



**President**  
Ms. Rachel Ancheta  
City of Dixon

**Vice President**  
Mr. Spencer Morrison  
City of Yuba City

**Treasurer**  
Ms. Jen Lee  
City of Rio Vista

**Secretary**  
Ms. Jennifer Styczynski  
City of Marysville

## **NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND CLAIMS COMMITTEE MEETING AGENDA**

**DATE/TIME:** Thursday, September 19, 2024, at 9:00 a.m.

**LOCATION:** Zoom Teleconference  
Call-in Number: (669)900-6833  
Meeting ID: 978 3383 0501  
Passcode: 263867

**A – Action**  
**I – Information**

**1 – Attached**  
**2 – Hand Out**  
**3 – Separate Cover**  
**4 – Verbal**

**Zoom Link:**

<https://alliantinsurance.zoom.us/j/97833830501?pwd=mVGFpD4fnDfZ01MaD2mbmiFGPyFFG1.1>

This Meeting Agenda shall be posted at the address of the teleconference locations shown below with access for the public via phone/speaker phone.

1. City of Auburn- 1225 Lincoln Way, Auburn, CA 95603
2. City of Colusa- 425 Webster St. Colusa, CA 95932
3. City of Rocklin- 3970 Rocklin Rd Rocklin, CA 95677
4. Town of Paradise- 5555 Skyway Paradise, CA 95969
5. City of Yuba City – 1201 Civic Center Boulevard Yuba City, CA 95993

### **MISSION STATEMENT**

*The Northern California Cities Self Insurance Fund, or NCCSIF, is an association of municipalities joined to protect member resources by stabilizing risk costs in a reliable, economical and beneficial manner while providing members with broad coverage and quality services in risk management and claims management.*

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PUBLIC COMMENTS**

*This time is reserved for members of the public to address the Committee on matters pertaining to NCCSIF that are of interest to them.*

pg. 4 **D. CONSENT CALENDAR**

**A 1**

*All matters listed under the consent calendar are considered routine with no separate discussion necessary. Any member of the public or the Committee may request any item to be considered separately.*

- pg. 5            1. Claims Committee Meeting Minutes - May 23, 2024  
pg. 7            2. Claims Committee Meeting Minutes- June 17, 2024  
pg. 9            3. Claims Committee Meeting Minutes- July 16, 2024



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City of Marysville

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4. PRISM Workers' Compensation Claims Audit June 2024

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**E. CLOSED SESSION TO DISCUSS PENDING CLAIMS**

**A 3**

(Per Governmental Code Section 54956.95)

\*REQUESTING AUTHORITY

Workers' Compensation:

1. 1696610135 -- 2196610110 v. City of Red Bluff\*
2. 0696610060 v. City of Red Bluff \*
3. 2296610317 v. City of Rocklin\*
4. 2296610316 v. City of Oroville\*

Liability:

1. 4A2309DFMCX-0001 v. City of Corning\*
2. Albanese v. City of Oroville\*

**F. REPORT FROM CLOSED SESSION**

**I 4**

*The Committee will announce any reportable action taken in closed session.*

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**G. ALC Workers' Compensation Auditing Services Proposal**

**A 1**

*The Committee will be asked to recommend approval of the ALC Workers' Compensation Auditing Services Proposal.*

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**H. Liability Legal Counsel List Update**

**A 1**

*The Committee will be asked to recommend approval of revising the NCCSIF Liability Defense Attorney List to include Tony Sain of Lewis, Brisbois, Bisgaard and Smith LLP and revise current rates.*

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**I. ROUND TABLE DISCUSSION**

**I 4**

*The floor will be open to Committee members for any topics or ideas that members would like to address.*

**J. ADJOURNMENT**

**UPCOMING MEETINGS**

Board of Directors Meeting - October 17, 2024

Risk Management Committee Meeting – October 17, 2024

Law Enforcement Training Day – November 6, 2024

Police Risk Management Committee Meeting - November 13, 2024



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City of Marysville

*Per Government Code 54954.2, persons requesting disability related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact Jenna Wirkner at Alliant Insurance Services at (916) 643-2741.*

*The Agenda packet will be posted on the NCCSIF website at [www.nccsif.org](http://www.nccsif.org). Documents and material relating to an open session agenda item that are provided to the NCCSIF Executive Committee less than 72 hours prior to a regular meeting will be available for public inspection and copying at 2180 Harvard Street, Suite 460, Sacramento, CA 95815.*

*Access to some buildings and offices may require routine provisions of identification to building security. However, NCCSIF does not require any member of the public to register his or her name or to provide other information, as a condition to attendance at any public meeting and will not inquire of building security concerning information so provided. See Government Code section 54953.3.*



BACK TO AGENDA

**Northern California Cities Self Insurance Fund  
Claims Committee Meeting  
September 19, 2024**

**Agenda Item D.**

**CONSENT CALENDAR**

**ACTION ITEM**

**ISSUE:** The Committee reviews items on the Consent Calendar, and if any item requires clarification or discussion a Member should ask that it be removed for separate action. The Committee should then consider action to approve the Consent Calendar excluding those items removed. Any items removed from the Consent Calendar will be placed later on the agenda in an order determined by the Chair.

**RECOMMENDATION:** Adoption of the Consent Calendar after review by the Committee.

**FISCAL IMPACT:** None.

**BACKGROUND:** Routine items that generally do not require discussion are regularly placed on the Consent Calendar for approval.

**ATTACHMENT(S):**

1. Claims Committee Meeting Minutes - May 25, 2024
2. Claims Committee Special Meeting Minutes – June 17, 2024
3. Claims Committee Special Meeting Minutes – July 16, 2024
4. PRISM Workers' Compensation Claims Audit June 2024





**MINUTES OF THE  
NCCSIF CLAIMS COMMITTEE MEETING  
ZOOM TELECONFERENCE  
May 23, 2024**

**COMMITTEE MEMBERS PRESENT**

Jen Leal, City of Auburn  
Rachel Ancheta, City of Dixon  
Melissa Rojas, City of Elk Grove  
Spencer Morrison, City of Yuba City

**COMMITTEE MEMBERS ABSENT**

Allison Garcia, City of Folsom

**CONSULTANTS & GUESTS**

Marcus Beverly, Alliant Insurance Services  
Evan Washburn, Alliant Insurance Services  
Stacey Bean, LWP  
Dori Zumwalt, Sedgwick

Jenna Wirkner, Alliant Insurance Services  
Brian Davis, Sedgwick  
Dori Zumwalt, Sedgwick  
Kristin Echeverria, Sedgwick

**A. CALL TO ORDER**

Chair Spencer Morrison called the meeting to order at 9:03a.m. A roll call was made, and the above-mentioned members were present constituting a quorum.

**B. ROLL CALL**

**C. PUBLIC COMMENTS**

**D. CONSENT CALENDAR**

1. Claims Committee Meeting Minutes – March 28, 2024

**A motion was made to approve the Consent Calendar as presented.**

**Motion:** Rachel Ancheta

**Second:** Melissa Rojas

**Motion Carried**

**Ayes:** Leal, Ancheta, Rojas, Morrison

**Nays:** None



## **E. CLOSED SESSION**

Pursuant to Government Code Section 54956.95, the Committee recessed to closed session at 9 :08 a.m. to discuss the following claims

### Liability:

1. Long v. City of Folsom\*
2. Raiter v. City of Oroville\*
3. Mandeville v. City of Rocklin\*

### Workers Compensation:

1. 2196610394 & 1896610134 v. City of Folsom\*
2. 2096610038 v. City of Placerville\*

## **F. REPORT FROM CLOSED SESSION**

The meeting resumed to open session at 9:35a.m.

Chair Morrison indicated no reportable action was taken as direction was given to the Program and Claims Administrators for the claims referenced above.

## **H. ROUND TABLE DISCUSSION**

### **I. ADJOURNMENT**

The meeting was adjourned at 9:42a.m.

Respectfully Submitted,

\_\_\_\_\_  
Jennifer Styczynski, Secretary

\_\_\_\_\_  
Date



**MINUTES OF THE  
NCCSIF CLAIMS COMMITTEE MEETING  
ZOOM TELECONFERENCE  
June 17, 2024**

**COMMITTEE MEMBERS PRESENT**

Jen Leal, City of Auburn  
Rachel Ancheta, City of Dixon  
Melissa Rojas, City of Elk Grove  
Allison Garcia, City of Folsom  
Spencer Morrison, City of Yuba City

**CONSULTANTS & GUESTS**

Marcus Beverly, Alliant Insurance Services  
Evan Washburn, Alliant Insurance Services  
Amber Davis, LWP

Jenna Wirkner, Alliant Insurance Services  
Brian Davis, Sedgwick  
Kristin Echeverria, Sedgwick

**A. CALL TO ORDER**

Chair Spencer Morrison called the meeting to order at 9:03a.m. A roll call was made, and the above-mentioned members were present constituting a quorum.

**B. ROLL CALL**

**C. PUBLIC COMMENTS**

**D. CLOSED SESSION**

Pursuant to Government Code Section 54956.95, the Committee recessed to closed session at 9 :08 a.m. to discuss the following claims

Liability:

1. Morris v. City of Folsom\*
2. Raiter v. City of Oroville

Workers Compensation:

2296610652 v. City of Elk Grove\*

**F. REPORT FROM CLOSED SESSION**

The meeting resumed to open session at 9:35a.m.

Chair Morrison indicated no reportable action was taken as direction was given to the Program and Claims Administrators for the claims referenced above.



**H. ROUND TABLE DISCUSSION**

**I. ADJOURNMENT**

The meeting was adjourned at 1:29p.m.

Respectfully Submitted,

\_\_\_\_\_  
Jennifer Styczynski, Secretary

\_\_\_\_\_  
Date



**NCCSIF SPECIAL CLAIMS COMMITTEE MEETING  
ZOOM TELECONFERENCE  
June 17, 2024**

**COMMITTEE MEMBERS PRESENT**

Ishrat Aziz-Khan, City of Colusa  
Elizabeth Ehrenstrom, City of Oroville  
Tameka Usher, City of Rocklin  
Crystal Peters, Town of Paradise  
Spencer Morrison, City of Yuba City

**COMMITTEE MEMBERS ABSENT**

Jen Leal, City of Auburn  
Jennifer Styczynski, City of Marysville

**CONSULTANTS & GUESTS**

Marcus Beverly, Alliant Insurance Services  
Stacey Bean, LWP  
Dori Zumwalt, Sedgwick

Jenna Wirkner, Alliant Insurance Services  
Brian Davis, Sedgwick

**A. CALL TO ORDER**

Chair Spencer Morrison called the meeting to order at 1:31p.m. A roll call was made, and the above-mentioned members were present constituting a quorum.

**B. ROLL CALL**

**C. PUBLIC COMMENTS**

**D. CLOSED SESSION**

Pursuant to Government Code Section 54956.95, the Committee recessed to closed session at 9 :08 a.m. to discuss the following claims

Liability:

4A2203FTVY5-0001 v. City of Oroville\*

*Dori Zumwalt joined the call at 1:41p.m.*

Workers Compensation:

1. 2296610051 v. City of Oroville\*
2. 2296610313 & 2296610314 v. City of Oroville\*



## **F. REPORT FROM CLOSED SESSION**

The meeting resumed to open session at 9:35a.m.

Chair Morrison indicated no reportable action was taken as direction was given to the Program and Claims Administrators for the claims referenced above.

## **G. ROUND TABLE DISCUSSION**

## **H. ADJOURNMENT**

The meeting was adjourned at 2:18p.m.

Respectfully Submitted,

\_\_\_\_\_  
Jennifer Styczynski, Secretary

\_\_\_\_\_  
Date



***NORTH BAY ASSOCIATES***

**WORKERS' COMPENSATION**

**AUDITORS • CONSULTANTS**

June 2024

Workers' Compensation Claims Audit

PRISM, NORTHERN CALIFORNIA CITIES  
SELF INSURANCE FUND/ALLIANT INSURANCE

ADMINISTERED BY

**LWP CLAIMS SOLUTIONS, INC.**

PO Box 232 Auburn, CA 95604 • **PHONE (530) 269-3473**

e-mail [alan.fleming@northbayassociates.com](mailto:alan.fleming@northbayassociates.com)



# Workers Compensation Claims Audit

June 2024

## PRISM, NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND/ALLIANT INSURANCE

ADMINISTERED BY

LWP CLAIMS SOLUTIONS, INC.

**CONFIDENTIAL**

***NORTH BAY ASSOCIATES***

PO Box 232 Auburn, CA 95604 • (530) 269-3473





# NORTH BAY ASSOCIATES

WORKERS' COMPENSATION

AUDITORS • CONSULTANTS

August 22, 2024

PRISM

Karin Valenzuela

Workers Compensation Claims Manager

Northern California Cities Self Insurance Fund/Alliant Insurance

Mr. Marcus Beverly

First Vice President

The Workers' Compensation Claims Audit report for June 2024 for this PRISM member: Northern California Cities Self Insurance Fund/Alliant Insurance administered by LWP Claims Solutions, Inc. is presented herewith. This audit is an initial audit since the administrator took over the account on 7/1/2024.

We wish to acknowledge the cooperation of the administrator, LWP Claims Solutions, Inc., for providing us with remote access to the claims data.

This audit was conducted utilizing the PRISM audit standards and scoring system effective 7/1/2019.

This report has been simultaneously provided to the administrator.

Although all the data had not yet been tabulated in the form seen here, the general findings and preliminary recommendations of this audit were discussed with TPA management during an exit interview.

Since this report deals with employees' injuries, reserves on the claim files, tactics for further handling and other sensitive information, we suggest it be kept confidential.

We hope that this report is self-explanatory; any comments or questions the reader may have are welcome. It has been a pleasure once again to serve Northern California Cities Self Insurance Fund/Alliant Insurance and PRISM.

Respectfully submitted,

**NORTH BAY ASSOCIATES**

Alan Fleming

Workers Compensation Claims Auditor

### Quick Overview

- *Executive Summary & Audit Profile (page 3)*
- *Summary of Recommendations (page 5)*

PO Box 232 Auburn, CA 95604 • PHONE (530) 269-3473

e-mail [alan.fleming@northbayassociates.com](mailto:alan.fleming@northbayassociates.com)

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## A. INTRODUCTION

**This** is the Workers' Compensation Claims Audit report for June 2024 for this PRISM member: Northern California Cities Self Insurance Fund/Alliant Insurance.

