFFILIATED RISK MANAGEMENT AUTHORITIES (CARMA)[1]

ADOPTED JANUARY 13, 2023

MEMBERS: Bay Cities Joint Powers Insurance Authority (BCJPIA)
Central San Joaquin Valley Risk Management Authority (CSJVRMA)
Monterey Bay Area Self Insurance Authority (MBASIA)
Municipal Pooling Authority (MPA)
Pooled Liability Assurance Network (PLAN)
Vector Control Joint Powers Agency (VCJPA)

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[1] CARMA is accredited with excellence by the California Association of Joint Powers Authorities ("CAJPA"). One of the areas required for accreditation is high professional standards in the area of litigation management. These Litigation Management Guidelines seek to ensure those high professional standards are upheld.

I. Overview

CARMA is an excess liability pool currently consisting of six (6) member Joint Powers Authorities ("JPAs), hereafter referred to as "Members", with over 160 participating underlying members consisting of cities, towns, and special districts ("underlying members"). One of the goals of CARMA is to protect its Members and underlying members from the financial impact of serious third-party claims and lawsuits. Litigation Management ("LM") is an indispensable component for achievement of that goal.

The role of LM is to apply litigation processes and management principles in the oversight of litigation and potentially litigated claims. This includes, but is not limited to, the supervision and management of outside law firms as well as components of planning, controlling, organizing, implementing, and monitoring legal services and costs. LM also participates in various aspects of litigation as the representative of CARMA.

II. Philosophy

LM seeks to preserve pooled and reinsured/insured funds in manners that are most beneficial to CARMA, its Members, underlying members, and other stakeholders. As a core tenet to that mission, CARMA and LM will vigorously defend claims and lawsuits to which immunities and defenses may be applicable. Enforcing such immunities and defenses may take various routes, such as advocating to the courts via law-and-motion and trial, as well as pursuing remedies through the appellate process. Should a situation present where applicable immunities or defenses are not present, CARMA will work with the Members and underlying Members to dispose of the case with a positive outcome, keeping the objective of preservation of funds in mind. The strategy and tactics to be used in the defense and disposition of claims and litigation are to be pursued with the understanding that each claim and/or lawsuit presents unique situations to be evaluated on a case-by-case basis.

III. Interplay With Claims Management

Key partners for LM are the various claims management teams supporting each of the Members and CARMA itself. To facilitate this mutually beneficial relationship and for continuity of handling, CARMA incorporates the Claims Processing Instructions and Guidelines, which are included in this document as Exhibit A.

To the extent Claims Processing Instructions and Guidelines are updated and/or amended, LM will expressly adopt such changes unless otherwise stated. LM will also be consulted regarding any material changes which may affect its role and oversight.

IV. Corporation With a Board of Directors

CARMA is currently governed by its Board of Directors, comprised of one (1) primary representative and one (1) alternate representative from each of the current six (6) Members.

A. Board of Directors Meetings

The Board of Directors holds quarterly meetings in accordance with the Ralph M. Brown Act, Government Code § 54950 *et seq*. Attendance by LM (specifically, the appointed Litigation Manager) is required absent exigent circumstances.

During each quarterly meeting, the Board of Directors will hold a Closed Session pursuant to Government Code § 54956.9 [conference with legal counsel regarding existing or anticipated litigation] and § 54956.95 [liability claims]. Within the Closed Session and at the discretion of LM, existing litigation and claims will be presented for updates or requested actions for consideration by the Board of Directors. Examples of requested actions include the use of CARMA monies to facilitate settlements within the CARMA layer or to take control of litigation pursuant to the Joint Powers Agreement governing CARMA, the Liability Master Program Document, and Section III of the applicable Memorandum of Coverage.

Whenever LM requests any action and/or authority from the Board of Directors on a specific claim, LM will prepare a "Request for Authority/Action" prior to the Board of Directors meeting. The "Request for Authority/Action" will thoroughly detail the specific facts of the claim and status, delineate the action being requested, and provide the current financial overview. The "Request for Authority/Action" will be disseminated confidentially to the Board of Directors by the Program Administrator or Board Secretary but will remain subject to attorney-client confidentiality and work-product.

B. Special Meetings

From time to time, LM may deem it necessary to request a Special Meeting with the Board of Directors. A Special Meeting with the Board of Directors will be requested when time-sensitive or immediate action is required for any claims. This includes but is not limited to: (1) the immediate issuance and approval of CARMA monies for a Federal Rule of Civil Procedure, Rule 68 Offer/California Code of Civil Procedure §998 Offer for strategic purposes; (2) immediate need to assume control of pending litigation in anticipation of trial where CARMA layer will likely be affected; and (3) immediate settlement authority if CARMA monies are affected.

Such requests will be made known to the Executive Director at the first practical opportunity and will include the reason(s) therefore. LM will also prepare a "Request for Authority/Action" as discussed in Section IV, Subparagraph A in advance of the Special Meeting.

C. Annual Workshop

CARMA holds an Annual Workshop each year during Q1. Unless otherwise directed by the Executive Director, LM will present a litigation overview to the Board of Directors discussing, among other topics, trends in litigation. The Annual Workshop generally coincides with the Board of Directors Meeting for Q1 where a Closed Session will be held.

V. General Litigation Management Practices

LM observes and monitors the activity of each open claim and/or litigated action within CARMA. This is primarily achieved in coordination with the Member and underlying member. From the outset of reporting, LM is tasked with identifying high exposure claims and setting the appropriate paid amounts and reserves as soon as practical. This necessarily includes a review of the tort claim, pleadings, documents received from the Member, body camera videos in the applicable cases, and defense counsel's initial evaluations.

As claims and litigation continually evolve, LM is tasked with maintaining appropriate reserves that are particularized to the facts of each file. This requires an ongoing analysis of discovery, motions, and relevant jury verdicts. The reserve should reflect the most probable outcome of any given claim.

LM will act as a representative for CARMA when required. Such instances where representation is required includes mediations and Mandatory Settlement Conferences. LM will also act as the liaison for CARMA in discussions with Defense Counsel, the Member, and the underlying member. LM's participation with respect to pending claims may include attendance at mock trials or focus groups. LM may also attend trial to provide strategic direction, assist with jury selection, provide an objective view of the evidence, observe performance, monitor for adverse developments, and identify potential issues for appeal.

