



QUINLEY RISK ASSOCIATES, LLC

CLAIMS COACH BLOG

by Kevin R. Quinley, CPCU, AIC, ARM

January 2019 – Panel Counsel Fee Increases

It's that time of year. The Christmas trees are down. The holiday decorations have been boxed up and put back in storage. The credit card bills from all those purchases are coming due. And, you receive letters from your network of law firms informing you of their rate increases for 2019. How should you respond?

Let's look at various approaches to law firm notifications of fee increases. This is the time of year when law firms will contact clients or insurance companies informing them of the new fee structure for the forthcoming year.

When skill set that insurance claim professionals are expected to have involves litigation management. Part of this includes cost management. Note I said cost management, not necessarily cost reduction. Cost management is often mistakenly equated for cutting bills indiscriminately, shortchanging defense counsel, unreasonable Bill audits or arbitrary percentage reductions in legal spend.

How do you respond when a law firm notifies you of its higher rates for the forthcoming year? Here are a couple of approaches

first, point out the fact that competing firms in the same locale are not seeking rate increases. Make sure that that is true. Let the firm know that competing law firms are holding the line in terms of rates.

Second, sensitize counsel that your organization also faces challenges to contain legal and claims costs. The same overhead cost pressures the law firms face – – rent, computers, payroll, – – exist within insurance companies.

Third, you can propose an alternate fee schedule that incorporates increases but increases that are lower than the amounts proposed by the law firm.

Fourth, you can ask for a multiyear lock-in for those rates, perhaps a 2 to 3 year lock-in.

Fifth, you can point out to the law firm that is perfectly free to raise its rates, but it may make them cost prohibitive juxtaposed with the hourly fees of other firms in the area.



QUINLEY RISK ASSOCIATES, LLC

CLAIMS COACH BLOG

by Kevin R. Quinley, CPCU, AIC, ARM

Six, you can grant the rate increase but also, in a friendly and constructive way, challenge the law firm to demonstrate ways to add value to the firm's handling of cases. In other words, match the higher rates with a demonstrably higher-level of responsive and value added service.

On a concrete basis, what would such value added services include? Once upon a time, I worked for a specialty insurance company that provided coverage to medical device manufacturers for general and products liability. As examples of value added services our panel law firms could provide, we recommended the following as examples:

provide a docket monitoring service to detect any time a policyholder company in the law firm's area got sued and provide an early warning system to the carrier.

Identify prospective insureds in the law firms region who are not members of our coverage program and recommend our coverage to them.

Volunteer to speak at a loss prevention or loss control seminar offered by the carrier.

Develop a newsletter or executive briefing on local, state developments in the law with regard to liability, negligence and bad faith.

Recommend good expert witnesses to the carrier to incorporate into a database.

Institute a customer service survey the sin to the insurance carrier at the close of each case.

Install a toll-free number for phone calls.

This is not an exhaustive list. It will not necessarily apply to every kind of insurance company or claim department. It is offered simply to stimulate further thinking as to how an insurance company can constructively challenge law firms seeking increased fees to provide enhanced service.

One final thought. While cost management is important, it is also important not to go crazy. Hourly rate is only one part of the legal spend management component. The other part is the law firms in the attorneys efficiency in executing tasks. A law firm could always lowball its rate and "arrange" to take more time to prepare a motion, work up a brief or perform some other task.



QUINLEY RISK ASSOCIATES, LLC

CLAIMS COACH BLOG

by Kevin R. Quinley, CPCU, AIC, ARM

There's no point in ratcheting down the hourly rate only to have law firm in efficiency compensate for the low rate by taking additional, unnecessary time for specific legal tasks.

Also, sometimes things are cheaper for a reason. You want to avoid a situation where you are perceived as a unprofitable or hard to work with client because of a myopia over cost management. You want to be able to attract the best and brightest legal talent within the law firm. You don't do that by obsessing over hourly rate or creating the impression with a law firm that your cases come from the "low rent zone" of case assignments. There's a balance and a happy medium here between paying Cadillac prices and expecting Cadillac service at a Yugo price.

Managing legal spend is a good thing, as Martha Stewart would say. However, even good things can be taken to extremes.

Use these tactics and ideas to address in the year or start of year notices from your panel counsel with regard to fee increases.