### 1. Goals of the Claims Audit.

- Gather and present statistical data relating to the administration of the members' workers' compensation claims from 7/1/2023, to date.
- Focus on those claims constituting the bulk of the outstanding reserves, claims involving key issues and a representative sample of each examiner's files.
- Present and explain industry standards, Division of Workers' Compensation Audit Unit standards, and PRISM standards and goals.
- Compare audit findings to the standards.
- Recommend ways to meet standards and to reach goals.

### 2. Report Organization.

This report contains twelve audit areas beginning at Section E, page 10. Each has an introduction, point-by-point discussion, and summary and recommendations. Data is presented in as many as four different ways for clarity and for different depths of detail.

First, for an overview, is the Executive Summary on pages 3 and following. The Executive Summary includes summarized strengths and weaknesses, a separate Summary of Recommendations for improvement and the audit scoresheet.

Second, for detailed data and explanation, each numbered paragraph delves into a particular audit item. Each point is explained and audit findings are compared to standards. Comments about any particular claim file are often amplified by "Summary Memos." These can be found in the *Addendum* at Tab Three in order by NBA number.

Third, the Audit Scoresheets numerically restate the same data shown in the text. The audit points are explained in the audit area to which each refers and the Audit Scoresheets can be found in Tab Four of the *Addendum*.

The *Addendum* contains statistical and other essential data. In brief, the *Addendum* includes the following:

Tab One: Full list of claims audited, sorted by NBA#. This list may be used to identify claimants; to maintain confidentiality, the body of this report refers only to NBA#'s.

Tab Two: The Reserve Summary reports on the dollar amounts of reserve changes recommended. Reserve Work Sheets provide the detail behind the Reserve Summary report and are located here. The Excess Report shows all excess cases in the sample.

Tab Three: Individual Summary Memos. These are left on certain files for the benefit of the examiner where some issue was pending or where guidance was appropriate. Some explain a definite shortcoming in a file and offer recommendations for further handling. Others offer suggestions on files that are being correctly handled. Not every file audited has a Memo. Since many Memos detail specific recommendations for further file handling, we recommend the client follow up to be certain the administrator acts on these Memos and recommendations. We always encourage the examiners to discuss these Memos with us. In this case, the supervisor chose to discuss some of the Memos and the points raised therein.

Tab Four: The Audit Scoresheets are here. Scoresheets are provided for both the scored audit points and the non-scored audit points.

## B. EXECUTIVE SUMMARY

The June 2024 workers' compensation audit for this PRISM member: Northern California Cities Self Insurance Fund/Alliant Insurance was begun on 6/21/2024. It covers file activity from 7/1/2024, the date LWP Claims Solutions Inc. took over the account.

The sample used to develop the data for this audit was taken from a loss run of open indemnity cases provided to us by LWP Claims Solutions, Inc.. The sample consisted of 89 files, or 15.0% of the total open inventory of indemnity files. The sample is a carefully selected and structured sample rather than a random sample. It is weighted in favor of claims with significant potential and claims containing certain key issues. This is called the "dollar value" sampling technique. We also spread the sample to include the work of all the entities and examiners, to look at files newly opened since the last audit.

Not all audit queries apply to each case in the sample. Some points apply to the beginning stages of a file, while others pertain only to the end. Claims activity during this audit period is the determining factor. Except for historical comparisons, we read but do not consider for audit purposes activity prior to the prior to the takeover by the current administrator, LWP Claims Solutions, Inc.

This audit complies with the audit standards and scoring system as adopted by PRISM effective 7/1/2019. The overall claims handling performance for this TPA is rated as **Exceeds Expectations**.

On the following page is a summary of audit areas showing strengths and weaknesses.



Areas showing strong performance are:

*Investigating and deciding on claim compensability.*

*Timely payment of medical bills.*

*Payments made on correct claims.*

*Paying the various workers' compensation benefits accurately and timely.*

*Documented case planning with timely follow up.*

*Supervisor diary reviews.*

*Timely pursuit of claims resolution.*

*Pursuit of apportionment.*

*Reserving sufficient funds to pay each case.*

*Subrogation.*

*Communication with the employer.*

Areas needing improvement are:

*Examiner diary reviews.* Examiner diary reviews score 81.2%.

*Excess reporting.*

Summarized recommendations for further improvement begin on the next page.

## C. SUMMARY OF RECOMMENDATIONS

There was strong performance in the following areas:

- Audit results that exceeded expectations were in the areas of timely payment of medical bills, payments made on the correct claim, medical only conversions, litigation management, correct settlement valuations, apportionment recognition and pursuit, member settlement authority, appropriate and timely initial reserves, timely and appropriate reserve revisions, separation of 4850/TD, medical reserves consistent with office of self-insured plans, life pension reserves, allocated reserves, subsequent excess reporting, recognition of and follow-up with regard to subrogation, proactive pursuit of return to work.






Performance areas that require improvement:





- It is recommended that examiners use the diary system to ensure that claims are reviewed per the PRISM standards.
- It is recommended that examiners review new claims and ensure excess reporting is reviewed in the initial review after takeover and put on diary to ensure timeliness of initial and ongoing excess reporting for the transferred claims.

We suggest that the employer, PRISM and LWP Claims Solutions, Inc. set priorities and adopt a timetable for implementing these recommendations.

The Audit Scoresheet on the following page shows the combined audit score for each PRISM scored audit point. This scoresheet is also in Tab Four of the *Addendum* with the score calculated at 92.1% for the scored audit points only. A scoresheet is also provided in Tab Four of the *Addendum* for the non-scored PRISM audit points.

## Scored Audit Point Score = 92.1%

AP	Description	Total	Yes %	Percent Bar
<b>Compensability Determination</b>				
1.1	Initial Employer Contact	44	97.7	
<b>Employee Contact</b>				
2.1	Initial Employee Contact	43	86.0	
2.2	Employee Contact Continued	14	85.7	
<b>Payments and Fiscal Handling</b>				
3.6	File Balancing	30	86.7	
3.9	Timely Payment of Medical Bills	71	100.0	
3.11	Payments Made On Correct Claim	14	100.0	
<b>Case Review and Documentation</b>				
4.1	Plan of Action Appropriate	89	98.9	
4.2	Examiner Diaries	437	81.2	
4.3	Supervisor Diaries	230	94.3	
4.4	Medical Only Conversion	13	92.3	
<b>Medical Treatment</b>				
<b>Litigation</b>				
6.1	Potential Litigation Issues Investigated	1	100.0	
6.2	Litigation Management	18	100.0	
<b>Apportionment and Resolution</b>				
7.1	Resolution Pursued Timely	11	100.0	
7.2	Correct Settlement Valuation	10	100.0	
7.3	Apportionment Ruled In or Out	9	100.0	
7.4	Apportionment Pursued	1	100.0	
7.5	Member Settlement Authority Request	7	100.0	
7.6	Excess Settlement Authority Request	0	0.0	
7.8	Medicare Interests Protected	0	0.0	
<b>Reserve Adequacy</b>				
8.1	Appropriate Initial Reserves	45	100.0	
8.2	Timely Initial Reserves	45	100.0	
8.3	Reserves Timely and Appropriate	75	97.3	
8.4	Separation of TD/4850 Reserves	19	100.0	
8.5	Medical Reserves Per OSIP	88	100.0	
8.6	Life Pension Reserved if Applicable	0	0.0	
8.7	Allocated Reserves Accurate	88	100.0	
<b>Excess Insurance</b>				
9.1	Initial Excess Reporting	8	87.5	
9.2	Subsequent Excess Reporting	18	83.3	
9.3	Excess Reimbursement Requests	1	100.0	
9.5	Closing Report Sent to Excess	0	0.0	
<b>Subrogation</b>				
10.1	Recognition of Subrogation	1	100.0	
10.2	Appropriate Subrogation Follow Up	3	100.0	
10.3	ER Updating Regarding Subrogation	3	100.0	

10.4	Approval to Accept, Waive, Settle	0	0.0	
10.5	Complaint or Lien Filed Timely	1	100.0	
10.6	Pursued to Maximum Recovery	0	0.0	
<b>Penalty Summary</b>				
11.2	Penalties Coded Correctly	2	100.0	
<b>Disability Management</b>				
12.1	Proactive Pursuit of Return to Work	23	100.0	
12.2	Notification of Permanent Restrictions	0	0.0	
<b>Administrative Information</b>				
13.1	Examiner Caseloads	2	100.0	



**1.1 Claims Assistant's Duties.**

The most common duties of the examiner's principal assistant, whatever the actual job title, may include: doing a triage to separate MO's from indemnity and urgent indemnity from normal indemnity files; controlling and paying ongoing temporary and permanent indemnity payments; calculating and paying Awards; paying medical bills on both indemnity and MO files; and data input.

Here, there is 1 assistant; the assistants' duties include making indemnity payments and payment of awards.

**1.2 Examiner Caseloads.**

Number of Examiners: 4

Number of Examiner Caseloads That Meet Standard: 4 (100.0%).

**1.3 Supervisor Caseloads.**

Number of Supervisors: 1

Number of Supervisor Caseloads That Meet Standard: 1 (100.0%).

**1.4 Findings, Summary and Recommendations.**

It is noted that 1 examiner has only a year of claims experience. This examiner is current on training and certified to administer workers compensation claims and is continuing to be trained by the supervisor. Otherwise, this program is adequately staffed with experienced personnel. Recommendations are not necessary.

## E. AUDIT DETAIL

This section contains the details of this audit for: Northern California Cities Self Insurance Fund/Alliant Insurance. Each area discusses an important group of related points and the subsections offer specifics of narrow points and, finally, findings, a summary and any needed recommendations are offered for the group.

### 1. Compensability Determination.

This audit area concerns the initial decision regarding compensability of the claim at the time it is reported. Usually simple, this issue is sometimes complicated at the outset. The initial decision to accept, delay, or deny a particular claim is an important milestone. Inquiries in this area are also made to see whether adequate background investigation is made, if necessary, and if communication with the relevant department of the employer is established.

#### 1.1 Initial Employer Contact.

Initial employer contact is part of the three point contact process. The PRISM standard requires this occur within 3 working days of receipt of the claim and that there be evidence of at least three documented attempts. This initial contact should be substantive and clearly documented in the claim file.

Claims Requiring Initial Employer Contact: 44  
 Claims With Timely Initial Employer Contact: 43 (97.7%).

The Exceptions Are:

- #14450: Initial employer contact attempt did not occur until 8 days after date of knowledge and claim set up.

#### 1.2 Initial Decision.

The examiner's threshold function is to decide if a workers' compensation claim is to be accepted, delayed, or denied. The PRISM standard requires this determination be made within 14 calendar days of the filing of the claim with the employer. In the event the claim is not received within 14 calendar days the initial decision shall be made within 7 calendar days of receipt of the claim.

Claims Requiring Initial Decision: 44  
 Claims With Timely Initial Decision: 37 (84.1%).

The Exceptions Are:

- #10788: Initial decision to accept or delay/deny was not made within

the first 2 weeks.

- #10898: Initial decision was not completed within the first 2 weeks of claim date of knowledge. Claim was delayed approximately 30 days after claim was opened.
- #14450: It appears that consideration to delay claim was given, but it does not appear that happened. Claim was accepted on 10/5/2023, which was more than 30 days after the date of knowledge.
- #14906: Initial decision to accept or deny was not made in the first 2 weeks of claim.
- #15191: Initial decision to accept/delay/deny was not made within first 2 weeks.
- #17400: Initial decision was not made within the first 2 weeks. Claim was accepted on 11/28/2023, which was 20 days after claim opened.
- #18449: There was not documented decision to accept / delay / deny claim in the first 2 weeks.

### **1.3 Indexing.**

All claims shall be reported to the Index Bureau at the time of initial set up and re-indexed on an as needed basis thereafter.

Claims Requiring Indexing: 44  
Claims With Indexing: 44 (100.0%).

### **1.4 AOE/COE Investigation Needed.**

If a decision is made to delay benefits on a claim an investigation shall be initiated within 3 working days of the decision to delay. The investigation should be fully documented with evidence sufficient to justify the actions taken and should show a clear statement of the examiner's thought processes. If the self-insured, defense attorney, or any other source of information was relied upon, then these facts and sources need to be included in the documentation.

Claims Needing AOE/COE Investigation: 11  
Claims Investigated Adequately: 11 (100.0%).



**1.5 Final Decision Timely Documented.**

If an investigation is necessary on a delayed claim, then a final decision whether to accept or deny must be made within 90 calendar days from the date the employer received the claim form.

Claims Requiring Timely Decision: 11

Claims Documented With Timely Decision: 11 (100.0%).

**1.6 Findings, Summary and Recommendations.**

The employer was contacted timely on all except 1 new claim. All applicable claims were investigated timely and accurately. No recommendations are necessary.

## 2. Employee Contact.

The purpose of this area of inquiry is to learn if the claims examiner makes early telephone contact with each injured worker according to the PRISM standard and whether this telephone contact continues as appropriate.

### 2.1 Initial Employee Contact.

Initial employee contact is part of the three point contact process. The PRISM standard requires initial contact within 3 working days of receipt of the claim and that there be evidence of at least three documented attempts. This initial contact should be substantive and clearly documented in the claim file. This standard also applies to medical only claims.

Claims In Need of Initial Contact: 43

Claims Showing Initial Contact: 37 (86.0%).

The Exceptions Are:

- #10788: Initial employee contact attempt was on 11/3/2023. There was not a second documented attempt by telephone until 12/21/2023.
- #12331: There was only 1 documented initial contact attempt with employee in the first 2 weeks.
- #14450: Initial employee contact attempt did not occur until 8 days after date of knowledge and claim set up.
- #15191: Initial employee contact attempt was attempted on 1/26/2024. This did not happen until claim had been open for more than 30 days.
- #16537: There was no documented initial contact attempt with employee within the first 3 days of claim.
- #18494: There was only 1 documented initial employee contact attempt within the first 2 weeks of claim date of knowledge.

### 2.2 Employee Contact Continued.

Maintaining employee contact on non-litigated claims with ongoing temporary disability is a widely accepted industry standard. The PRISM standard is that such contact occurs within 3 working days after a scheduled surgery and at a frequency no greater than every 30 days during ongoing temporary disability on claims involving unrepresented injured

employees. While assigned nurse case managers maintain employee contact on many cases their role is not a substitute for periodic contact by the examiner.

Claims Needing Continuing Employee Contact: 14

Claims With Continuing Contact: 12 (85.7%).

The Exceptions Are:

- #14450: Examiner did not contact employee every 30 days while missing time.
- #19551: Examiner did not contact employee every 30 days while missing time.

### **2.3 Findings, Summary and Recommendations.**

The employee was contacted timely on all but 6 new claims for a score of 86%. Employee continued contact was completed timely on all except 2 applicable claims for a score of 85.7%. Recommendations are not necessary.