Additionally, where CARMA monies are potentially involved, LM is tasked with evaluating settlement versus the potential outcome of trial. In keeping with CARMA's LM Philosophy, LM considers multiple aspects including, but not limited to:

- Immunities
- Contributory negligence/ the negligence of third parties
- Proposition 51 apportionment of liability
- Potential to make bad case law on appeal for future use
- Injuries/permanency
- Special damages [medical/lost wages]
- Liens
- Evidentiary issues at trial
- Defense costs
- Venue
- Plaintiff's attorney/ high-profile nature of the case
- Judge and jurisdiction
- Anticipated make-up of the jury
- Witness credibility and likability
- Plaintiff's demand
- Member's position

VI. Control of Litigation

Consistent with the Liability Program Memorandum of Coverage and Master Program Document, CARMA shall have the right to assume the control of the negotiation, investigation, defense, appeal, or settlement of any claim the Board of Directors determines, in its sole discretion, to have reasonable probability of resulting in an ultimate net loss in excess of the Member's applicable retained limit. In the event information is received that may influence the Board of Directors taking control of a claim, the matter should be brought to the Board of Director's attention as soon as practicable.

VII. Reconciliation Of Underlying Pools and Excess Claims

A. <u>Member Pools</u>

LM seeks to hold quarterly meetings with the Members to discuss all claims reported by the Members which are currently open in CARMA. Such discussions will necessarily entail the status of the claim, litigation plan, and potential settlement options.

B. Excess Carriers

1. Quarterly Meetings

LM seeks to hold quarterly meetings with its excess carriers for the current program year to discuss all open and reported claims that have the potential to affect their respective reinsurance and excess layers. Such discussions will necessarily entail the status of the claim, litigation plan, and reserves.

2. Critical Juncture Reporting

LM recognizes the importance of CARMA's partnership with excess and reinsurance carriers and the overarching need to not only preserve pooled funds, but reinsured/insured funds as well. As a result, CARMA insists that assigned Defense Counsel provide all carriers copies of each update and report. To facilitate this, CARMA's Claims Management Team provides Defense Counsel notification of excess reporting on each claim and of any later changes.

In additional thereto, LM will notify CARMA's reinsures/insurers of the outcome of any critical motions or other events which affects, in LM's opinion, the probable adverse outcome of the case. The reference to "other events" includes, but is not limited to, adverse evidentiary rulings or unexpected adverse testimony at trial.

These Guidelines are in addition to and do not circumvent the normal course of excess reporting by Claims Management or Defense Counsel.

VIII. CARMA Clean Data Initiative

CARMA has instituted a Clean Data Initiative whereby staff seeks to reconcile, on a quarterly basis, the CARMA reportable claims with claims listed in the loss runs for each of the Members. The goal is to ensure all loss runs coordinate with respect to the total incurred value of each CARMA reportable claim whenever possible. The Clean Data Initiative will be primarily focused with Claims Management, who will determine the necessary circulation of loss runs and data updates.

LM will assist in the Clean Data Initiative where appropriate. However, LM will continue to reserve open claims at their probable outcome in the CARMA layer. For example, if the probable outcome for a given claim is $6,000,000, CARMA will reserve an open claim at $5,000,000 to account for the Member's $1,000,000 primary layer. It is the goal to have reserves in the primary layer coordinate when possible to identify and address open claims in which a Member evaluates the exposure and reserves differently than CARMA.

Once a claim is closed via either settlement or trial, CARMA's reserve will be updated to show the full total incurred value of the claim less the Member's SIR (currently $1,000,000 per occurrence). The loss runs for the Members will list the full total incurred value of each closed claim (including the Members' SIR).

IX. Coordination with Board Counsel

Should a question or dispute over coverage arise between a Member or underlying member, such question or dispute shall be referred to Board Counsel and in consultation of the Executive Director.

For lawsuits that are reportable to CARMA and allege inverse condemnation and/or nuisance, LM shall seek a coverage opinion from Board Counsel related to any covered claims or applicable sublimit. This

also includes claims that seek injunctive relief alongside monetary damages. Such shall be done at the first practical opportunity when all necessary information/ documents have been received by LM.

EXHIBIT A

Claims Processing Instructions and Guidelines

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JANUARY 2023 ADOPTION

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Table of Contents

1. **Overview:** The following information describes how claims and incidents will be handled by the Sedgwick CARMA Claim Team (Claim Team) for the benefit of CARMA and its Members, and under the supervision of Pool Administration. This document supersedes all prior claims handling instructions.

2. **Receipt and Opening of Claims and Incidents:** New assignments may be presented through a wide variety of methods including direct submission from the Members of CARMA or through other mechanisms. The preferred method of reporting is through email submission to CARMALitigation@Sedgwick.com.

   CARMA Reporting Requirements for Members:

   Members are to report matters, based on the following criteria, to CARMA within **30 days:**

   1. With the establishment of a reserve on any claim(s) or suit(s) amounting to at least fifty percent (50%) of the members Retained Limit.

   2. 42 USC 1983 matter alleging a violation of civil rights:
      - Complaint **not** served but combined total of paid and reserved amounts reaches twenty-five percent (25%) of the members Retained Limit; or
      - After a Complaint has been **filed and served on Covered Party**.

   3. Regardless of Lawsuit:

      - Fatality
      - Amputation
      - Loss of use of any sensory organ
      - Spinal cord injuries (quadriplegia or paraplegia)
      - Third degree burns involving ten percent (10%) or more of the body
      - Facial disfigurement
      - Paralysis
      - Closed head injuries
      - Loss of use of any body function
      - Hospitalization for at least 30 days
      - Non-Employment Sexual Abuse conduct

   Opening of Claims for CARMA:

   A. Upon receipt of the new claim or incident, the Claim Team shall immediately review the submission and determine if it meets the reporting criteria under the applicable Memorandum of Coverage (MOC). If the submission **does not** meet the reporting criteria for CARMA, the Claim Team shall, within five (5) working days of receipt of the submission:

      (1) Create and "Incident" in Juris for record of the submission of the non-claim by the Member.

      (2) Notify the reporting Member via email/smart using the template letter that the matter is not being opened at this time, as it does not meet the CARMA reporting criteria. A record (Incident) of the submission has been made for record keeping purposes but that the matter **does not** constitute an official reporting to CARMA of a loss. When the return letter is sent via email, both a system received receipt and read receipt should be required and note in SIR.

(3) The member should re-report the matter if circumstances develop, or facts are discovered, through which the matter meets the CARMA criteria for a reportable claim or incident, whether by category of loss, filing of a complaint, or assignment of a reserve sufficient to require reporting. The Incident in Juris will then be reopened as a formal claim.

