Trindel Insurance Fund

Alpine - Colusa - Del Norte - Lassen - Modoc - Mono - Plumas - San Benito - Sierra - Trinity

A Joint Powers Authority Established in 1980

www.trindel.org

Litigation Management Guidelines

Trindel Insurance Fund "Trindel" maintains a comprehensive litigation management program. The objective is to assign cases to attorneys that are most qualified to handle the defense of public entity tort liability, while producing the best outcomes and ensuring cost efficient representation without compromising the quality of that representation. The assignment will be to individual attorneys NOT law firms.

A. ASSIGNMENT OF CASE

Assignment of defense counsel shall be made by Trindel and/or its litigation manager. Upon receipt of an assignment, defense counsel shall submit in writing an acknowledgement of assignment within 7 days. Defense counsel shall receive a copy of all pleadings and other pertinent file materials obtained by Trindel or its member entity.

Trindel's practice is to compensate one attorney to handle a case. It is Trindel and/or its litigation manager's intent to establish positive working relationships with certain attorneys within the firm who are experts in a particular litigation field. With that in mind, the assignment is made with the understanding that a specific attorney will handle litigation. Partner's assigned cases may at times require assistance from an associate and it may be appropriate for an associate to take full responsibility for a case with prior approval from Trindel and/or its litigation manager.

Trindel will compensate for only one attorney to accomplish any single task. For example, we will not pay for more than one attorney attending depositions or court hearings without prior approval. We will not pay for an attorney to redo or extensively revise the work of another attorney. We encourage the work of paralegals; however, assignment of work to paralegals should not result in duplicated work by attorneys.

B. REPORTING

I. Preliminary Report

Within 45 days following receipt of the assignment, the handling attorney must provide the litigation manager a preliminary evaluation of the lawsuit containing the following:

a. A brief summary of the allegations set forth by the plaintiff(s).

b. The factual basis of the litigation.

c. An evaluation of liability and damage exposure. Summarize and analyze plaintiff's injuries, damages and our exposure in the case. The evaluation should include the worst case scenario as well as settlement potential and the availability of ADR. If you believe it is a case of liability, efforts should focus on resolving the case without incurring unnecessary discovery expense.

d. Counsel's preliminary strategy for handling the case, including assessment of any potential dispositive law and motion, the potential success and the discovery or development of evidence which must be undertaken prior to bringing such motions. Counsel should analyze what discovery is anticipated to properly put the case into perspective for proper evaluation.

e. Any request for additional field investigation should be formally requested. Counsel is not authorized, without approval, to assign field investigation.

f. Counsel will submit a litigation budget on the Trindel form. The proposed budget shall specify the means by which litigation is to be advanced. The budget should encompass the activity and objectives reasonably anticipated given the current facts and case analysis, including pleadings, discovery, motions, etc.

II. Mandatory Status Report

Counsel will submit a status report every 90 days to include new developments only. Routine submission of repetitive, non-substantive status reports is not acceptable. The status report should include the following:

a. The ongoing strategy for defense or resolution of the case.

b. A description of planned discovery with a timetable for completion.

c. A brief synopsis of the discovery completed since the last report.

d. A brief and concise summary of deposition testimony, including the attorney's opinion on the appearance of witnesses and what effect the deponents' testimony will have on the case. Lengthy deposition summaries are not desirable or needed.

e. Court dates, including but not limited to, mandatory settlement conferences, trial setting conferences, arbitration, trial dates, hearings on discovery, etc.

f. New settlement demands

g. An assessment of the probability of success for each action identified or recommended.

III. Trial Strategy Report

No later than 30 days before trial, the handling attorney must submit a report which shall include:

a. An assessment of the defendant entity's liability exposure.

b. An assessment of the plaintiff's damages.

c. An assessment of the legal defenses and probability of prevailing, including significant arguments of each party and expected counter arguments.

d. Unique characteristics of the jurisdiction, presiding judge and opposing counsel.

e. The verdict value assuming full liability.

f. Settlement value, considering defendant's liability exposure and chances of prevailing.

g. Status of settlement discussion.

C. EXPERTS

Selection of experts can be critical to the outcome of the case. Outside experts should be retained only with Trindel and/or its litigation manager's prior approval. If you plan to use an expert at trial or otherwise, the name and credentials of the proposed expert must first be submitted to Trindel and/or its litigation manager for approval.

Retention of experts should be closely coordinated. Trindel is not averse to retention of experts as consultants and may encourage the use of experts with widely divergent points of view (on a retainer) on complex cases.

Trindel requires a copy of all billings (separately) for the use of expert witnesses, including an hourly breakdown of services.

D. SETTLEMENT AUTHORITY

Defense counsel has no authority to settle cases unless they receive prior authorization from Trindel. Authority will be granted by Trindel by the way of each member County Board of Supervisors.

E. BILLING

All charges must be in accordance with the agreed hourly rate. Bills should reflect the amount of time expended in increments not larger than 1/10th of one hour. Trindel will not pay for "blocked entries", i.e. a line item with a single time being charged for multiple activities. The amount of time spent-in each activity must be separately indicated.

Each bill submitted by defense counsel should include:

a. The name of the defendant entity;

b. The date the bill was prepared;

c. Defense counsel's tax identification number;

d. A cumulative total of the billings on the case to date;

e. A description of legal services provided;

f. The name of the attorney or paralegal, etc. performing the service and his/her respective billing rate.

g. A breakdown of billing costs, including the firm's internal costs for such items as photocopying and long distance facsimiles.

h. Submit no billing for less than $1,000 each 90 days. Billings in excess of $1000 to be submitted monthly.

i. The assigned attorney rate shall not exceed $225 an hour. For typical tort suits, the rate shall not exceed $185 an hour.

j. Second/subsequent attorney rates are not to exceed 75% of the assigned attorney rate. Paralegal rates are not to exceed 50% of the assigned attorney rate.

k. Bills paid by the firm in excess of $99.99 must be attached to the firm's bill in order to be reimbursed.

l. Trindel does not pay Lexis Nexis or Westlaw fees. They are overhead. Exception: If the fee is for research outside the typical scope of the firm's practice and the firm does not have a subscription for that area of law.

m. Litigation management and billing practices are to follow the ABA Model Rules.

Interoffice conferring among attorneys will not be compensable unless it is a necessary strategy meeting related to some significant legal event (i.e. upcoming trial). We will not pay for duplicated entries for reviewing and analyzing documentation and legal research.