### **3. Payments and Fiscal Handling.**

This area concerns itself with the timeliness and accuracy of benefit payments. Initial indemnity payments and the issuance of the first DWC notice are checked against the timeliness standards of the Administrative Director of the Division of Workers' Compensation. Subsequent indemnity payments and permanent disability payments are also reviewed for timeliness. Medical payments and payments/reimbursements to the injured employee are also reviewed for timeliness. Accuracy of payments are checked through the file balancing procedure and we look at payments to be sure all are made on the correct claim.

#### **3.1 Timeliness of Initial TD and PD Payments.**

California administrative regulations require that initial indemnity payments (or notice, in the case of salary continuation) be issued within fourteen calendar days of knowledge of the injury and disability. In the event notification of injury or disability does not occur within 14 calendar days payment shall be made within 7 calendar days of notification.

Claims Requiring Timely Initial TD and PD Payments: 25

Claims With Timely Initial TD and PD Payments: 25 (100.0%).

#### **3.2 Subsequent TD and PD Payments.**

Subsequent indemnity payments are required to be paid once every two weeks exactly and shall be verified except for established long term disability.

Claims Requiring Subsequent TD and PD Payments: 26

Claims With Timely Subsequent TD and PD Payments: 24 (92.3%).

The Exceptions Are:

- #12296: There was a late PD payment for the dates of 2/15/2024 - 3/6/2024. Self-imposed penalty was paid and reimbursed to member.
- #13579: PD payment for dates of 2/15/2024 - 3/6/2024 was not paid timely. Self-imposed penalty was paid and reimbursed to member.

#### **3.3 Undisputed Awards Paid Timely.**

Payments on undisputed Awards, Commutations, or Compromise and Release agreements shall be made within 10 working days following receipt of the appropriate document, unless Award indicates payment is due sooner.

Claims With Undisputed Awards: 5  
 Claims With Undisputed Awards Paid Timely: 5 (100.0%).

### **3.4 Required Benefit Notices.**

California administrative regulations require that a benefit notice be sent within 14 calendar days or concurrently with payment to the injured employee each time an indemnity payment is commenced or terminated. Benefit notices are also required to be sent within 14 days when a claim is delayed for further investigation and upon receipt of a permanent and stationary medical report indicating there is or is not any permanent disability.

Claims Requiring Benefit Notices: 43  
 Claims With Timely Issued Benefit Notices: 40 (93.0%).

The Exceptions Are:

- #10181: 4850 termination notice was not sent when benefits ended in 1/2024.
- #12791: Delay letter was not sent within the first 14 days of claim.
- #19903: PD advice letter dated 3/5/2024 was not sent within 14 days of receiving QME report dated 11/2/2023.

### **3.5 Overpayments.**

Overpayments shall be identified and reimbursed timely where appropriate. If necessary, a credit shall be sought as part of any resolution of the claim.

Number of Claims With Overpayments: 1  
 Claims In Which Overpayment Was Documented: 1 (100.0%).

### **3.6 File Balancing.**

Fiscal handling for indemnity benefits on active cases shall be balanced with appropriate file documentation on a semi-annual basis to verify that statutory benefits are paid appropriately. Balancing is defined as, “an accounting of the periods and amounts due in comparison with what was actually paid”.

Claims Requiring File Balancing: 30  
 Claims With Timely File Balancing: 26 (86.7%).

The Exceptions Are:

- #10181: Indemnity balance is overdue.
- #11081: File balancing is overdue.
- #12425: Indemnity balance is overdue.
- #14694: There was a small TD overpayment in the amount of \$35.20. It appears that examiner had to get the initial indemnity payment paid very shortly after claim opening. When examiner received and calculated the wage statement, the rate was found to be too high. Rate was recalculated correctly and overpayment letter was sent.
- #15893: Does not appear indemnity has been balanced.

### **3.7 Timely Employee Reimbursements.**

Reimbursements to injured employees shall be made within 15 working days of receipt of the request for reimbursement.

Claims Requiring Employee Reimbursements: 7

Claims With Timely Employee Reimbursements: 7 (100.0%).

### **3.8 Advance Travel Paid Timely.**

Advance travel expense payments shall be issued to the injured worker 10 working days prior to the anticipated date of travel.

Claims Requiring Timely Advanced Travel Payment: 3

Claims With Timely Payment: 3 (100.0%).

### **3.9 Timely Payment of Medical Bills.**

Medical treatment billings shall be reviewed for correctness, approval and paid within 60 days of receipt.

Number of Claims With Medical Bills Paid: 71

Number of Claims With Timely Payment of Medical Bills: 71 (100.0%).

### **3.10 Medical Bill Objection Letters.**

A medical bill provider shall be notified in writing within 30 days of receipt of an itemized bill if a medical bill is contested, denied, or incomplete.

Claims Requiring Bill Objection Letters: 2  
Claims With Bill Objection Letters: 2 (100.0%).

**3.11 Payments Made on Correct Claim.**

In cases of multiple losses for the same injured employee, payments shall be made on the appropriate claim file.

Claims Involving Correct Claim Payment: 14  
Claims In Which Payment Was Made On Correct Claim: 14 (100.0%).

**3.12 Findings, Summary and Recommendations.**

Medical bills were paid timely on all claims. All except 2 indemnity payment were paid timely. All except 4 indemnity claims were balanced timely for a score of 86.7%. Payments were made on the correct claims. Recommendations are unnecessary.

#### **4. Case Review and Documentation.**

Examining workers' compensation claims, like any other business activity, should include a plan of action to achieve an explicit result. Without a plan, the claims examiner merely reacts to outside stimuli and the claims administration process breaks down, to the detriment of everyone concerned. Ideally, a plan should be written and include contingencies. This is where tactics are evaluated.

##### **4.1 Plan of Action Appropriate.**

The purpose of this inquiry is to learn whether initial case planning took place when the claim was reported to LWP Claims Solutions, Inc. from any source and if subsequent planning and tactics are appropriate to the case. Plan of action statements should be updated at the time of examiner diary review.

Claims Requiring a Plan of Action: 89

Claims With a Documented and Appropriate Plan of Action: 88 (98.9%).

The Exceptions Are:

- #11918: Initial examiner diary review was not completed for over 60 days from claim set up.

##### **4.2 Examiner Diaries.**

Examiner diary reviews should occur at intervals not to exceed 45 calendar days on claims not yet settled and not to exceed 90 calendar days on future medical claims.

Applicable Number of Examiner Diaries: 437

Number of Timely Examiner Diaries: 355 (81.2%).

The Exceptions Are:

- #10015: Examiner diary review due 12/2023 and 5/2024 were not completed timely.
- #10181: There were no documented examiner diary reviews completed between 12/27/2023 and 5/24/2024.
- #10280: Examiner diary review due 12/2023 was not completed.
- #10682: There has been no examiner diary review completed since 11/7/2023.



- #10788: Examiner diary review due 1/2024 was not completed.
- #11081: Examiner diary reviews due 12/2023 was not completed. Examiner diary reviews dated 2/21/2024 and 4/30/2024 were not completed timely.
- #11216: Examiner diary reviews due 12/2023 and 3/2024 were not completed.
- #11918: Examiner diary review due 2/2024 was not completed timely.
- #12264: Examiner diary reviews due 1/2024 and 4/2024 were not completed timely.
- #12296: Examiner diary reviews due 1/2024 and 3/2024 were not completed timely.
- #12322: Examiner diary review dated 4/29/2024 was not completed timely. Examiner diary review due 6/2024 has not been completed.
- #12331: Examiner diary review dated 4/3/2024 was not completed timely.
- #12425: Examiner diary reviews due 12/2023 and 3/2024 were not completed.
- #12845: There has been no FM examiner diary review since 9/7/2023.
- #13105: Examiner diary reviews due 2/2023 and 4/2024 were not completed timely.
- #13579: Examiner diary reviews due 11/2023 and 2/2024 were not completed.
- #13655: Examiner diary reviews due 12/2023 and 4/2024 were not completed timely.
- #13741: Examiner diary reviews due 11/2023 and 2/2024 were not completed timely.
- #13787: Examiner diary reviews due 10/2023 and 1/2024 were not completed timely.
- #13808: Examiner diary review due 12/2023 was not completed.
- #14073: Examiner diary reviews due 11/2023 and 1/2024 were not

completed timely.

- #14458: Examiner diary reviews due 10/2023 and 3/2024 were not completed.
- #14840: Examiner diary reviews due 11/2023 and 2/2024 were not completed.
- #14862: Examiner diary review due 2/2024 was not completed timely.
- #15191: Examiner diary reviews dated 4/16/2024 and 6/14/2024 were not completed timely.
- #15206: Examiner diary review due 2/2024 was not completed timely.
- #15706: Examiner diary review due 11/2023 was not completed.
- #16453: FM examiner diary review due 12/2023 was not completed.
- #16537: Examiner diary review due 4/2024 was not completed timely.
- #16595: Examiner diary reviews due 10/2023 and 3/2024 were not completed timely.
- #16832: Examiner diary review due 12/2023 was not completed.
- #17386: Examiner diary review due 12/2023 and 3/2024 were not completed.
- #17400: Examiner diary review dated 4/2/2024 was not completed timely.
- #17750: Examiner diary review due 12/2023 was not completed.
- #17778: Examiner diary review due 12/2023 was not completed.
- #18187: Examiner diary review due 12/2023 was not completed timely.
- #18494: Examiner diary reviews due 12/2023 and 3/2024 were not completed.
- #18704: Examiner diary reviews due 12/2023 and 3/2024 were not completed.
- #19060: Examiner diary reviews due 11/2023 and 2/2024 were not

completed timely.

- #19146: Examiner diary reviews due 11/2023 and 2/2024 were not completed.
- #19171: Examiner diary reviews due 12/2023 was not completed timely.
- #19177: Examiner diary reviews due 1/2024 and 4/2024 were not completed timely.
- #19407: Examiner diary review due 3/2024 was not completed timely.
- #19551: Examiner diary review dated 2/29/2024 was not completed timely.
- #19578: Examiner diary review dated 12/7/2023 was not completed timely.
- #19903: Examiner diary reviews due 12/2023, 2/2024, and 3/2024 were not completed timely.
- #19954: Examiner diary review dated 3/26/2024 was not completed timely.

#### **4.3 Supervisor Diaries.**

Supervisor diary reviews should occur at intervals not to exceed 120 calendar days on claims not yet settled and not to exceed 180 calendar days on future medical claims.

Applicable Number of Supervisor Diaries: 230

Number of Timely Supervisor Diaries: 217 (94.3%).

The Exceptions Are:

- #12386: Supervisor diary review due 2/2024 was not completed timely.
- #12425: Supervisor diary review dated 4/9/2024 was not completed timely.
- #13105: Supervisor diary review due 2/2024 was not completed timely.
- #14694: Supervisor diary review due 2/2024 was not completed.

- #14748: Current supervisor diary review is overdue.
- #15706: Supervisor diary review dated 5/15/2024 was not completed timely.
- #16194: Supervisor diary review due 4/2024 was not completed timely.
- #16595: Supervisor diary review due 3/2024 was not completed timely.
- #17400: Supervisor diary review due 6/2024 was not completed.
- #10181: Supervisor diary review dated 4/29/2024 was not completed timely.
- #10900: Supervisor diary review due 2/2024 was not completed timely.
- #11081: Supervisor diary review due 3/2024 was not completed timely.
- #11918: Supervisor diary review dated 6/14/2023 was not completed timely.

#### **4.4 Medical Only Conversion.**

All medical only claims shall be reviewed for potential closure or transferred to an indemnity examiner within 90 calendar days following claim creation.

Claims Requiring Conversion: 13

Claims With Timely Conversion: 12 (92.3%).

The Exceptions Are:

- #13459: Claim was due to be converted to indemnity in 1/2024. Indemnity conversion took place on 5/28/2024.

#### **4.5 Timely Response to Written Inquiries.**

All correspondence requiring a written response shall have such response completed and transmitted within 5 working days of receipt.

Claims Requiring Timely Written Response: 22

Claims With Timely Written Response: 22 (100.0%).

#### **4.6 Ongoing Employer Contact.**

Ongoing employer contact shall be maintained and documented in the claim file with respect to current issues of importance.

Claims Requiring Ongoing Employer Contact: 37

Claims With Ongoing Employer Contact: 37 (100.0%).

#### **4.7 Findings, Summary and Recommendations.**

Plans of action were completed timely and consistently on all except 1 claim. All except 1 applicable claim were converted timely from medical only to indemnity for a score of 92.3%. Examiner diaries scored 81.2% and supervisor diaries scored 94.3%. It is recommended that examiners use the diary system to ensure that claims are reviewed per the PRISM standards.

**5. Medical Treatment.**

Medical treatment includes the appropriate use (or lack thereof) of additional cost containment measures such as utilization review and nurse case management services.

**5.1 Appropriate Use of UR.**

Each Member shall have in place a Utilization Review process as set forth in Labor Code Section 4610.5.

Claims Requiring Appropriate Use of UR: 16

Claims With Appropriate Use of UR : 16 (100.0%).

**5.2 Appropriate Use of NCM.**

Nurse case managers shall be utilized where appropriate.

Claims Requiring Appropriate Use of NCM: 1

Claims With Appropriate Use of NCM: 1 (100.0%).

**5.3 Findings, Summary and Recommendations.**

Utilization review and nurse case managers were used when needed. Recommendations are not necessary.

## **6. Litigation.**

Litigation has a major impact on any self-insured program. Although it affects only a minority of files, it uses a disproportionate amount of time and money. This audit area focuses on litigation issues and management.

### **6.1 Investigation of Potential Litigation Issues.**

Investigation of issues identified as material to potential litigation shall be promptly initiated. The Member shall be alerted to the need for said investigation and consult with an acceptable outside investigator when such is needed. The Member shall be kept informed of the scope and results of the investigation.

Claims Requiring Investigation of Litigation Issues: 1

Claims With Adequate Investigation of Litigation Issues: 1 (100.0%).

The Exceptions Are:

- #19177: Claim has been assigned to defense attorney by prior TPA to help with eventual settlement. Claim is not technically litigated at this point.

### **6.2 Litigation Management.**

The Member shall be advised when it is deemed appropriate to assign defense counsel. Defense counsel assigned shall be from a list approved by the Member. Initial referral and ongoing litigation management shall be timely and appropriate. The third party administrator or self-administered entity shall maintain control of litigation as related to ongoing claim activities.

Claims Requiring Litigation Management: 18

Claims With Appropriate Litigation Management: 18 (100.0%).