B. Upon receipt of a new claim or incident **that satisfies the CARMA reporting requirements**, the Claim Team shall open a file in OneJURIS and notify the appropriate CARMA Litigation Manager of the new claim or incident. If a conflict of interest exists between/among Members, the adjustment of the claim shall be split between/among different claims specialists, examiners, and Litigation Managers. An acknowledgment of the report shall be sent to the reporting Member within three (3) working days of the receipt of the notice. A Notice of Acknowledgment shall be sent to the reporting member. A SMART document is available in the system for that acknowledgment.

C. The Claim Team shall review the new assignment and conduct any necessary preliminary investigation, in an attempt in response to the following:

Incident: Incident means an event constituting a reportable event under the applicable Memorandum of Coverage. If an incident is reported, verify that no claim was submitted. Open the incident in Juris and send an acknowledgement to the appropriate parties. Create a diary for review for closure 210 days from the date of the incident. If no claim is transmitted from the member during that time, verify the absence of a claim with the Member. If no claim has been received, close the incident file.

For Police Liability fatalities, the Claim Team shall request from the Member:

1) bodycam and/or audio footage from any involved entity and if not, why are they unavailable.
2) other video footage of the incident; and any reports concerning the incident.

For other fatalities and catastrophic injuries, the Claim Team shall request:

1) Incident, Traffic Collision, or Police Reports; and
2) photographs and video.

Claim: A Claim means a formal demand, including the submission of a Government Claim, received by the Member for money or services, including the service of suit or institution of arbitration proceedings against the Member. Note: **All police matters will have a claim opened unless the claimant is In Pro Per at which time the claim will have to meet the reporting requirements listed above.**

In the event a Claim is received, the Claims Team shall request the documentation identified above under Incident.

In addition, for Police Liability claims, the Claim Team shall request the following information:

1) Internal Affair investigation file into this incident.
2) whether the involved officer(s) has any internal affair or disciplinary issues; and
3) the disposition of any criminal charges brought against any involved party.

3. **Excess Reporting and Receipt:** It is the Claim Team's responsibility to report every incident or claim to all reinsurers and excess carriers for the applicable program year within thirty (30) days of receipt of the notification from the underlying member. Failure to give timely notice of excess may result in a disclaimer

of coverage or reduce the amount of the recovery, depending on the policy. Not providing this notice timely creates an E&O exposure for Sedgwick. A file note should be created should be created using the **Juris XR Note** field. That note should indicate "Matter reported to Reinsurers and Excess on [Date]. The file shall also be flagged as excess reportable. As reinsurer/excess claim numbers are received, the appropriate claim number and excess reporting contacts shall be denoted in a **Juris XS Note** field. SMART Documents are available for notification of excess and reinsurers. **The only exception to this Excess Reporting requirement is that a civil rights claim or occurrence involving a non-represented claimant need not be reported at the claim stage. However, if and when suit it filed, that lawsuit must be reported.**

Excess Reporting Communication Receipt: Upon receipt of notification **from all** potential reinsurers/excess carriers of their applicable claim numbers, an Excess Insurer Notification Instruction Notice should be prepared and transmitted to the underlying Member's TPA, with direction to disseminate to the reporting Defense Counsel. That Notice shall be retained in the file. The Excess Reporting Instruction is available in SMART Documents.

Steps:

1. Once an acknowledgment from an excess carrier is received: Leave an "XS" note in JURIS, with the following information: XS (XS NAME) Acknowledgement, (XS Claim Number), Name of adjuster, Adjuster details.
2.
3. If the acknowledgment was sent in the body of an email, then copy and paste it into the same note.
4.
5. If the acknowledgment was sent as an attachment, note "Acknowledgement attached to the claim" and the Proceed to attach the acknowledgement via **ACSDropFile**. Subject line is Claim number~~XS (XS Name) Acknowledgement. (Note: Use colordropfile@acssedgwickcms.com for color documents/ Dropfileclaimcorrespondence@acssedgwickcms.com for b/w.

Additional Information Requests from Excess from Claim Team:

Additional information requests from excess carriers are sent to the Member for processing. These requests should be attached to these requests to the JURIS claim via **ACSDropFile**. Ex. Subject line is "Claim number~~XS Hallmark req for additional information."

Closing Notices from Excess:

Once a closing letter from an excess carrier is received, leave an "XS" note in JURIS, with the following information: XS (XS NAME) Closed Claim.

Steps:

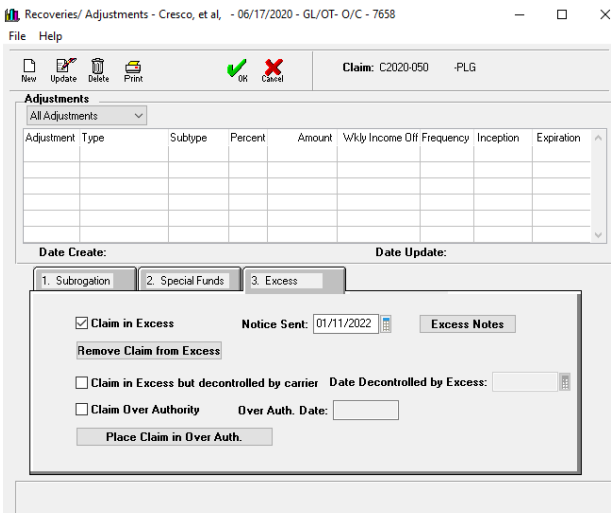
1. If the closing letter was sent in the body of the email, then copy and paste it into the same note.
2.
3. If it was sent as an attachment, note "Letter attached to the claim." Proceed to attach the closing letter via **ACSDropFile**. Subject line is Claim number~~XS (XS Name) Closing Letter

The Claims Team should monitor incoming communications to ensure that all necessary excess carriers and reinsurers are included in the distribution list.

Excess - Updating Juris

- Click the Financial tab at the top of the claim. (Note: adding the excess reported date to one claimant will automatically add the date to all claimants under the same event.)

- Click Recoveries/Adjustments
- Click the number 3 tab for excess
    - Click the "place claim in excess" button
        - A pop-up will show to confirm adding ….click yes
    - Add the date of notice in the notice sent field
    - Click ok
    - Click through any additional fields.
- Once completed, the claim will show the reported excess information. (see second screen below)



JURIS Help - Placing Claim in Excess (sedgwickcms.com)

4. **Coverage Review:** Coverage for certain claims and damages requires more scrutiny. Coverage shall be evaluated under the appropriate Memorandum of Coverage (MOC), including application of any coverage sublimit or cap. If a coverage issue appears to exist, relevant documents should be transmitted to Board Counsel for issuance of a formal coverage opinion or reservation of rights. All formal coverage opinions and reservations shall be issued by Board Counsel. The underlying Member's MOC shall be reviewed to ensure coverage is appropriate, and potential sublimits identified. Any coverage issue or sublimit application from the underlying MOC shall be noted in the file, and the issue brought to the attention of the Litigation Manager. If it has been determined that there is no coverage for a given loss, the claim status in Juris should be updated to "denied".