### **6.3 Communication With Employer on Litigated Claims.**

The third party administrator or self-administered entity shall keep the appropriate Member personnel fully advised of ongoing litigation issues. Knowledgeable Member personnel shall be involved in the preparation for medical examinations and trial, when appropriate or deemed necessary, so that all material evidence and witnesses are utilized to obtain a favorable result for the defense.

Number of Claims Requiring Communication: 18

Number of Claims With Adequate Communication: 18 (100.0%).

**6.4 Findings, Summary and Recommendations.**

Litigated claims were managed effectively. Recommendations are not necessary.



## **7. Apportionment, Resolution of Claim and Settlement Authority.**

This area is probably the most important to any claims operation. It is essential to conclude every case at the earliest possible moment. This requires not only a high examiner energy level but also a case load appropriate to the claims examiner's experience and expertise to know what to do next and how to do it. It is in the interest of all parties to move cases toward resolution as quickly as possible. No case ever gets better by being aged or ignored.

Workers' compensation files that are not disposed of with all due speed can be ranked as follows: 1) those that are not being handled proactively but with no apparent ill effect by the time of this audit; 2) those in which the delays have resulted in an ill effect; and 3) those where the ill effect is workers' compensation benefits being paid needlessly.

### **7.1 Resolution Pursued Timely.**

Within 10 working days of receiving medical information that a claim can be finalized; the claims examiner shall commence appropriate action to do so.

Claims Requiring Timely Resolution: 11  
Claims With Timely Resolution: 11 (100.0%).

### **7.2 Correct Settlement Valuation.**

Here we measure the examiner's technical and tactical evaluation of the settlement value of each case that was or is in the finalization stages. Settlement value shall be documented appropriately utilizing all relevant information.

Number of Claims With Settlement Evaluation: 10  
Number of Claims Evaluated Correctly: 10 (100.0%).

### **7.3 Apportionment Ruled In or Out.**

Each claim file shall be documented that apportionment has been ruled in or out.

Claims Requiring Apportionment Ruled In or Out: 9  
Claims With Documentation of Ruled In or Out: 9 (100.0%).

### **7.4 Apportionment Pursued.**

If potential apportionment is identified, all efforts to reduce exposure shall

be pursued.

Number of Claims With Apportionment: 1

Claims In Which Apportionment Adequately Pursued: 1 (100.0%).

**7.5 Member Settlement Authority Request.**

Settlement authorization shall be obtained from the Member on all settlements or stipulations in excess of the settlement authority provided by the Member.

Claims Requiring Member Settlement Authority Request: 7

Claims With Timely Member Settlement Authority Request: 7 (100.0%).

**7.6 Excess Settlement Authority Request.**

No agreement shall be authorized involving liability, or potential liability of excess insurance. The Member shall be notified of any settlement request submitted to excess.

Claims Requiring Excess Settlement Authority: 0

Claims with Timely Excess Settlement Authority Request: 0 (0.0%).

**7.7 Proof of Settlement Authority.**

Proof of settlement authority shall be maintained in the claim file.

Claims Requiring Proof of Settlement Authority: 7

Claims With Proof of Settlement Authority: 7 (100.0%).

**7.8 Medicare Interests Protected.**

Medicare eligibility shall be documented in the claim file at the time of settlement evaluation.

Claims Requiring Medicare Inquiry: 0

Claims With Documented Medicare Inquiry: 0 (0.0%).

**7.9 Findings, Summary and Recommendations.**

Pursuit of claim resolution, settlement valuation, and the apportionment audit points scored 100%. Member settlement authority was documented on all applicable claims. Recommendations are not necessary.

**8. Reserve Adequacy.**

Reserve adequacy is a key area. The self-insured entity wants to know and understand what its total liability is at any given time. Reserving may seem subjective but an experienced examiner can, during any given fiscal year, set case-based aggregate reserves that will still be adequate (within a few percentage points) years later. Most individual cases will close with total costs below the reserve, but many cases will need to have their reserves sharply increased from the initial amounts. Done correctly over the years, decreases in reserves and salvage on closing will offset the increases, leaving the original fiscal year aggregate accurate.

**8.1 Appropriate Initial Reserves.**

Reserves created at the time the case is first opened should be adequate based on the information then available in the file. A properly trained examiner will recognize the gravity of a loss as the file is created and establish initial reserves for the most probable case value.

Claims Requiring Appropriate Initial Reserves: 45  
Claims With Appropriate Initial Reserves: 45 (100.0%).

**8.2 Timely Initial Reserves.**

The initial reserve shall be posted to the claim within 14 calendar days of receipt of the claim.

Claims Requiring Timely Initial Reserves: 45  
Claims With Timely Initial Reserves: 45 (100.0%).

**8.3 Reserves Revised Timely and Appropriately.**

New information is constantly received into the file and it often impacts the reserves. Here we see if the examiner reacted to the new information by addressing reserve adequacy in a timely fashion. Permanent disability exposure shall include life pension if applicable. Future medical claims shall be reserved in compliance with SIP regulation 15300 allowing adjustment for reductions in the approved medical fee schedule, undisputed utilization review, medically documented non-recurring treatment costs and medically documented reductions in life expectancy. Allocated expense reserves shall include cost containment, legal, investigation, copy service and other related fees.

Claims Requiring Timely and Appropriate Reserve Revisions: 75  
Claims With Timely and Appropriate Reserve Revisions: 73 (97.3%).

The Exceptions Are:

- #13349: Claim should have been analyzed and reserved for PD when claim became litigated based on most probable outcome. This is a 4850 claim with a presumptive injury. Recommend examiner review and reserve and increase at next diary reviews. Recommend 5% PD.
- #14458: PD is currently under reserved at \$192.51 outstanding. Recommend examiner increase PD reserve to \$20,445.00 per the current PD rating.

#### **8.4 Separation of TD/4850 Reserves.**

Indemnity reserves shall reflect actual temporary disability exposure with LC4850 differential listed separately.

Claims Requiring Separation of TD/4850 Reserves: 19

Claims With Separation of TD/4850 Reserves: 19 (100.0%).

#### **8.5 Medical Reserves Consistent With OSIP.**

Medical reserves shall be adjusted in accordance with OSIP regulations.

Claims Requiring Medical Reserves Consistent With OSIP: 88

Claims With Medical Reserves Consistent With OSIP: 88 (100.0%).

#### **8.6 Life Pension Reserved if Applicable.**

Permanent disability exposure shall include life pension reserve if appropriate.

Number of Claims Requiring a Life Pension Reserve: 0

Number of Claims With an Appropriate Life Pension Reserve: 0 (0.0%).

#### **8.7 Allocated Reserves Accurate.**

Allocated expense reserves shall include medical cost containment, legal, investigation, copy service and other related fees.

Number of Claims Requiring Allocated Reserves: 88

Number of Claims With Accurate Allocated Reserves: 88 (100.0%).

**8.8 Findings, Summary and Recommendations.**

All initial reserves on new claims were reserved adequately. There were 3 new claims which were not reserved timely during the first 2 weeks. All ongoing reserve revisions were timely. It is recommended that examiners ensure that initial reserves are completed within the first 2 weeks after the date of knowledge.

**9. Excess Insurance.**

This area looks at the timeliness of initial excess reporting, subsequent excess reporting and excess reimbursement requests as required by PRISM.

**9.1 Initial Excess Reporting.**

The basis for this query is the common reinsurance reporting requirements, usually when aggregate reserves reach 50% of the self-insured retention; the actual excess insurance policies covering these claims were not examined. Claims shall be reported to PRISM within 5 working days of the day on which it is known the reporting criterion is met.

Claims Requiring Initial Reporting: 8  
Claims Reported Timely: 7 (87.5%).

The Exceptions and observations (NBA #15735 and #19407) Are:

- #15735: It is noted that initial excess reporting was due prior to takeover by current TPA. Initial excess report was sent by current TPA when it was discovered that initial reporting had not been completed previously.
- #16595: Claim was excess reportable prior to the TPA takeover. Claim still has not been reported. Recommend examiner promptly report to excess carrier.
- #19407: Claim was excess reportable in prior audit period. New TPA sent it over when it was recognized it had not been reported.

**9.2 Subsequent Excess Reporting.**

Subsequent excess reports shall be transmitted on a quarterly basis on all claims not yet settled and on a semi-annual basis on all future medical claims or sooner if claim activity warrants, or at such other intervals as requested by PRISM.

Number of Subsequent Excess Reports Required: 18  
Number of Timely Subsequent Excess Reports: 15 (83.3%).

The Exceptions Are:

- #13808: Subsequent excess report dated 5/29/2024 was due 4/16/2024.

- #19146: Subsequent excess report due 2/18/2024 was not completed timely.
- #19407: Subsequent excess report due 3/2024 was not sent timely.

### **9.3 Excess Reimbursement Requests.**

Reimbursement requests should be submitted in accordance with PRISM reporting and reimbursement procedures on a quarterly or semi-annual basis depending on claims payment activity. Excess claim reporting and reimbursement procedures available through the PRISM website should be utilized.

Claims Requiring Reimbursement: 1  
Claims With Timely Reimbursement Requests: 1 (100.0%).

### **9.4 Copy of Award Sent to Excess.**

A copy of settlement documents not previously sent shall be sent to excess.

Claims Requiring Award to be Sent: 1  
Claims In Which Award Was Sent: 1 (100.0%).

### **9.5 Closing Report Sent to Excess.**

Upon the closing of a claim previously reported to excess a final report shall be sent.

Claims Requiring Closing Report to be Sent: 0  
Claims In Which Closing Report Was Sent: 0 (0.0%).

**9.6 Findings, Summary and Recommendations.**

There were 3 initial excess reports that were not sent timely. However, all 3 of these were due in the prior audit period when handled by the prior TPA. One of these claims went unnoticed by the current examiner and has still not been sent. There were 3 subsequent excess reports that were not sent timely. It is recommended that examiners review new claims and ensure excess reporting is reviewed in the initial review and put on diary to ensure timeliness of initial and ongoing excess reporting for the transferred claims. There was 1 excess reimbursable claim for which reimbursement was requested.

A listing of reportable cases in the audit sample entitled “Excess Reporting”—is at Tab Two in the *Addendum*.



**10. Subrogation.**

Subrogation is an important issue. This area usually involves few files but is unique in that it allows the administrator to recover some of the clients' funds. It is another indicator of the depth of the claims examiner's knowledge and skills.

**10.1 Recognition of Subrogation.**

In all cases where a third party (other than a Member employee or agent) is responsible for the injury to the employee, attempts to obtain information regarding the identity of the responsible party shall be made within 14 calendar days of recognition of subrogation potential. Once identified, the third party shall be contacted within 14 calendar days with notification of the Member's right to subrogation and the recovery of certain claim expenses.

Number of Claims Recognized for Potential Subrogation: 1  
Actual Subrogation Cases With Timely Initial Action: 1 (100.0%).

**10.2 Appropriate Subrogation Follow Up.**

Periodic contact shall be made with the responsible party and/or insurer to provide notification of the amount of the estimated recovery to which the Member shall be entitled. The file shall be monitored to determine the need to file a complaint in civil court to preserve the statute of limitations.

Actual Subrogation Cases: 3  
Subrogation Cases With Appropriate Follow Up: 3 (100.0%).

**10.3 Employer Communication Regarding Subrogation.**

If the injured worker brings a civil action against the party responsible for the injury, the claims administrator shall consult with the Member about the value of the subrogation claim and other considerations.

Number of Claims With Active Subrogation: 3  
Number of Claims With Adequate ER Communication: 3 (100.0%).

**10.4 Approval to Accept, Waive, Settle Subrogation.**

Member (and PRISM if applicable) approval is required to waive pursuit of subrogation or agree to a settlement of a third party recovery.

Claims Requiring Approval to Accept, Waive, Settle: 0  
Claims With Approval to Accept, Waive, Settle: 0 (0.0%).

**10.5 Complaint or Lien Filed Timely.**

Member authorization shall be obtained to assign subrogation counsel in order to file a lien or Complaint in Intervention in the civil action.

Claims Requiring Timely Filing of Complaint or Lien: 1

Claims With Timely Filing of Complaint or Lien: 1 (100.0%).

**10.6 Subrogation Pursued to Maximum Recovery.**

Maximum recovery of benefits paid should be pursued, along with assertion of credit against the injured worker's net recovery for future benefit payments.

Claims Requiring Pursuit to Maximum Recovery: 0

Claims With Maximum Recovery: 0 (0.0%).

**10.7 Findings, Summary and Recommendations.**

There was 1 new claim involving subrogation. Subrogation was recognized and the investigation was begun timely. There were 3 claims which involved ongoing subrogation. Ongoing subrogation was followed up on timely and documented as needed in the claim file.

Recommendations are unnecessary.

**11. Penalty Summary.**

This audit area is a review of any claims that fall into the penalty provisions of the Labor Code or Division of Workers' Compensation Rules and Regulations.

**11.1 Self Imposed Penalty Paid if Required.**

This penalty is required by the Rules and Regulations for any late indemnity payment. The penalty to be paid is 10% of the total amount of indemnity that is paid late and clearly identified as a penalty payment.

Claims Requiring Self Imposed Penalty: 2

Claims In Which Self Imposed Penalty Was Paid: 2 (100.0%).

**11.2 Self Imposed Penalties Coded Correctly.**

Penalties shall be coded so as to be identified as a penalty payment. If the Member utilizes a third party administrator, the Member shall be advised of the assessment of any penalty for the delayed amount and the reason thereof. The Member contract with the administrator shall specify who is responsible for specific penalties.

Claims In Which Self Imposed Penalty Was Paid: 2

Claims In Which Self Imposed Penalty Was Correctly Coded: 2 (100.0%).

**11.3 Penalty Reimbursements to Members.**

The third party administrator shall have a plan in place to reimburse the member for any penalties that are the fault of the administrator on a monthly basis or any other periodic basis agreed to by the Member.

Claims Requiring Penalty Reimbursements: 2

Claims With Documented Penalty Reimbursements: 2 (100.0%).

**11.4 Findings, Summary and Recommendations.**

There were 2 claims in which self-imposed penalties were due. These penalties were paid, coded correctly, and reimbursed to the member. Recommendations are unnecessary.

**12. Disability Management.**

This section looks at communications between the third party administrator and Member regarding return to work and permanent restrictions in the event of permanent disability.

**12.1 Proactive Pursuit of Return to Work.**

The administrator shall work proactively to obtain work restrictions and/or a release to full duty on all cases. The administrator shall notify the designated Member representative immediately upon receipt of temporary work restrictions or a release to full duty, and work with the Member to establish a return to work as soon as possible. Failing any needed response within 20 calendar days the administrator shall follow up with the designated Member representative.

Claims Where Proactive Pursuit of Return to Work Needed: 23  
Claims Where Proactive Return To Work Occurred: 23 (100.0%).

**12.2 Member Notified of Permanent Restrictions.**

The administrator shall notify the designated Member immediately upon receipt of an employee's permanent work restrictions so that the Member can determine the availability of alternative, modified or regular work.

Claims With Permanent Restrictions: 0  
Claims With Timely Notification of Permanent Restrictions: 0 (0.0%).

**12.3 Findings, Summary, and Recommendations.**

Return to work was proactively pursued on all applicable claims.  
Recommendations are not necessary.



BACK TO AGENDA

**Northern California Cities Self Insurance Fund  
Claims Committee Meeting  
September 19, 2024**

**Agenda Item E.**

**CLOSED SESSION TO DISCUSS PENDING CLAIMS**

(Per Governmental Code Section 54956.95)

**ACTION ITEM**

**ISSUE:** Pursuant to Government Code Section 54956.95, the Committee will hold a Closed Session to discuss the following claims:

**\*REQUESTING AUTHORITY**

Workers' Compensation:

1. 1696610135 -- 2196610110 v. City of Red Bluff\*
2. 0696610060 v. City of Red Bluff \*
3. 2296610317 v. City of Rocklin\*
4. 2296610316 v. City of Oroville\*

Liability:

1. 4A2309DFMCX-0001 v. City of Corning\*
2. Albanese v. City of Oroville\*

**FISCAL IMPACT:** Unknown.

**RECOMMENDATION:** The Program Manager cannot make a recommendation at this time, as the subject matter is confidential.

**BACKGROUND:** Confidential.

**ATTACHMENT(S):** None.



BACK TO AGENDA

Northern California Cities Self Insurance Fund  
Claims Committee Meeting  
September 19, 2024

Agenda Item G.

## ALC WORKERS' COMPENSATION AUDITING SERVICES PROPOSAL

### ACTION ITEM

**ISSUE:** This year NCC is scheduled to conduct a Workers' Compensation Claims audit. A proposal has been received by ALC Claims Collaborations to audit 75 claims files.

**RECOMMENDATION:** Approve as proposed or request amendments/alternate quotes.

**FISCAL IMPACT:** The proposed pricing is \$16,875, which comes in slightly under the budgeted amount of \$17,000.

**BACKGROUND:** Every even year it is NCCSIF practice to have Workers' Compensation claims audited. Prior Work Comp audits were completed by ALC in 2020 and 2022.

**ATTACHMENT(S):** ALC Workers' Compensation Auditing Services Proposal



# ALC CLAIMS COLLABORATIONS



Independent.  
Trusted.  
Objective.

## Workers' Compensation Auditing Services

Prepared in August 2024, for

## Norcal Cities Self Insurance Fund

### ALC Claims Collaborations Contacts

Angela Mudge, CEO and President

916.224.8351 | Email: [angela@myalcteam.com](mailto:angela@myalcteam.com)

Tera Martin Del Campo, COO

626.905.2129 | Email: [tera@myalcteam.com](mailto:tera@myalcteam.com)



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# FIRM QUALIFICATIONS

## DESCRIPTION OF THE FIRM

ALC Claims Collaborations solely represents the interests of risk payers in their WC programs. Our consulting services include **claims auditing**, claims oversight, data collection, data analysis, benchmark reporting, training, program management, and handling of special projects.

We are an elite team of California WC claims experts with the demonstrated competence, ability, capacity, and skills to provide the claims auditing services requested.

ALC was founded by Angela Livingston Mudge, Chief Executive Officer and sole owner of ALC; a woman owned, and women operated business.

- Angela Livingston Collaborations, Inc. dba **ALC Claims Collaborations**, a California Corporation, tax ID #27-0948473.
- We are a Californian Corporation in good standing, headquartered in Laguna Niguel, CA, with locations in Los Angeles, Orange, and San Diego Counties.
- There have been no mergers, acquisitions, or initial public offerings since the inception of the business.
- There have been no bankruptcies, insolvency or receivership proceedings, and no lawsuits filed since the inception of the business.
- ALC has never defaulted on any contract and has never been terminated from a contract.
- ALC has never defaulted in fulfilling all of its obligations relating to the payment of county taxes, fees, or other obligations.
- ALC Claims Collaborations maintains industry standard **insurance coverages** and will provide proof of same upon request.

**ALC has sufficient finances and other resources** to provide all the services noted in this proposal and has sufficient resources to provide future services as may be needed.

**ALC is completely independent.** We have no affiliations to third-party administrators, carriers, copy service firms, investigation firms, managed care companies, law firms or any other industry-based service provider.

## Company Distinctions



Founded in 2009, we are **independently woman owned and operated**.



We have a fully staffed team of experts that are full-time ALC employees. We do not subcontract **any** of our consulting work.



California WC experience, focus and expertise. We are **public agency specialists** and have a superior reputation on which you can rely.



Exclusively providing **independent, trusted, and objective** WC claims consulting.



Diversity, equity, and inclusion are at the core of who we are and central to our mission.

## Who We Are

**Diversity, Equity, and Inclusion** are at the core of who we are. At ALC, we respect and seek inclusion of different cultures and lifestyles. Our commitment to these values is unwavering and central to our mission. We know that having varied perspectives helps generate better ideas to solve the complex problems, builds dignity, demonstrates caring, and makes us stronger. ALC is 100% women owned and operated.

We believe business integrity and consistently adhering to high ethical standards is vital. At ALC, we make sure that organizationally we always operate with integrity by having leadership that facilitates it.

We experience clear benefits from having integrity be our default setting:

- **Positive Organizational Culture.** Our culture is based on decency, honesty, trust, and respect.
- **Better Customer Relationships.** Our ethical values and authenticity aligns our principals with like-minded clients, who have become our advocates.
- **Improved Performance and Growth.** Prioritizing integrity and our people over profit has resulted in our positive reputation, strong employee retention, and growth of our company.
- **ALC provides our employees highly competitive wages, flexible work hours, the ability to work from home, and participation in incentive programs to retain our employees.** We utilize advanced technology that makes their work organized and efficient, allowing for a great deal of job satisfaction.

## Professional Licenses and Certifications

Our team of WC experts have the training, credentials, and experience needed to successfully provide all services noted in the RFP. Our team hold several professional licenses and certifications. ALC's CEO and Directors have certifications in Workers' Compensation and Self-Insurance.

- IEA Certificate
- Self-Insured Certificate
- WCCP Designation (Workers' Compensation Claim Professional)

## Data Security Measures

We make it an exceedingly high priority to provide security measures to protect confidential information. We access the TPA claim system with "view only" access and do not store any medical or otherwise confidential information in our system. Our claim oversight and auditing system is built and maintained within the Salesforce platform. Salesforce utilizes some of the most advanced technology for internet security available today. Transport Layer Security (TLS) technology protects our information using both server authentication and classic encryption, ensuring the data is safe, secure, and available only to registered users in our organization.

## Overview of our Services and Capabilities

- **Workers' Compensation Claim Audits**
- Data Analytics/Benchmark Reporting
- Claim Oversight and Innovative Recommendations for Cost Mitigation
- Claim Reviews
- Special Projects
- Claim program review and assessment
- Closing & Settlement Initiatives

## Client Retention

We have a track record for successfully assisting public entities with controlling workers' compensation costs. We are immensely proud of many long-term partnerships and client retention and renewal rate. For example, since 2012, we have been the dedicated auditing firm for PRISM's primary workers' compensation program and service as one of the primary auditing firms for PRISM's excess workers' compensation program. ALC has been the dedicated Claim Oversight and Project Management partner for several the below listed self-insured groups for over 14 years.

## Recent Relevant Experience

We have a track record for successfully assisting public entities with controlling workers' compensation. A list of our clients for which similar types of **workers' compensation claim program auditing services** within the past five (5) years have been provided (*listed entity and TPA*).

- ASCIP – Athens and Sedgwick
- Breckpoint PA – Self Administered
- CIGA – TriStar
- California Insurance Pool Authority (CIPA) – Keenan and Adminsure
- City and County of SF – Self Administered
- City of Burbank – Self Administered
- City of Carlsbad – Adminsure
- City of Fontana – Self Administered
- City of Torrance – Self Administered
- City of Ventura – Athens
- County of San Mateo – Athens
- Finish Line and Post Time Self Insured Group – Self Administered
- Fontana Unified School District – Self Administered
- Kelly Moore Paint - ESIS
- Northern California Cities Self Insurance Fund (NCCSF) – Sedgwick
- Public Entity Risk Management Authority (PERMA) – Adminsure/Corvel/Sedgwick
- Schools Insurance Group – AIMS
- State Compensation Insurance Fund – AIMS
- Ventura County Schools Self-Funding Authority – Athens
  
- **PRISM**
  - Alameda County – York/Sedgwick
  - Antelope Valley Transit Authority – York/Sedgwick
  - Butte County – York/Sedgwick
  - California Risk Management Authority - Intercare
  - California State University System – Sedgwick
  - CAPRI – York/Sedgwick
  - City of Carmel by the Sea - LWP
  - City of Calexico – York/Sedgwick
  - City of Carlsbad - Adminsure
  - City of Corona – Sedgwick
  - City of El Cajon – York/Sedgwick
  - City of Fairfield – IWC
  - City of Fontana – JT2
  - City of Fresno – RISICO
  - City of Hemet – York/Sedgwick
  - City of Imperial Beach - Adminsure
  - City of Lancaster – York/Sedgwick

- City of Manhattan Beach - Adminsure
- City of Oceanside – Adminsure
- City of Pomona - Adminsure
- City of Redding – Self-Administered
- City of Redondo Beach - Adminsure
- City of Rialto – LWP Claims Solutions
- City of Torrance – Self Administered
- City of Santa Clara – Sedgwick
- County of Placer - Intercare
- County of Shasta – Self-Administered
- City of Stockton – Athens
- County of San Bernardino – Self Administered
- County of Santa Barbara – CorVel
- County of San Mateo – Athens
- CSAC PWC – Intercare
- CSAC PWC – CorVel
- CSAC PWC – Hazelrigg
- CSAC PWC – LWP Claims Solutions
- CSAC PWC – York/Sedgwick
- Eastside Union School District – York
- El Dorado County – York/Sedgwick
- Evergreen Elementary School District – Intercare
- Gold Coast Transit - York/Sedgwick
- Golden Empire Transit District - RISICO
- GRSMA – Self-Administered
- Humboldt County - CorVel
- Humboldt Transit Authority – Intercare
- Huntington Beach USD – York/Sedgwick
- Irvine Ranch Water District - York/Sedgwick
- Kings County – ICW
- Kings County Waste & Recycling – Intercare
- Lake County – Intercare
- MERMA – Intercare
- Monterey Bay Area SIA – AIMS
- Monterey County – Intercare
- Mt. Diablo USD - LWP
- Nevada County – Intercare
- Ontario-Montclair School District - York/Sedgwick
- Orange County Fire Authority – CorVel
- Riverside County – Self Administered
- San Diego County – Self Administered
- San Luis Obispo County – Intercare
- San Luis Obispo Regional Transit Authority – Intercare
- SCSRM - York/Sedgwick
- Shasta County – Self Administered
- SIRMA - York/Sedgwick

- Sonoma County – Intercare
- SDRMA – York/Sedgwick
- South County Area Transit – Intercare
- Sutter County - LWP
- Tahoe Transit District - LWP
- Town of Colma – Intercare
- Trindel – Self Administered
- West San Gabriel WC JPA – York/Sedgwick

A list of our clients for which similar types of workers' compensation **claim program oversight services** within the past five (5) years have been provided (*listed entity and TPA*).

- California Agricultural Products SIG – LWP Claims Solutions, Inc.
- California Agricultural Network SIG – Intercare
- California Contractors Network SIG – Athens
- California Livestock Producers SIG – Intercare
- California Truckers Safety Association SIG – LWP Claims Solutions, Inc.
- Elite Golf Self Insured Group – Athens
- Media Services – Broadspire
- Northern California Auto Dealers – LWP Claims Solutions, Inc.

## KEY PERSONNEL

We are an elite team of independent California Workers' Compensation Claims Experts. Collectively we have more than 100 years of California workers' compensation claims auditing, coaching, cost-mitigation, fraud, oversight, settlement, and training experience. We partner with risk payers and operate in a collaborative model, with our team aligned to client engagements based upon your business requirements, program objectives, and geography to ensure an exceptional customer experience. We have the staff, experience, knowledge, and bandwidth to provide all services requested by NCCSIF and meet all agreed upon timelines. ALC has been providing claim auditing services for over 14 years and we do not use any subcontractors.



### **Angela Mudge, Owner, President & CEO**

[angela@myalcteam.com](mailto:angela@myalcteam.com) | 916.224.8351 | Orange County, CA

Founder, owner, and CEO of ALC Claims Collaborations, Angela is a respected industry leader with 33 years of Workers' Compensation claims experience. Angela's areas of expertise include corporate strategy, contract negotiation, due diligence, procedure development, strategic planning, stewardship reporting, and operational review. Angela shares her knowledge through public speaking, claims training, development, coaching, leadership, and strategy. Using these skills, she successfully started ALC more than twelve years ago. Her passion is making every party in the process - employer, employer, claims -- get the best result during what can be a tricky and complex process. IEA Certificate, Self-Insured Certificate & WCCP Designation. Prior positions include adjuster, supervisor, claims manager and vice president.



### **Tera Martin Del Campo, COO**

[tera@myalcteam.com](mailto:tera@myalcteam.com) | Los Angeles County, CA

Experienced claims professional with 22 years of workers' compensation experience with expertise in claims oversight, claim auditing, data analytics and benchmarking. Finely tuned analytical skills and substantial subject knowledge obtained through claim handling experience and continued training, with a focus in the California workers' compensation system. Critical thinker with exemplary leadership skills and compassionate, forward-thinking values. As VP of Operations, Tera enjoys developing thoughtful corporate direction and strategy, cultivating long-term partnerships, and fostering our consultative client-centric approach. Tera provides servant leadership of our elite team of experts and operational oversight of all divisions. IEA Certificate, Self-Insured Certificate and WCCA Designation. Prior positions held – adjuster, claim compliance analyst and director of auditing.