    Effective Dates: The Claim Team will refer to the MOC to verify the effective date of available coverage on the date of loss. The appropriate MOC Declarations page, schedule of benefits and applicable endorsements shall be included in the claim file.

    Coverage Confirmation: It is the Claim Team's responsibility to confirm coverage for each and every claim, as well as attach a copy of the applicable declarations page and applicable endorsements to the file.

Primary issues normally considered when addressing coverage:

- Verify that the claim or occurrence took place within the policy period.
- Confirm that the appropriate parties are covered under the policy.
- Verify the vehicle as a covered auto.
- Confirm that the damages alleged are covered under the policy.
- Review exclusions for applicability.
- Identify contracts or leases involved for additional or limits on coverage.

- Promptly notify the client in writing of potential excess exposure and alert the carrier about potential non-covered damages.

***Note**: Sedgwick does not have the authority to disclaim coverage accept or decline a tender of indemnity and defense, or to make any payment of any kind on claims involving questions of coverage without prior written authorization from the member*.

Punitive Damages Allegations: In the event suit is file and punitive damage allegations are set forth in the complaint, any correspondence setting forth a reservation of rights or notification to an individual employee, will be obtained and maintained in the file.

5. **Diaries and Calendaring:** It is essential that all new claims have a diary for future review until a claim is closed. There should be **no** diaries with past due dates older than one (1) week, nor should there be open claims without a diary. The Juris system will create an automatic diary for thirty (30) days upon a claims creation. Additional diaries should be created as needed with a minimum of every ninety (90) calendar days for the life of the claim. Litigated files, which warrant extended diaries, should be reviewed at a minimum of every 45-60 days. (see "Legal Tabs" Section #11 below for additional diary requirements)

Calendaring of Key Dates:

The Claims Team will calendar all MSC, Mediation, Pre-Trial Conferences and Trial dates that are provided to by defense counsel to CARMA. Include as much information pertaining to the calendared dates that can be obtained including, the location, time, and parties expected to be in attendance.

When setting the calendar dates, invite the following people/emails: William Portello, Melissa McDonald, Susan DeNardo, Amanda Griffith, and the SacLitDepartment. Please use the email format below.

For the subject, list both CARMA and the underlying pool. *EX: CARMA (MPA) Trial: Foshee v. Gilroy GL-013783 / C2018-064*

6. **Documentation and Data Entry:** The Claim Team shall ensure that the claim files contain all relevant documentation derived from the investigation and handling:

Documentation:

- Consider the effects of your documentation on anyone who looks at the file or makes decisions when
  you are unavailable.
- Notes should have a level of completeness to fully explain the action taken or basis for determination
  made. Document vital information, but no more information than is minimally required. Be mindful of this rule: "If it's not documented in the file, it didn't happen or doesn't exist."
- Reflect appropriate, timely and detailed documentation relative to all actions taken on the file.
- Reflect supervisory direction.
- Reflect that a coverage review and analysis were performed and documented in the file.
- Are properly cross-referenced to related claims.
- Contain police/fire/medical/expert reports and other pertinent documentation, and if the file does not, an explanation in the file as to why the documentation is not present.
- Documents attached to the file are to be described in a clear and concise manner under the Document Annotation column.
- Contain analysis of information received, personal recommendations and a detailed plan of action.
- All Excess/Reinsurer notification and receipt documents are noted.
- Avoid descriptive or negative comments; refer to all parties in respectful terms.

- Documentation must be clear enough for a reader to evaluate the file information fairly and quickly.

Accurate data entry into Juris is essential to make timely claim decisions and to provide prompt and accurate claims handling. Data entered into Juris affects the accuracy of claim specific identifiers in correspondence and reports used by our clients and ourselves to manage the program. Each claims management system has screens that require accurate data entry throughout the life of the claim to maintain data integrity.

Key Juris system information fields include:

- Main Claim Screen.
- Litigation Screens.
- Miscellaneous Client Fields.
- Detail Screens.
- All aspects of the Investigation screen including key contacts.
- Recovery Opportunity - Investigation and follow up of possible recovery.
- Liability: A clear statement indicating whether the claim will be compromised or denied with rationale to support the position based on negligence and liability.
- Rationale of initial reserve setup, 30-day reserve review, every subsequent reserve change and 90 day reserve reviews.
- Memos of pertinent conversations and activities.
- Summaries of written correspondence and medical reports received.

Information recorded in system fields and diaries are to be accurate so that all claim activity and status is clearly understood in reports run using data in these fields.

Data Entry:

Proper entry of the claim information is necessary for generating a Claim Management Report. The Claim Team will ensure proper coding and entry of the claim are selected for each claim at the time the claim is opened. Proper entry of the claim information is necessary. Part of the Contract/Account/ Unit Hierarchy:

CONTRACT: All CARMA members are under a given contract number.

ACCOUNT: When the claim is opened, the proper underlying CARMA Member Pool will be selected from the drop-down menu.

UNIT: The involved entity (a member of the underlying CARMA Member pool) will be selected.

LOSS CODES: Each claim will be assigned a Type 1 and Type 2 Loss Code. Those codes should be selected based upon the primary allegations of the claim or suit.

Note: *The Unit selected will link to an Entity SIR for the underlying entity.*

The following **Note Type Fields must be completed** in accordance with these instructions:

IT. The "Intake" field should include a concise description of the claims and allegations made by Plaintiff(s) in the claim and complaint, including an overall description of the legal causes of action. This field should use the "LMR Blurb" (LMR = Litigation Management Report) standards for "Allegations," and is analogous to the "Allegations" portion of the Litigation Manager's Report used prior to Juris implementation for CARMA. (see Appendix page #14 for LMR Blurb information and examples)

EV. The "Evaluation" field contains a non-definitive assessment of liability and damages, based upon available information. This field should use the "LMR Blurb" standards for "Liability Analysis," and is analogous to the "Liability Analysis" portion of the Litigation Manager's Report used prior to Juris implementation for CARMA.

U1. The "User Defined Field 1" field should be updated 30 days prior to any regularly scheduled CARMA Board Meeting and should contain the date of the CARMA meeting. This is a client-facing report. Prior entries shall be copy and pasted into the update, so that the most recent entry appears on top. The entry should contain a concise (1-5 sentences) description of recent developments related to the status and management of the case. It is analogous to the dated update field portion of the Litigation Manager's Report used prior to Juris implementation for CARMA. The entry must be formatted as follows, with the month written out or abbreviated as a three-letter identifier:

[Mo] [Day], [Year]:[Double space] Entry Text.

U2. The "User Defined Field 2" field is used by a designated Litigation Manager to document strategic information concerning the management of the claim. This field is for internal use and is not a client-facing field. It would include notation of Litigation Manager direction, items such as the extension of settlement authority from the governing body or the Litigation Manager, items of importance from file review or discussions, or any determination not to report a claim to CARMA reinsurance or excess. If any prospective action is to be undertaken on the contents of the note, a diary must be created for the individual facilitating that action at the time the note is entered.

U3. The "User Defined Field 3" field is used by a designated Litigation Department Analyst to document actions undertaken concerning the management of the claim. This field is for internal use and is not a client-facing field. It would include any notations of requests from the Litigation Analyst to the Claims Examiner, notes from file review or discussions, or any review or action on the file by the Litigation Analyst. If any prospective action is to be undertaken on the contents of the note, a diary must be created for the individual facilitating that action at the time the note is entered.

Other Fields to be used. These fields are for internal use and client access when appropriate:

AP. "Action Plans" should be prepared and noted for any case reserved by the underlying member at or above the underlying member's self-insured retention, any case in which a CARMA reserve is established, and any case in which it is reasonably anticipated that CARMA will be contributing to settlement or verdict.

EX. "Examiner" Any analysis, action required, or summary by the Claims Team should be delineated with a brief description as a header. This field is to be used for routine entries.

LG "Legal" All communications with counsel and status reports should be documented in this field. Where appropriate, emails and reports may be pasted into the note.

NG. "Settlement Negotiation/Authority" Any extension of settlement authority by CARMA should be noted, with the date and amount of authority under this note field. Closed Session documentation should be placed in SIR

RS. "Reserve" Any case on which a CARMA reserve is placed should contain a reserve note and brief explanation for the reserve. The use of a template is not required.

RC. "Review for Closure" Prior to closure, the nature of the disposition should be noted. For example, "underlying member resolved the member for $X. No CARMA pooled funds were used."

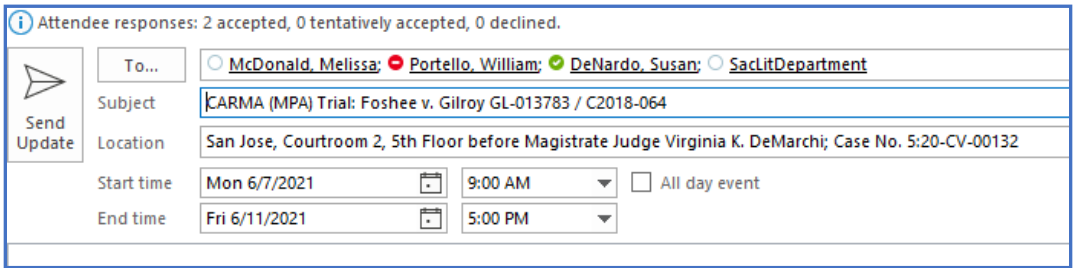
"Summary judgment granted, and case dismissed." "Case resolved for $X. $Y of CARMA pooled funds used for settlement"

TO. "Takeover Claim" If CARMA takes over control of a case from an underlying member, a note and explanation of the reason for the takeover should be documented in the file.

7. **Legal Tabs**: The Claims Team must complete and maintain the **Legal Fields** in Juris as early as practicable. Special attention must be paid to trial and ADR dates. Diaries should be set for 120 Days, 90 days, and 60 Days prior to trial to ensure that pre-trial reporting obligations are observed. Those dates are also utilized to ensure cases are presented to the appropriate governing body a sufficient time in advance to ensure necessary authority is obtained where appropriate. Trial Dates, Mediation Dates, and Settlement Conference dates should also be placed in the SacLit@Sedgwick.com Outlook calendar when received. For trials calendared in Outlook, the first day should be identified with the start time, 5:00 pm end time, a description of the case, pool, and trial location. Subsequent days of trial shall be identified as "all-day events." The event should be shared with the Litigation Manager and Litigation Analyst assigned to the matter.

Calendaring Litigation Dates via Email:

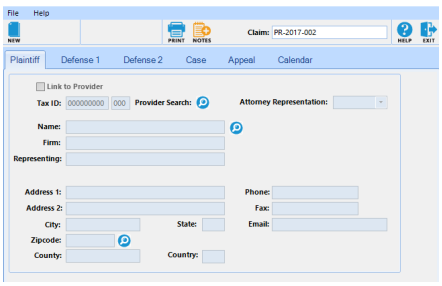
- Subject: CARMA (Underlying Pool) Event Type: Case Name, CARMA Claim Number, Underlying Pool
  Claim Number
  - Ex.: CARMA BCJPIA Mediation: Doe v. Piedmont C166548227 / 0123BC2021
- Location: List the Court Location or Zoom (if remote), Mediator/Judge's name and the case number
  - Ex: Stanislaus County Superior Court; Magistrate Judge Jacqueline Scott Smith CV-19-000123
- Date and Time: – Select the correct date and time.
- In the body, add any additional information to help the Litigation Team, address of the court, zoom details, etc. Also, if there is any information that is missing, note it in the body. (i.e. zoom details to be provided once received, etc.)
- Next select invite attendees and the following people should be added regardless of the underlying pool: SacLitDepartment, Will Portello, Susan DeNardo, Melissa McDonald and, Amanda Griffith.
- Send the invite.

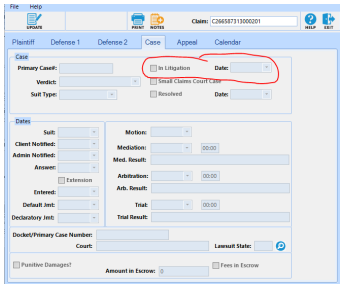


Entering Legal Case Information:

Please complete as many fields as possible as applicable information becomes available.

Go to: Specific Claim > Options Menu > Legal > Legal Screen will display.





Note: For key analytical reports, the CASE tab must be updated as information becomes known. Under the CASE section, when a member is **officially served with a complaint**, check the "In Litigation" check box and enter the date of service in the date space provided next to the "In Litigation check box." The "suit" date under the DATES section represents when the complaint was filed with the applicable court.