**Sherri’ Ventimiglia, VP – Claims**

[sherri@myalcteam.com](mailto:sherri@myalcteam.com) | San Diego County, CA

A respected and conscientious leader with over 30 years of experience in the Workers’ Compensation industry with a focus in California workers’ compensation claims. Sherri’ Ventimiglia’s expertise includes claim oversight, claim auditing, strategic planning, and operations management. Proven ability to grow successful teams and develop processes that provide quality customer service and improved outcomes. As Director of Oversight and Client Services, she provides personalized expertise to improve claims handling outcomes and lower claims costs through our oversight

solutions. Ensures our clients experience dramatic results, high return on investment, earlier and increased touch points, better understanding of concerns, faster resolution, and better overall workers’ compensation program satisfaction. Self-Insured Certificate & WCCP Designation. Prior positions held – adjuster, claims analyst, supervisor, manager, director of claims and assistant vice president of claims.



**Fernando Rodriguez, Director of Audit**

[fernando@myalcteam.com](mailto:fernando@myalcteam.com) | Los Angeles County, CA

As Director of Audit and Concierge Services, Fernando Rodriguez leverages ten years of success in analyzing and managing high-volume workers’ compensation caseloads to provide a better settlement outcome for the risk payer. His expertise includes workers’ compensation claim oversight, claim auditing, claim settlement, data analytics, and benchmarking with a focus in the California workers’ compensation system. As Director Claim Audits, Fernando ensures the clients benefit from an independent perspective to validate claims handling performance and reserving

practices. He expertly manages standard and customized claim audits by his team of dedicated professionals to ensure the client’s needs and program goals are always at the forefront, as customer service is his passion. Proven ability to build strong relationships with a diverse range of individuals including internal teams, external partners, WCAB Judges and the injured worker. Ensures independent, successful claims resolutions built on the human connection. Fernando and his Concierge team create trust and establish rapport with injured workers to provide a tailored negotiation, including Spanish bi-lingual outreach, resulting in the expeditious WCAB approval for the successful settlement of claims. Bachelor of science in business administration, Self-Insured Certificate. Prior positions held – adjuster and supervisor.



## REFERENCES

We encourage you to reach out to any of our clients, as we strive for excellence in all our partnerships. We would be happy to provide additional references upon request.

**References for our auditing services** - We provide an independent perspective to validate claims handling performance and reserving practices through our auditing services.

### City of Ventura

Lisa Oland, Risk Manager  
(805) 654-7760 | [loland@cityofventura.net](mailto:loland@cityofventura.net)  
Start and completion date: August 2016 and ongoing

### Alliance of Schools Cooperative Insurance Programs (ASCIP)

Nidra Kumaradas, Senior Director of Workers' Compensation  
(562) 916-6645 | [Kumaradas@ascip.org](mailto:Kumaradas@ascip.org)  
Start and completion date: April 2022 and ongoing

### PRISM

Jen Hamelin, Chief Claims Officer  
(916) 850-7300 | [jhamelin@prismrisk.gov](mailto:jhamelin@prismrisk.gov)  
Start and completion date: July 2012 and ongoing

### References for our claim oversight / program management services

**Services provided:** We provide claim oversight, program/vendor management and benchmark reporting so the board of directors for each named client.

### California Contractors Group SIG

David Keefe, Board President  
(714) 680-8585 | [dkeefe@matrixbeyond.com](mailto:dkeefe@matrixbeyond.com)  
Start and completion date: February 2011 and ongoing

### California Agricultural Network SIG

Dennis Gardemeyer, Board Member  
[dag.email@gmail.com](mailto:dag.email@gmail.com)  
Start and completion date: April 2010 and ongoing

# PROPOSAL

## Claim Handling Performance Audits

**ALC's audit philosophy** is to create an audit format that is objectively measured and supported. Individual file results are provided to the claims handler and/or manager, to allow for ongoing dialogue throughout the audit so that there are no surprises as to the findings when the audit report is published. We believe that professional and collaborative engagement with the handling agency is paramount to ensure that the audit findings can be effectively used for performance enhancement. Our team approach ensures that audit assignments are completed quickly and effectively. Ensuring that the file audits, rebuttals, and reports are done quickly allows the client to get the maximum benefit from the audit.

## Audit Selection & Strategy

You may elect to add additional audit criteria, as listed below (45-point audit template), at no additional cost. Our audit findings are quantified with specific comments to back up our scores (to support that the file did or did not meet the criteria). Every audit worksheet goes through a rigorous internal QA process to ensure accuracy and consistency in the audit process. **We utilize a collaborative and interactive process when auditing.** The moment the individual file audit is completed, an electronic worksheet is sent to the designated client representatives and designated TPA representatives for review, comment, and rebuttal.

## The ALC 45-Point audit template encompasses review of the following claim handling categories:

1. Timely plan of action updates
2. Quality of plan of action based upon current facts
3. Timely supervisor review updates
4. Quality of supervision based upon the current facts
5. Initial employer contact (timeliness & quality)
6. Initial employee contact (timeliness & quality)
7. Initial physician contact (timeliness & quality)
8. Appropriate ongoing communication with the employer
9. Appropriate ongoing communication with the employee
10. Claim delayed timely and appropriately
11. Initial investigation completed timely and appropriately
12. Claim acceptance or denial timely and justified
13. TD/PD benefits paid timely
14. Proper benefit notices sent timely
15. Awards paid timely
16. Self-imposed penalties paid on late payments
17. Penalty reimbursements plan if the penalty was the TPA's fault
18. Return to work and/or maximum medical improvement aggressively pursued

19. Medical treatment managed appropriately
20. Proper use of utilization review
21. Proper use of medical case management
22. MPN managed or disputed appropriately
23. Timely and appropriate defense attorney referral
24. Case assigned to approved defense counsel
25. Proactive and timely litigation management
26. Ongoing investigation timely and appropriate
27. Suspected fraud pursued timely and appropriately
28. Indexing completed
29. Subrogation potential recognized and pursued
30. Apportionment potential recognized and pursued
31. Contribution potential recognized and pursued
32. Timely initial report to excess
33. Timely excess updates
34. Excess authority timely sought
35. Timely excess reimbursement requests
36. Resolution pursued 30 days from triggering event
37. Settlement valued appropriately
38. Client settlement authority secured, where required
39. Timely continuing settlement efforts
40. Claim closed timely
41. Initial reserves posted timely
42. Reserve adjusted timely with a triggering event
43. Current reserves are appropriate
44. Future medical is reserved consistent with OSIP's standards
45. Reserve variance recommendation

## **Audit Reports**

ALC will prepare and submit, electronically, a report that includes an executive summary, as well as the individual claim file audit details.



# FEES | COST PROPOSAL

## Auditing & Program Fees

Auditing fees \$225 flat fee per file, all inclusive

### This all-inclusive price includes the following

- ✓ Audit preparation
- ✓ Customization of the audit format as described in the Audit Strategy section
- ✓ Virtual Audit Kick Off & Wrap Up meetings
- ✓ Document review
- ✓ Claim file audits
- ✓ Real time audit results as the audit is being performed
- ✓ Formal audit report (one bound, two unbound and one electronic)

### Proposed Timelines

Task	Estimated Start Date	Estimated Completion Date
ALC Set Up (loss run/standards/system access)	09/02/24	10/18/24
ALC provides audit selection list	10/21/24	10/21/24
Individual File Audits	10/28/24	11/08/24
Final Rebuttals Due	11/15/24	11/15/24
Report Writing	11/18/24	11/26/24
Report Publish Date	11/27/24	11/27/24
<b>Summary</b>		
Number of Files to be Audited	75	
Cost Per File	\$225.00	
Project Costs	\$16,875.00	



BACK TO AGENDA

**Northern California Cities Self Insurance Fund  
Claims Committee Meeting  
September 19, 2024**

**Agenda Item H.**

**LIABILITY LEGAL COUNSEL LIST UPDATE**

**ACTION ITEM**

**ISSUE:** The Committee is asked to approve the addition of Tony Sain from Lewis, Brisbois, Bisgaard & Smith, LLP. Tony has extensive experience with Police and Civil Rights Claims. Please see attached for more information regarding Tony and his firm.

We have also received requests for fee increases from two Firms we regularly work with. An attachment with the requested rates will be sent under separate cover.

**RECOMMENDATION:** Review and recommend updates as presented or provide direction.

**FISCAL IMPACT:** None expected from this item.

**BACKGROUND:** The Claims Committee regularly reviews and recommends changes to the Approved List of attorneys based on feedback from members and the claims administrator and refers to the Executive Committee. Firms that are not being used regularly are reviewed to determine if there is still a need, and those that are being used are reviewed for feedback prior to recommending updates to the Executive Committee.

**ATTACHMENT(S):**

1. Policy and Procedure A-9: Attachment B Defense Attorney List for Liability
2. Tony Sain Reference Material

*List with rate increase changes will be provided under separate cover.*



Northern California Cities Self Insurance Fund

c/o Alliant Insurance Services, Inc.  
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**NCCSIF ADMINISTRATIVE POLICY & PROCEDURE #C-7A**

**ATTACHMENT A - LIABILITY**

**Approved List of Counsel**

Name of Law Firm	Attorneys	Areas of Expertise
Angelo, Kilday & Kilduff 601 University Avenue, Suite 150 Sacramento, CA 95825 (916) 564-6100	Bruce A. Kilday Carolee Kilduff Serena Warner Kevin Dehoff Derick Konz	Police Liability, General Liability, Auto, Personnel, Heavy Trial Ex- perience
Ayres & Associates 930 Executive Way, Suite 200 Redding, CA 96002 (530) 229-1340	William Ayres	Dangerous Condition, Auto, Gen- eral Liability, Environmental Lia- bility
Bertrand, Fox, Elliott et al 2749 Hyde Street San Francisco, CA 94109 (415) 353-0999	Eugene Elliott	
Caulfield Law Firm 1101 Investment Blvd., Suite 120 El Dorado Hills, CA 95762 (916) 933-3200	Rich Caulfield Andrew Caulfield	Same as above, with Construction Defect, Heavy to Medium Trial Experience
Donahue Davies LLP 1 Natoma Street Folsom, CA 95630 (916) 817-2900	Robert E Davies	
Gregory P. Einhorn 48 Hanover Lane, Suite 2 Chico, CA 95973 (530) 898-0228	Gregory P. Einhorn  <i>Use for Willows as needed</i>	Employment Law, General Liabil- ity, Municipal



## Northern California Cities Self Insurance Fund

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Name of Law Firm	Attorneys	Areas of Expertise
Kronick, Moskovitz Tiedemann & Girard 400 Capitol Mall, 27 <sup>th</sup> Floor Sacramento, CA 95814	Christopher Onstott Bruce A. Scheidt * David W. Tyra Mona G. Ebrahimi Kevin A. Flautt Olivia R. Clark	Civil Rights, California Fair Employment and Housing, Tort Claims, California Public Records Employment Practices
<u>Lewis Brisbois Bisgaard &amp; Smith LLP</u>	<u>Tony Sain, Partner</u>	<u>Police, Civil Rights, Extensive Trial Experience</u>
Liebert Cassidy Whitmore 135 Main St #7 San Francisco, CA 94105	Richard Bolanos	Employment Law, Labor Relations & Collective Bargaining, Public Safety, Wage & Hour, Retirement, Health and Disability
Peters, Habib, McKenna Juhl-Rhodes & Cardoza, LLP P.O. Box 3509 Chico, CA 95927 (530) 342-3593	Mark Habib Jim McKenna Lia Juhl	Dangerous Condition, Police Liability, General Liability, Auto, Good Trial Experience
Porter Scott P.O. Box 255428 Sacramento, CA 95865 (916) 929-1481 Fax: (916) 927-3706	John Whitefleet Carl L. Fessenden Will Camry David Norton Derek Haynes	Police, Civil Rights, Dangerous Condition, Inverse Condemnation, Auto, General Liability, Heavy to Light Trial Experience
Matheny Sears Linkert & Jaime, LLP 3638 American River Drive Sacramento, CA 95864 (916) 978-3434 Fax: (916) 978-3430	Matthew Jaime Douglas Sears Richard Linkert	
Ruben Escobedo 731 S. Lincoln St. Santa Maria, CA 93458	Ruben Escobedo	Labor & Employment
The Law Office of Justin N. Tierney 2000 U Street Sacramento, CA 95814	Justin N. Tierney	Dangerous Condition, Auto, Medium Trial Experience



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Name of Law Firm	Attorneys	Areas of Expertise
<p>The Law Office of James A. Wyatt 2130 Eureka Way Redding, CA 96001 (530) 244-6060 P.O. Box 992338 Redding, CA 96099-2338</p>	<p>James A. Wyatt</p>	<p>Dangerous Condition, Civil Rights, Police, Wrongful Termination, Auto Liability, Labor Law, Heavy Trial Experience</p>
<p>Murphy, Campbell, Alliston &amp; Quinn, PLC. 8801 Folsom Boulevard, Suite 230 Sacramento, CA 95826 (916) 400-2300</p>	<p>Stephanie L. Quinn</p>	<p>Auto, Wrongful Deaths, Slip and falls, Fire and Trespassing Experience</p>
<p>Cota Cole LLP 2261 Lava Ridge Court Roseville, CA 95661 (916) 780-9009</p>	<p>Dennis Cota Derek Cole Daniel King</p>	<p>Land Use, civil rights, environmental issues.</p>
<p>Allen, Glaessner, Hazelwood, Werth 180 Montgomery Street, Ste. 1200 San Francisco, CA 94104 (415) 697-2000</p>	<p>Dale Allen Mark Hazelwood Steve Werth</p>	<p>Police liability, ADA, sidewalk, employment practices, general municipal liability</p>
<p>Arthofer and Tonkin, Attorneys At Law 1267 Willis Street Redding, CA 96001 (530) 722-9002</p>	<p>Kenneth Arthofer Griffith Tonkin</p>	<p>Public entity, injury, real estate</p>
<p>Randall Harr 44282 Highway 299 East McArthur, CA 96056 (530) 336-5656 rlh@randallharrlaw.com</p>	<p>Randall Harr</p>	
<p>Lenahan, Lee, Slater, Pearse &amp; Majernik LLP 2542 River Plaza Drive Sacramento, CA 95833 (916) 443-1030</p>	<p>Charleton S. Pearse Benjamin D. Oram, Esq. Adam Ambrozy</p>	<p>Dangerous Condition and Vicarious Liability cases</p>





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Name of Law Firm	Attorneys	Areas of Expertise
Lynberg & Watkins 1100 Town & Country Rd., Ste. 1450 Orange, CA 92868 (714) 937-1010	Melissa D. Culp Courtney L. Hylton Norman J. Watkins	
Roy C. Santos	Roy C Santos Michelle Sassano	

*\* Bruce A. Scheidt will be used only as respects the Eaton vs. Rocklin litigation.*

**Revision Date: March 28, 2020**  
**Revision Date; March 24, 2022**  
**Revision Date; May 23, 2023**



# **Response to Request for Proposal (RFP) to Provide Legal Services**

Northern California Cities Self Insurance Fund &  
California Joint Powers Risk Management Authority

May 31, 2024



Lewis Brisbois Bisgaard & Smith LLP  
633 West Fifth Street, Suite 4000  
Los Angeles, CA 90071  
Tel: 213.250.1800 | Fax: 213.250.7900  
www.LewisBrisbois.com

**May 31, 2024**

Northern California Cities Self Insurance Fund  
Alliant Insurance Services  
2180 Harvard Street, Suite 460  
Sacramento, CA 95815

California Joint Powers Risk Management Authority  
3201 Doolan Rd  
Livermore, CA 94551

To Whom It May Concern::

On behalf of Lewis Brisbois Bisgaard & Smith LLP (“Lewis Brisbois,” or the “firm”), a limited liability partnership, we thank you for the opportunity to present this proposal to the Northern California Cities Self Insurance Fund (“NCCSIF”) and the California Joint Powers Risk Management Authority (“CJPRMA”) to assist in providing legal representation relating to police civil rights or miscellaneous police department civil litigation defense and legal counseling, *Pitchess* motions, and California Public Records Act (“CPRA”) counseling and litigation defense.