8. **Reserves**: Reserves should be established as reflecting the most probable outcome based upon the facts obtained, analysis of liability and covered damages. It is important that reserves adequately reflect what will ultimately be paid on a claim. Set the initial reserves as soon as possible **within the first five (5) business days**. Reserves should be evaluated at every claim review. Plaintiff's attorney's fees on civil rights cases, as well as joint and several liability, should be considered during the reserving analysis. For cases anticipated not to implicate the CARMA retention, a zero ($0) reserve may be placed on the claim. For claims reasonably anticipated to implicate the CARMA retained limit, the claim should be reserved at full value from the CARMA layer upward, uncapped by any CARMA limits or other excess. (See CARMA Liability Reserving Philosophy – Addendum Page #12).

   For events with multiple claimants, the first claimant entry will be the unofficial "lead," as Juris system cannot flag a lead claimant. The system will show multiple claimants with sequential numbering at the end of the assigned claim number. The first claimant will have a "01" assigned.

   Reserves must be revised (up or down) within thirty (30) days of receipt of new information, which changes the settlement value of the claim. Every effort must be made to avoid unnecessary stair-stepping of reserves. All reserve changes will have an explanation provided in the notes section.

   The most common types of information or changes that may require adjustment of reserves include:

   - Bodily Injury - notice of change in medical condition.
   - Litigation developments on a claim file.
   - Re-opening of claim after closure.

   Some key factors to consider when calculating reserves include:

   - Life expectancy
   - Nature and extent of the injury
   - Surgery
   - Permanency
   - Indemnity, PIP or MedPay
   - Future Medical
   - Liability
   - Expense budget
   - Occupation
   - Pain and Suffering
   - Offsets, Medical
   - Future medical
   - Apportionment
   - Loss of income
   - Miscellaneous expenses
   - Punitive or exemplary damages

9. **CARMA Inbox and Emails:** The Claim Team shall ensure that the CARMA inbox documentation:

   - All documents and correspondences received for CARMA will be saved in SIR. Use the SIR training document provided for how to save documents into SIR or for how to send an email to have it uploaded to SIR.

- Once a document or correspondence is added to SIR, move email to the "Emails Processed" subfolder.
- **DO NOT DELETE ANY CLAIM RELATED EMAIL – ONLY MOVE EMAILS THAT HAVE BEEN PROCESSED INTO SIR.**
- When responding to emails from the CARMA in inbox, make sure the "CARMA email" is listed in the "FROM" section.
- When sending an email, whether from your email or the CARMA email, it goes to your personal sent box. Please make sure that you CC the CARMA email on all correspondences, even when sending from the CARMA email for documentation reasons. When your email comes into the inbox you can move it to the appropriate folder.

CARMA Emails:

All CARMA-created correspondences should be sent to the following people:
MPA – Erwin Chang and Assigned Adjuster
BCJPIA – LaTonya Lavergne and Assigned Adjuster
CSJVRMA – Ken Wilkerson
MBASIA – Lena Bowen
PLAN – the Assigned Adjuster
VCJPA the Assigned Adjuster

Make sure when you are creating CARMA correspondences:
Amanda Griffith is listed as the point of contact for CARMA
Direct everyone to have the CARMA inbox email included on all CARMA-related correspondences: CARMALitigation@sedgwick.com

Suggested signatures for CARMA emailing:

CARMA – Report Not Needed:

Good morning Jeff,

Please find the attached correspondence regarding the Stachl matter.
Thank you,

CARMA Ack Letter

SEND TO ADJ, CLAIM MANAGER
SUBJECT: Smith (last name) v. Pittsburg(city) – C2019-001(our claim#) / GL-01234(file#) – CARMA
Acknowledgment Letter

Good afternoon Jeff,

Attached, please find a letter from CARMA acknowledging receipt of this claim.
Please ensure to include the CARMA claim number and the following people/emails on all communications related to this file:

Will Portello at William.Portello@sedgwick.com, Amanda Griffith at Amanda.Griffith@sedgwick and, CARMALitigation@sedgwick.com

Thank you,

CARMA Excess Reporting Form to Excess:

SUBJECT: Robinson v. Antioch – C2019-092/ GL-013684– CARMA Initial Excess Reporting Form

Good morning,

Attached, please find CARMA's initial excess reporting form for the above referenced claim. Please ensure to include the CARMA claim number on all communications related to this file as well as your claim number if you decide to open a claim.

Thank you,

CARMA Excess Directive Letter to Underlying Pool:

SUBJECT: Elkins v. Novato C2021-011 (CARMA) / 0307BC2021
Good afternoon,

Please be advised the above referenced matter was reported to our excess carriers.
Please see the attached excess insurance information. We kindly request for you to have Defense Counsel include them on all communications regarding the above referenced matter going forward.
We also request that you notify them and CARMA of any changes made in respect to reserves.
Thank you in advance,

10. **California Government Code Tort Claim Handling Instructions:** For Claims Team staff that handle General Liability (GL), Auto Physical Damage (APD), and Property Damage (PD) claims for underlying CARMA pooling members, please see the Claims Procedures Manual "link" in the Addendum Section on page #20 below. Topics include:

CHECKLIST AND REFERENCE GUIDE – CLAIMS REQUIREMENTS

I. CLAIMS REQUIREMENTS
II. PROCEDURES UPON RECEIPT OF CLAIM/ NOTICE OF INCIDENT
III. PROCEDURES FOR PROCESSING AN APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM
IV. PROCEDURES UPON RECEIPT OF A PETITION FOR RELIEF FROM THE CLAIM FILING STATUTE
V. PROOF OF MAILING OF NOTICES
VI. PROCEDURES UPON RECEIPT OF A LAWSUIT

11. **Settlement Check Issuance:** Settlement Checks are not to be released to the payee(s) until the executed release and dismissal have been received. When a payment is issued from Juris:

- Prior to a payment being issued, an email notification should be sent to the CARMA finance and litigation management teams:
  - Min Su, Finance Manager – min.su@sedgwick.com
  - Rob Kramer, Executive Director – rob.kramer@sedgwick.com
  - Amanda Griffith, Litigation Manager – amanda.griffith@sedgwick.com

  This will allow the accounting team to ensure that sufficient funds are available to pay the claims.
- Checks are to be issued out of the Trust Account.
- The checks are to have Rob Kramer's facsimile signature.

12. **File Closure:** Claims currently open in CARMA may develop facts that would suggest and/or indicate the claim may be closed. Certain situations include, but are not limited to:

- Notification of a settlement within the underlying layer either by the underlying adjuster or defense counsel.

- Notification of a dismissal of the member by defense counsel. An OSC re: dismissal hearing does not meet this requirement. The file-endorsed dismissal should be placed in SIR prior to closure.

- The claim is being closed at the underlying pool; or the underlying pool requests withdrawal of CARMA claim in writing.

- No tort claim was received by the underlying pool within six (6) months of the date of loss and the underlying pool has confirmed it will be closing its file. The underlying pool will be instructed that CARMA is closing its file and, to re-report if a late claim is presented. Section 1983 and Inverse Condemnation matters are excluded from this closure criteria due to the absence of a claim submission requirement. Such files shall be closed only upon notification by the underlying member of file closure at their level, or by authorization of the Litigation Manager.

- No complaint was filed within six (6) months from the date that written notice of a rejection was personally delivered and/or placed in the mail to the claimant. Prior to closing, CARMA will confirm the limitations period with the underlying pool and that the underlying pool will also be closing its file. The underlying pool will be instructed that CARMA will be closing its file. Section 1983 and Inverse Condemnation matters are excluded from this closure criteria due to the absence of a claim submission requirement. Such files shall be closed only upon notification by the underlying member of file closure at their level, or by authorization of the Litigation Manager.

- 75 days passed entry of judgment and no appeal has been filed. A claim will remain open during the duration of any appeal.

- Direction from a Litigation Manager.

- Duplication of an existing claim.

- Claim opened in error.

Questions regarding claim closure should be directed to the handling Litigation Manager for a timely response.

Once a determination is made that the file should be closed, an RC Note should be created summarizing the disposition and reason for disposition.

Upon completion of the RC field, a Notification of Case Closure shall be sent to the Member, all reinsurers and excess carriers applicable to the case. A SMART document is available for such notifications.

Prior to closing a file in the system, please consider using the Juris Closing Checklist. The Closing Checklist screen lists tasks to be completed before you close liability claim, ensuring that important claim information is properly entered. A claim can still be closed without checking each box on the checklist screen. To view the checklist:

Accessing the Screen
To open the screen, click the Claim screen's **View** menu and select **Closing Checklist**.

Other things to consider:

- Settlement is full and final.
- Receipt of appropriate signed releases.
- All applicable jurisdictional forms have been filed.
- Receipt of dismissal order from the court.
- All known medical billing (PIP-Med Pay–No Fault) expenses have been processed, documented, and paid.
- No open diaries requiring further action.
- Verify coding is accurate (nature, result, body part, detail screens, miscellaneous client specific fields etc.)
- Any subrogation recovery opportunities have been appropriately investigated, resolved and released.
- Carrier has been notified of excess, if criteria are met.
- Excess reimbursements due have been requested, received and recorded.
- Any liens/Medicare set-aside issues have been resolved.
- If the claim involves a Medicare beneficiary, confirm all Medicare related fields are completed and accurate.

13. **Addendum**

#1- LMR Standard Blurbs

#2- Claims Procedures Manual - California Government Code

Addendum #1

LMR STANDARD BLURBS

Generally, with the exception of the introductory sentence (e.g., This matter arises . . .) and reference to allegations in the claim/complaint (e.g., The complaint alleges . . .), for each paragraph use past tense and keep tenses consistent from sentence to sentence. Do not shift tenses between sentences unless there is a demonstrated time change. Implicitly, reference to documents such as an incident report, reflect a time change (e.g., According the incident report, the driver stopped . . .) These are general guidelines, if you have questions, you should refer to a writing reference guide.

When using the blurbs – use the applicable information – claim/complaint; complainant/plaintiff. If the matter is in the complaint stage when first reported, update when/if status changes.
There is no need to include information that is in the data box in the summary portion of the report (e.g., A motion for summary judgment is scheduled for ____ or a complaint was filed on ____). The only exception is to highlight age in complainant/plaintiff in narrative.

TO DOS:

We requested an updated case analysis and litigation budget.

ALLEGATION SECTION (this section is for claimant's/plaintiff's allegations only; there is no need to reference "alleged" it is a given):

Dangerous Condition of Public Property Theory of Liability:

This matter arises out of a sole motorcycle (motor vehicle) into a _____ accident.

This matter arises out of a serious non-employee auto versus __-year-old pedestrian accident.

This matter arises out of a non-employee involved motor vehicle accident at a city intersection.).

This matter arises out of a fatal non-employee driven head-on multi-vehicle collision.

This matter arises out of a trip and fall of a ___-year old male/female over an uneven ____ ,
which was displaced by tree roots (or whatever).

This matter arises out of a trip and fall of a _ _-year-old plaintiff into an uncovered drain/water valve box located on private property (or in a city park or whatever).

This matter arises out of water intrusion into claimants'/plaintiffs' home that was purportedly caused by . . .

This matter arises out of property damage to a sewer lateral caused by invasive city tree roots.

By way of the claim/complaint, complainants/plaintiffs allege a dangerous condition of public property theory of liability against the city for failing to . . .

This matter arises out of an equitable indemnity claim by a non-employee driver who was involved in a motor vehicle versus ___-year-old pedestrian accident at a controlled intersection

Theory of Liability:

This matter arises out of a fatal employee driven motor vehicle accident.

This matter arises out of a sole motorcycle (motor vehicle) into a _____ accident subsequent to negligent high-speed pursuit.

This matter arises out of a non-officer involved motor vehicle accident caused by an adverse driver who was attempting to evade police (i.e., negligent pursuit).

This matter arises out of an employee involved motor vehicle accident caused by an adverse driver who was attempting to evade police (i.e., negligent pursuit).

This matter arises out of the alleged breach of an unspecified mandatory duty. After being arrested for driving under the influence, claimant's wife died while in police custody. (**NOTE:** This should only be used for arguably unactionable negligence that does not fall into any other category).

This matter arises out of a non-employee involved motor vehicle accident. According to the claim, a city officer failed to conduct the required DUI testing of the adverse driver, released him, and he then later collided with claimant.

Civil Rights Violation Theory of Liability:

This matter arises out of the excessive use of force by uniformed city police officers during plaintiff's arrest.

This matter arises out of the fatal use of excessive force by uniformed city police officers during plaintiff's arrest.

This matter arises out of the excessive use of force by uniformed city police officers in procuring plaintiff's false arrest.

This matter arises out of the false arrest of claimant/plaintiff by city police.

This matter arises out of an officer involved fatal shooting of claimant's (father, mother . . .).

This matter arises out the non-fatal shooting of plaintiff resulting in paraplegia.

This matter arises out of a non-fatal shooting subsequent to . . . .

This matter arises out of the alleged unlawful entry by city police onto claimant's private property and illegal seizure of his personal property.

This matter arises out of the out of the alleged unlawful entry by city police onto private property.