My contact information is as follows:

Tony M. Sain, Partner  
Lewis Brisbois Bisgaard & Smith LLP  
633 West Fifth Street, Suite 4000  
Los Angeles, California 90071  
Office Tel: 213.358.6041  
Tony.Sain@lewisbrisbois.com

Thank you for your consideration. We look forward to further discussion regarding our proposal. If you have any questions as you conduct your review, please do not hesitate to reach out to me.

Respectfully,

Tony M. Sain, Partner  
Lewis Brisbois Bisgaard & Smith LLP



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# LEGAL SERVICE PROVIDER QUALIFICATIONS AND EXPERIENCE

## The Lewis Brisbois Approach to Defending Public Entity Cases

### Executive Summary — Overall Approach

We are trial lawyers. We specialize in building cases that can win a defense verdict from the jury. While we have the experience and the skillset to obtain early, defense-favorable settlements, where we excel is in preparing cases that can win the jury trial and/or associated appeal. To that end, we emphasize economy and efficiency in every phase: focusing discovery, depositions, expert retention, motion work, and trial preparation on assembling the strongest, most compelling/persuasive defense case available under the circumstances.

### Early Resolution and Settlement

Particularly in the police/civil rights litigation context, plaintiffs' counsel are often reluctant to make a settlement demand, to assign a realistic settlement value to their case, before extensive depositions and discovery have unfolded. However, we always encourage plaintiffs to make an early settlement demand: because, in some cases, the public entity client might find an economical demand to be appealing, even if the merits of plaintiffs' case are questionable. Moreover, for defense-unfavorable cases, we more aggressively pursue early resolution in a manner designed to reduce the risk of runaway settlement pricing, while also reducing avoidable defense costs.

Additionally, contrary to the method of many practitioners who engage in posturing and bluffing that necessitates multiple mediations — where the real settlement pricing for both sides is only revealed when the case is closer to trial, and both sides (and particularly the defense) have incurred otherwise-unnecessary defense costs — we do not believe in such an approach. In our view, such bluffing or posturing far too often needlessly increases the costs of defense. By contrast, our approach encourages, as early as feasible in light of the state of the discovered evidence, a firm decision on what the public entity client's maximum settlement price for a case is, and a firm resolve to proceed to trial if that maximum price does not result in a settlement and signed release.

To that end, we provide the public entity client with multiple settlement valuations, including: (a) a merits-based valuation; (b) going market rate for comparable cases; and (c) our assessment of what plaintiffs' walk-away settlement pricing is likely to be, as well as any damages analysis that is feasible in light of the state of discovery. We also provide our public entity clients not only with a probability for a defense verdict at trial (the best of which will still be in the 50% range), but a letter grade on the merits for trial, based on the discovered evidence.

With this information, our goal is to increase the public entity client's confidence in its decision-making pertaining to the maximum settlement value to assign to its cases, or alternatively, confidence in the public entity client's decision to proceed to trial if settlement cannot be obtained within that value.

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We also know that cases should not just be evaluated for settlement in isolation: that sometimes long-term cost-benefit analysis must be considered, rather than just focusing on the short-term/individual case cost-benefit analysis.

Along these lines, many public entity clients have wisely embraced the notion that settling too many low-merit cases invites more low-merit lawsuits that drive up defense costs over the long term. By contrast, when the plaintiffs' bar knows the public entity client is not only willing to take cases to trial, but that the public entity client knows how to win them, by picking the right cases for trial, even when a settlement for costs of defense or lower can be obtained in the right individual cases, through such deterrence as can only come with trial victories, the public-entity client can reduce or limit its overall, long-term defense costs.

Understanding and sharing this approach to long-term defense cost reduction, we have long worked with you to help identify which cases are strong enough to go to trial, notwithstanding short-term-economical settlement availability, so that a potential trial victory can serve as such a deterrent, versus which cases merit a more short-term, case-individual cost/risk-benefit analysis, with less emphasis on the long-term cost-benefit.

Additionally, our case management philosophy is oriented against the notion of trying to work up low-merit cases, and portraying them as trial-defensible, only to settle them on the eve-of-trial. We believe that such an approach is a disservice to our clients and a waste of resources. Rather, we advise against investing unnecessary defense costs in a case that is low-merit, and to seek settlement instead as early as feasible: so as to avoid wasting time and resources on a low-merit case that could be better devoted to high-merit cases that are strong enough to be likely to win at trial.

### **Discovery and Depositions**

Our approach to discovery, particularly depositions, is specifically oriented toward trial preparation. At the outset of each case, after we obtain and begin to organize the investigative records provided by the public entity client department targeted in the lawsuit, we identify which facts the defense needs, and which facts plaintiffs need, so our strategy can develop the most defense-favorable facts feasible.

To this end, we understand depositions are the most important part of the case before trial. We thusly take as many of the non-party incident witness video depositions as feasible, so as to increase the likelihood that witness testimony will favor the defense. We also thoroughly prepare our public-entity client law enforcement witnesses for deposition using a unique, customized, multiday cross-exam survival training system that not only prepares entity witnesses for deposition but also aids them in developing defense-favorable testimony that can serve as a shield at trial and as a sword in motions.

### **Experts**

Our focus on expert retention is to identify those experts that are not only knowledgeable in their area of expertise, but effective and persuasive teachers for a lay jury. To that end, we recruit and recommend a variety of top-notch specialists whom the public entity client can retain to advocate for your interests in a given field. We also encourage such experts to seek cost savings wherever feasible: and to make sure they protect their long-term relationship with the public-entity client.

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## **Motions**

Our approach to discovery is to try to reduce contentiousness in the litigation, to avoid unnecessary discovery motion costs. While some opposing counsel defeat this strategy despite our best efforts, it often results in fewer costly discovery disputes and associated motions.

We also aim to create multiple potential avenues for appellate attack should a runaway/unexpected plaintiffs' verdict hit, including aggressive pursuit of a motion for summary judgment ("MSJ"). While few police/civil rights cases resolve on MSJ due to alleged factual disputes, our MSJs have been effective in narrowing the plaintiffs' cases by elimination of claims and restrictions on damages.

## **Trial**

Trial is what we do best: it is what we live to do and what we love. While our record should speak for itself, we also provide sample links in Mr. Sain's attorney bio that offer you exemplars of Mr. Sain's skillset before real jurors. From the very outset of the case, we are preparing the case for jury trial: positioning it through discovery, expert discovery, dispositive motions, pre-trial motions, and trial documents and witness preparations in our litigation chess match to both reduce as many variables as possible while maximizing the likelihood of a defense verdict based on the known facts. We also use every resource to optimize the likelihood of a defense verdict, including trial graphics presentation specialists, as well as jury consultants to conduct juror research and help us identify potential bases for cause challenges, as well to assist in testing the case before trial through the mock trial process.

## **Appeal**

With a whole team of certified appellate law specialists ready to support any defense appeal or appellate defense that may be needed, and — in Mr. Sain — with one of the few defense attorneys who specializes in both appellate advocacy and trial advocacy, our attorneys have the talents needed to build a successful case on appeal, including advocacy before the U.S. Supreme Court. As a result, we have built several cases that have prevailed on appeal through our appellate/oral advocacy.

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## HIGHLIGHTS

### Examples of Favorable Outcomes

#### *Nunis* (Trial – April 2024)

In perhaps the highest-profile, highest-risk police civil rights case Mr. Sain and his team have tried to date, where plaintiffs brought a federal court case for excessive force and wrongful death in a case plaintiffs touted as a George Floyd style restraint/positional asphyxia death, where plaintiffs asked the jury for \$60M, Mr. Sain and his team secured a unanimous defense verdict that only reasonable force had been used and defeating plaintiffs' theory of restraint-caused death.

#### *Lowrie-Serrano* (Settlement – February 2024)

After dramatically reversing mock jurors into strongly pro-defense voters, and after obtaining concessions from plaintiffs' experts that were near-fatal to plaintiffs' excessive force and asphyxia-causation-of-death theories, Mr. Sain and his team forced plaintiffs' settlement valuation to collapse by 90%, resulting in an eve-of-trial settlement.

#### *Perez-Cortez* (Plaintiffs' Surrender – February 2024)

Mr. Sain and his team won a rare waiver-of-costs dismissal by plaintiffs' counsel on a deputy use-of-force case arising from a traffic stop where the decedent had shot our deputy twice, once causing a bleeding injury to the leg and once in the center of the armored chest, before our deputy fired in self-defense during an on-the-ground struggle, with plaintiffs' counsel abandoning the case in the face of a daunting defense, before any depositions were taken and before substantial defense costs were incurred.

#### *Parker* (Appeal – May 2023)

Mr. Sain and his team won a groundbreaking appeal before the Ninth Circuit clarifying that a suspect has no right to *Brady* disclosures of exculpatory evidence before a criminal proceeding where such evidence could be used, unless the investigators conceal such evidence from the prosecutors — which was not the case in the appeal at issue.

#### *Alves – Niedzialek* (Trial – April 2023)

Mr. Sain and his team won a defense-favorable verdict for the Riverside public-entity client Sheriff and Sheriff's Department in a federal civil rights jury trial arising from allegations of excessive force and wrongful death associated with prone restraint of a methamphetamine-intoxicated subject, wherein plaintiff alleged death by restraint/positional asphyxia in the spirit of George Floyd. After a two-week trial against some of the nation's top police/civil rights plaintiffs' attorneys, the jury unanimously found that the deputies' handcuffed prone restraint was reasonable/lawful.



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### ***Ngo (Trial – August 2021)***

Mr. Sain and his team won an overwhelming defense verdict for the Riverside public-entity client Sheriff's Department in a state civil rights jury trial involving allegations of excessive force arising from an officer-involved shooting of a knife-armed subject. After a six-week trial, the jury returned a verdict in favor of the defendants. This was one of the first pro-police verdicts after the anti-police demonstrations of 2020.

### ***Ngo – CPRA (Writ Trial – December 2020)***

Reversing the Court's tentative ruling, Mr. Sain and his team secured the denial of a petition filed pursuant to the California Public Records Act (CPRA) following the death of a suspect in police custody. Citing to provisions that temporarily exempted from disclosure the police investigatory materials that the plaintiffs sought, the defense team assembled clear and convincing evidence that justified the client's withholding of records. The court also denied the plaintiffs' request for attorneys' fees.

### ***Stoner (Appeal - December 2020)***

When the district court amended a post-verdict defense judgment, despite a verdict finding no actionable excessive force, into a judgment for plaintiff, Mr. Sain and his team successfully restored the defense judgment by a reversal on appeal to the U.S. Court of Appeals for the Ninth Circuit.

### ***Stoner (Trial – January 2019)***

Mr. Sain and his team won a unanimous defense verdict for the Riverside public-entity client Sheriff's Department in a federal civil rights jury trial involving allegations of excessive force arising from a grisly police canine/K9 bite. After a five-day trial and less than 90 minutes of deliberations, the jury returned a verdict in favor of the defendants: finding no injuries caused by any excessive force.

### ***Tucker (Trial – October 2018)***

Mr. Sain and his team secured a win for the Riverside public-entity client Sheriff's Department against claims of negligence, excessive force, and wrongful death in an officer-involved shooting case involving a knife-armed suspect. During the six-day federal trial, the defense team established that the defendant deputies had reasonably followed their training. The jury ultimately rendered a unanimous defense verdict after three hours of deliberation.



## STAFF QUALIFICATIONS AND EXPERIENCE

Lewis Brisbois is proud to have one of the strongest trial benches in the nation. Our trial lawyers regularly handle the most difficult cases, including those involving police defense, wrongful death, traumatic brain injury, and ones with seven- and eight-figure demands. We have a group of elite trial attorneys who specialize in parachuting in to matters regardless of the stage of litigation or venue, even days before trial. And among the hundreds of trial lawyers practicing in our offices across the nation, 49 are members of the prestigious American Board of Trial Advocates (ABOTA), distinguished among their peers by their diverse and extensive trial experience. For the proposed attorneys' full resumés, please refer to Attachment A.

## SIMILAR ENGAGEMENTS WITH OTHER GOVERNMENT ENTITIES

Case Name	Scope of Work	Date	Client Contact
Nunis v. Chula Vista ACLU v. Chula Vista	<i>Civil Rights Litigation Defense; CPRA Litigation Defense</i>	2021-present	Karen Rogan, Chief Dep. City Attorney  619-409-5816  Police Chief Roxana Kennedy  619-921-2520
ACLU v. Fresno	<i>CPRA Litigation Defense</i>	April 2024-present	Tina Griffin, Chief Asst City Attorney  559-621-7500
Ngo v. County of Riverside	<i>CPRA Litigation Defense</i>	December 2020	Lari Camarra, Risk Manager  951-955-5855
Alves v. County of Riverside	<i>Civil Rights Litigation Defense; Appellate Work</i>	April 2023-present	Lari Camarra, Risk Manager  951-955-5855

Huerta v. County of Tulare	<i>Civil Rights Litigation Defense</i>	April 2023-present	Amy Myers, Chief Deputy County Counsel 559-636-4950
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## Client References

### County of Riverside

- a. Mike Bowers, Dir. Of HR & Risk Mgmt.; 4080 Lemon St., 7th Fl.; Riverside, CA 92501; 951.743.4412. Lari Camarra, Risk Mgr.; P.O. Box 1210; Riverside, CA 92502; 951.955.3532.
- b. Litigation defense through jury trials and appeals on police/civil rights matters, and on public entity employment matters not involving law enforcement officers; legal counseling on CPRA/Pitchess matters, and related litigation defense.
- c. Since ~2016 (~8 years).