This matter arises out of a non-fatal shooting involving by city police.

This matter arises out of the alleged wrongful death of a police informant by cellmates after . . .

This matter arises out of the alleged infringement of plaintiff's First Amendment rights by the city council.

Injuries:

As a result of the incident, plaintiff/claimant sustained . . .

The pedestrian succumbed to her injuries at the scene.

The current medical specials for plaintiff are approximately $200,000 billed and $150,000 paid

Allegations in Complaint:

By way of the claim/complaint, complainants/plaintiffs allege a dangerous condition of public property theory of liability against the city for failure to . . .

The complaint, largely based on the alleged force used during the incident, sets forth a potpourri of claims, including but not limited to, federal and state civil rights violations, assault, battery and negligence.

By way of the complaint, the plaintiffs allege causes of action for inverse condemnation, nuisance and trespass.

By way of the complaint, plaintiff alleges federal and state civil rights violations theories of liability.

The complaint, which is largely based on the alleged force used during the incident, sets forth a variety of claims, including but not limited to, federal and state civil rights violations, assault, battery and negligence.

By way of the complaint, the plaintiffs allege causes of action for employee negligence.

LIABILITY SECTION (This section is for our analysis of the City's defense – the analysis should NEVER be in absolutes (e.g., the city has no liability). Moreover, unless the matter is on appeal, the analysis should always start out with "Based on the information we have to date . . . This section should also be updated – "Investigation is ongoing" may be acceptable for a New Case, but is an unacceptable entry when a matter is scheduled for mediation or even a year after the initial analysis – unless a complaint has not been served):

Based on the information we have to date, liability is questionable, as . . . .

Based upon the information we have to date, liability is questionable in this matter, as the city did not own, maintain or control . . .

Based on the facts we have to date, this is a matter of disputed liability. Specifically, while there is significant uplift, the condition was open and obvious.

Based on the information we have to date, liability is questionable, a there was no dangerous condition where the accident occurred (there should be follow up information as to why not dangerous). Even if a jury considers the area to be dangerous, the City had no notice of the dangerous condition (no similar accidents).

Based on the information we have to date; this is a matter of disputed liability. According to the incident report, the adverse driver left the roadway and struck the pedestrian as she walked in the adjacent shoulder of a city roadway. (OR The adverse driver failed to yield the right of way to a pedestrian in a marked crosswalk, in a signalized intersection, just ___ yards from the nearest school). **NOTE:** REFER TO VIDEO and POLICE REPORTS to understand the how the accident happened – you should not just rely on TPA accounts – things that could be important for the analysis – how the intersection is controlled (signalized, stop signs – placement of the same), time of day, speed and speed limit, number of lanes, any line of sight issues (e.g., curves in road, bushes, trees, etc.).

Based upon the information we have to date, liability is questionable in this matter, as the actions of the officers were appropriate under the circumstances and followed standard police procedures and applicable training; and, are therefore entitled qualified immunity. **NOTE:** REFER TO ANY VIDEO, POLICE and IA REPORTS to say why you believe this – things that may be important – how did the officers come into contact with the complainant/suspect/plaintiff/decedent, were there any other agencies involved and if so, who was in charge (i.e., joint task force), was a warrant involved, brief chronology of contact – especially if force is used – how much time between contact and force, description of reasonable fear for life, even if suspect had a criminal history, what officers knew at the time of the incident is the only thing relevant to their action, was the officer in uniform, was the officer driving a marked police car, for mistaken identity – what information did city have and how did it match up with who was arrested. Thus, the officer should be entitled to qualified immunity.

Based on the facts we have to date, this is a matter of probable liability. The nature and extent of the injuries are very much in dispute.

Based upon the information we have to date; this is a matter of potential liability. At some point, the city identified the sidewalk as having issues and applied hazard paint. At the time of the incident, the paint had faded. The city was unable to provide a remediation plan. Although the city took action by painting the sidewalk, it could be argued that the city should have gone back and repaired the sidewalk or refreshed the paint. Since the raised portion of sidewalk was approximately two (2) inches, the defect was not trivial, as a matter of law. Based on the above, the jury could find in favor of the plaintiff.

Based on the facts we have to date; this is a matter of potential liability. There will likely be a significant question of fact as to whether the number of ASP strikes constituted necessary control techniques or excessive force.

According the incident report, the claimant was cited for making an unsafe turning in violation of the Vehicle Code.

DEVELOPMENTS/ RECOMMENDATIONS:

Aggressively oppose the application to file a late claim.

Strategize regarding serving an early CCP 998/Rule 68 offer. Obtain CCTV in the area.

Obtain the following: 1) documentation regarding the approval of the design plan for the roadway; 2) accident history for the area; and 3) any CCTV footage in the area.

Obtain accident report and accident history report for the intersection.

Obtain recorded witness statements and send plaintiff's counsel a threatening letter advising him of the facts and that if he pursues a frivolous lawsuit against the City, we will file 128.7 motion against his client and firm and seek all available sanctions against them.

Send Claimants' counsel a strongly worded letter advising them of the following should they file a frivolous lawsuit (or continue to maintain a frivolous lawsuit) against the City: 1) our intent to file a 128.7 motion against plaintiffs and their attorneys seeking all available sanctions against them for filing a frivolous lawsuit; 2) our intent to file a motion for summary judgment, to be heard simultaneously with the 128.7 motion; and 3) our intent, when we prevail at summary judgment, to seek an award of attorney's fees pursuant to CCP §1038 and pursue collection, including recovery against any award plaintiffs receive against any other defendant.

Determine the following: 1) whether there is any bodycam footage from any involved entity and if not, why; 2) whether all entities fired shots and if not, why; and 3) whether any of the involved officers have any IA issues.

Determine whether the city had a sidewalk ordinance.

Recommend Closing

Our review of the state and federal courts' dockets failed to uncover any civil filings by the claimant. Accordingly, we will close our file and not report on this matter again.

The matter was summarily adjudicated. We recommend AIMS close this file within 30 day of receipt of dismissal.

The matter settled for $_____. We recommend AIMS decrease the reserves according to the settlement, make final payments and closing the file within 45 days of receipt of the executed settlement documents. Accordingly, we will close our file and not report on this matter again.

Addendum #2

CLAIMS PROCEDURES MANUAL - CALIFORNIA GOVERNMENT CODE

To find manual: Sedgwick Property Liability Claims Sharepoint:

https://sedgwickclaims.sharepoint.com/teams/PropertyLiabilityClaims

Property & Liability Claims - FINAL Claims Procedures Manual - Revised (LMN).pdf - All Documents (sharepoint.com)