### City of Fresno

- a. Tina Griffin, Chief Asst. City Attorney; 2600 Fresno St.; Fresno, CA 93721; 559.621.7500.
- b. Litigation defense through jury trials and appeals on police/civil rights matters.
- c. Since ~2010-2021, 2023-present (~13 years).

### City of Chula Vista

- a. Karen Rogan, Dep. City Attorney; 276 4th Ave.; Chula Vista, CA 91910; 619.409.5816.
- b. Litigation defense through jury trials and appeals on police/civil rights matters; legal counseling on CPRA/Pitchess matters, and related litigation defense.
- c. Since ~2020 (~4 years).

### County of Tulare

- a. Amy Myers, Dep. County Counsel; 2900 W. Burrel; Visalia, CA 93291; 559.636.4978.
- b. Litigation defense through jury trials and appeals on police/civil rights matters.
- c. Since ~2022 (~2+ years).

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## **FEES AND COSTS**

- Partners: \$315/hour
- Associates: \$285/hour
- Paralegals and Law Clerks: \$185/hour



# **Civil Rights & Police Litigation Defense Task Force**



## **CIVIL RIGHTS & POLICE LITIGATION DEFENSE TASK FORCE**

Serving as one of our communities' law enforcement officers is hard work. The dedicated and selfless public service that our law enforcement officers provide to our citizens is dangerous and can be unforgiving. When unfortunate outcomes with civilians result in lawsuits being brought against the agencies and officers, police agencies and officers often feel under siege and alone. When those civil rights lawsuits arise, however, our brave police officers and agencies are not alone, because we are here to defend them.

Lewis Brisbois' Civil Rights & Police Litigation Defense Task Force includes a multi-disciplinary, nationwide team of veteran, dedicated, and industry-leading police practices trial attorneys and appellate advocates who are highly experienced in all matters of federal and state civil rights and police litigation defense cases.

No matter what type of case is being brought against your law enforcement officers and agencies, our nationwide task force of widely-acclaimed trial attorneys is here to help you to build the strongest possible civil case for trial, to argue your appeal, or to assist you in resolving problematic lawsuits.



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Our extensive experience runs the full gamut of law enforcement civil rights cases, including:

- Officer-involved shooting (OIS) incidents – both fatal and non-fatal
- SWAT deployments & tactical team incidents – both fatal and non-fatal
- Prone & restraint-related, alleged asphyxial death incidents
- TASER force incidents – both fatal and non-fatal
- K9 dog bite incidents
- Pepper/OC spray incidents
- Baton, impact weapon, & manual strike incidents
- Disputed causation of death police force incidents
- False arrest & unlawful detention incidents
- Jail/prison medical cases
- And many other 42 U.S.C. § 1983 and comparable state law police/civil rights cases.

Moreover, because our team is composed of veteran trial attorneys who regularly try cases to today's juries, we not only understand the often unfavorable juror climate that law enforcement officers face. We work diligently in all phases of the case – from initial pleadings and investigation, through discovery and particularly depositions, in our motions and mediations, and at trial or appeal – to help our client law enforcement officers and agencies to allow the truth surrounding their incidents to emerge. We use every available resource to educate today's jurors about the dangerous realities faced by our law enforcement officers as they strive to protect each of us.

Furthermore, because we are constantly keeping abreast of the latest developments concerning how today's jurors respond to various incident fact patterns, and because we have tried so many police cases to juries, we can soberly and straightforwardly advise our clients as to which cases present favorable risks for trial versus those which present unreasonable risks to the officers and agency. While our attorneys specialize in trial and appellate advocacy, we can also help you navigate early resolution when the facts are not as favorable as desired.

With our extensive experience in trial of police litigation, and our impressive track record of wins before juries and on appeal, our nationwide Civil Rights & Police Litigation Defense Task Force stands ready to defend you in court and to help you achieve a favorable outcome.

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# **ATTACHMENT A:**

## **Attorney Resumes**



## TONY M. SAIN

Partner, Los Angeles

213.358.6041 | [Tony.Sain@lewisbrisbois.com](mailto:Tony.Sain@lewisbrisbois.com)

[LewisBrisbois.com](http://LewisBrisbois.com)

### Primary Practice(s)

- General Liability
  - Civil Rights & Police Litigation Defense
- National Trial Practice
- Appellate

### Additional Experience

- Crisis Management Practice

### Education

- Loyola Law School, Loyola Marymount University, *Juris Doctor*, 2007
- Princeton University, Bachelor of Arts, Public & International Affairs (Mgmt), 1993

Tony M. Sain is a partner in the Los Angeles office of Lewis Brisbois and a member of the General Liability and National Trial Practices. He focuses his practice on high exposure, high-stakes, high-profile matters in a wide variety of catastrophic injury and wrongful death cases across a number of practice areas, including personal injury, tort litigation, as well as police civil rights and public entity defense. Throughout his career, Mr. Sain has served as lead trial attorney in multiple high-profile jury and administrative trials, consistently securing defense verdicts, complete dismissals of claims, and other favorable outcomes on behalf of his clients, as well as racking up an impressive number of wins as an appellate court advocate.

Outside of his practice at Lewis Brisbois, Mr. Sain serves on the panel for prosecuting criminal cases for the Los Angeles County District Attorney's office on a pro bono basis. Mr. Sain was also an adjunct professor for trial advocacy at Los Angeles' esteemed Loyola Law School. He has also trained multiple public entities on the legal implications of changes to key statutes affecting policing, and he has served as a lead lecturer for the California Peace Officers' Association's (CPOA) seminar series.

Moreover, Mr. Sain is the author of "Pitchess Privileges and the CPRA: Police Officer Personnel and Investigative Records Privileges and their Intersection with the California Public Records Act," a leading resource manual on the intricacies of California's complex officer privacy laws and their intersection with the California Public Records Act.

Mr. Sain is also a member of the American Board of Trial Advocates (ABOTA) Side Bar program. Named a Rising Star by *Super Lawyers* from 2013-2017, he is currently recognized by that publication and by the *Los Angeles Business Journal* as a top-rated civil rights attorney in Los Angeles. Before practicing law, Mr. Sain served as a senior executive in a variety of corporate and non-profit organizations, where he specialized in high-stakes organizational overhauls and community outreach.



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Mr. Sain is a graduate of Princeton University's elite School of Public and International Affairs, where he learned executive-level governance. He is also a graduate of Loyola Law School of Los Angeles's prestigious Hobbs Trial Advocacy Program, and the Williams Civil Rights Litigation Program, and in law school, he also won the Best Advocate in California award in the National Moot Court competition for appellate advocacy.

## Associations

Los Angeles Chapter's ABOTA Side Bar program

## Awards & Honors

- 2019 Top Litigator and Trial Attorney – *Los Angeles Business Journal*
- *Super Lawyers* Rising Star 2013-2017
- Best Advocate in California award — Scott Moot Court Board (competitive appellate advocacy)

## Professional Presentations

- Speaker, "Handling the Aftermath of a Critical Incident," California Lawyers Assn. (CLA) - Law Enforcement Practices & Liability Conference, 05.25.2023
- Speaker, "Cross-Exam Survival Tactics," California Joint Powers Risk Management Assn. (CJPRMA) & Nor. Cal. Cities Self-Insurance Fund (NCCSIF), 05.18.2023
- Speaker, "California Public Records Act Legal Updates," California Police Chiefs Assn., 03.15.2023
- Professor, Trial Advocacy, Loyola Law School of Los Angeles, Spring 2023
- Speaker, "Cross-Exam Survival Tactics," PARMA Annual Conference for Risk Managers, 02.28.2022
- Speaker, "Cross-Exam Survival Tactics," F.B.I. National Academy, Southern California, 10.06.2021
- Speaker, "Police Records—One Year Later," 2020 Open Meetings and Open Records Digital Conference for the California Lawyers Association (CLA), 05.13.2020
- Panelist, "California Public Records Act (CPRA): Legal Updates & Debates," California Peace Officers Association speaker series, March-October 2019
- Panelist, "Cops, Cameras, and Race in America," 05.12.2015
- Speaker, PARMA's 40th Annual Conference for Risk Managers, 02.09.2014

## Representative Matters

- Mr. Sain and his team won a defense-favorable verdict for the Riverside County Sheriff and Sheriff's Department in a federal civil rights jury trial arising from allegations of excessive force and wrongful death associated with prone restraint of a methamphetamine-intoxicated subject, where plaintiff alleged death by restraint/positional asphyxia in the spirit of George Floyd. After a two week trial against some of the nation's top police/civil rights plaintiffs' attorneys, the jury unanimously found that the deputies' handcuffed prone restraint was reasonable/lawful.
- Mr. Sain and his team won a groundbreaking appeal before the Ninth Circuit clarifying that a suspect has no right to Brady disclosures of exculpatory evidence before a criminal proceeding where such evidence could be used, unless the investigators conceal such evidence from the prosecutors – which was not the case in the appeal at issue.

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- Mr. Sain and his team won an overwhelming defense verdict for the Riverside County Sheriff's Department in a state civil rights jury trial involving allegations of excessive force arising from an officer-involved shooting of a knife-armed subject. After a six-week trial, the jury returned a verdict in favor of the defendants: one of the first pro-police verdicts after the anti-police demonstrations of 2020.
  - Mr. Sain and his team won a unanimous defense verdict for the Riverside County Sheriff's Department in a federal civil rights jury trial involving allegations of excessive force arising from a police canine/K9 bite. After a five-day trial and less than 90 minutes of deliberations, the jury returned a verdict in favor of the defendants. When the district court later amended the defense judgment into a judgment for plaintiff, Mr. Sain and his team successfully restored the defense judgment by a reversal on appeal to the U.S. Court of Appeals for the Ninth Circuit.
  - Mr. Sain and his team obtained an appellate victory when the U.S. Court of Appeals for the Ninth Circuit upheld the district court's dismissal of a civil rights case involving an alleged Fourth Amendment violation, concluding that the suit was time-barred. The court also affirmed judgment on the pleadings in favor of the defendants in the same action alleging that the plaintiff was falsely arrested and maliciously prosecuted. The case established new precedent that: (1) California Code sec. 356 does not toll the statute of limitations while a criminal appeal is pending; and (2) a reversal on appeal does not necessarily support a malicious prosecution cause of action.
  - Mr. Sain and his team secured a win for the Riverside County Sheriff's Department against claims of negligence, excessive force, and wrongful death in an officer-involved shooting case - where a knife-armed teen charged a pair of deputies trying to help him. During the six-day trial, the defense team established that the defendant deputies had reasonably followed their training. The jury ultimately rendered a unanimous defense verdict after three hours of deliberations.
  - Mr. Sain and his team secured the affirmance of summary judgment in favor of the City of Gardena when a California appeals court held that the promulgation provision of Vehicle Code § 17004.7, which provides immunity for public entities that adopt and implement appropriate vehicle pursuit policies, "does not require proof of compliance by every officer with the written certification requirement as a prerequisite to immunity." The California Supreme Court subsequently adopted this ruling, emphasizing that immunity depends upon agency compliance with the statute, not officer completion of the certification mandate.
  - Mr. Sain and his team obtained a unanimous defense verdict against a high-profile plaintiff's attorney in a matter where the plaintiff became paralyzed from the waist down after an encounter with the San Bernardino Sheriff's Department involving a TASER.
  - Mr. Sain and his team secured a win for two Manhattan Beach officers in a case alleging excessive force that ended in a mysterious fatality. The decedent incurred a skull fracture of unknown origin during a pursuit following a traffic stop. Plaintiffs' counsel made a damages demand of eight figures. Following a week-long trial, with jury deliberations split over two days, the jury rendered a complete defense verdict for both officers.
  - On behalf of a California government entity, Mr. Sain and his team secured the denial of a petition filed pursuant to the California Public Records Act (CPRA) following the death of a suspect in police custody. Citing to provisions that temporarily exempted from disclosure the police investigatory materials that the plaintiffs sought, the defense team assembled clear and convincing evidence that justified the client's withholding of records. The court also denied the plaintiffs' request for attorneys' fees.
  - In a case that may serve as a bellwether in the ongoing debate over the scope of disclosable public records

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under the 2019+ revisions to the California Public Records Act (CPRA), and the applicable definition of 'great bodily injury' (GBI), Mr. Sain and his team secured a denial of a writ petition seeking disclosure of investigative records of a TASER-related incident with standard associated injuries, where death was determined to have been caused by narcotics, not TASER usage.

- Mr. Sain and his team successfully convinced the plaintiff to dismiss her case with prejudice for zero dollars and to assign a full release of claims in a matter involving wrongful death and excessive force claims against police officers regarding an officer-involved shooting of a golf-club-armed suspect. After successfully convincing the court to dismiss the wrongful death claim for lack of standing, the defense team prepared a persuasive motion for summary judgment on the excessive force claim, which ultimately prompted the plaintiff to stipulate to the dismissal of the matter.
- Mr. Sain and his team inspired plaintiffs to dismiss their case with prejudice for zero dollars where plaintiffs' decedent had run away from a vehicle stop, then grappled against a uniformed deputy, before shooting the deputy twice: prompting the deputy to engage in a self-defensive officer-involved shooting.

### **Publications**

- "GBI and the CPRA: Debate Over 'Great Bodily Injury' Heats Up," Daily Journal, 03.22.2022
- "Pitchess Privileges and the CPRA: Police Officer Personnel and Investigative Records Privileges and their Intersection with the California Public Records Act" – available on Amazon and Google
- "Emerging Exception to Pitchess discovery requirements" – Daily Journal, 07.15.2020

### **Media Coverage**

Quoted in *Daily Journal* article "SB 1286 proposes greater access to law enforcement records in misconduct cases," 03.01.2016

### **Admissions**

- State Bar Admissions:
  - California
- United States District Courts:
  - United States District Court for the Central District of California
  - United States District Court for the Eastern District of California
  - United States District Court for the Northern District of California
  - United States District Court for the Southern District of California
- United States Courts of Appeals:
  - United States Court of Appeals for the Ninth Circuit
- United States Supreme Court



BACK TO AGENDA

Northern California Cities Self Insurance Fund  
Claims Committee Meeting  
September 19, 2024

Agenda Item I.

## ROUND TABLE DISCUSSION

### INFORMATION ITEM

**ISSUE:** The floor will be open to the Committee for discussion.

**RECOMMENDATION:** None.

**FISCAL IMPACT:** None.

**BACKGROUND:** The item is to the Claims Committee members for any topics or ideas that members would like to address.

**ATTACHMENT(S):** None.