Liability and Auto Claims

Reporting
Subrogation
What is a Claim
General Liability
Auto Liability

Best Four Claims to Have

- 1. One that never happened. - - Risk Management
- 2. The one that we can tender
- 3. The one that cost us nothing
- 4. CLOSED!

REPORTING

What Accident?

Early reporting of All accidents and incidents (30 minute rule)

Reports are complete with photo’s, pictures and video (24 hour)

All requests for third party claim forms, Risk Management is notified

Supervisors Reference Guide

Section I. Vehicle Accidents

Section II. Damage or Theft to City Property

Section III. Employee Injury / Workers' Compensation claim

Section IV. Damage to Citizens property / Notice of Claim

Section V. Other information / Situations

“Any time there is an incident/ accident that is covered by these sections you are to contact Risk Management, “Dean Coughenour – (COKE-AN-HOUR), at both 928 - 213-2082 AND 623 693 0018 AND leave messages at both as to the situation AND your call back number 24 hours a day 365 days a year. This is to be done as soon as is reasonable to do so which in almost all cases is within 30 minutes of you being notified. If you are in doubt as to whether a report should be made to Risk Management or not then in ALL cases you are to report.”

Subrogation

What do I Include?

1. The Value of what was damaged
2. Vehicle hourly rate
3. Employee rate
4. Fire and Police time

Diminished Value

Light poles

Autos “Thiers”

Sell Risk Management!

What is a Claim?

Incident or claim

Pending or actual

No Notice of Claim?

- Call?
- Send Claim forms?
- Offer settlement in absence of claim filed?
- Claim or not?

We Have Received a Notice of Claim
Now it is Question Time!

- Do we have a report?
- Is it complete?
- To what percent do we estimate we are at fault or contributory to the injury or loss?
- Is the demand reasonable from the

  "In their shoes" perspective?

Plaintiff’s have an Attorney



BUT - - - Perceptions slow progress

Plaintiff Attorney's Opinion of Risk Management and Ins.

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- VIDEO

The Plaintiff's Attorney

VIDEO

Negotiate or Litigate?

What We Already Know

- Exposure to loss – how defensible is the case
- Early estimated Value of the claim (subject to change as case develops)
- Cost to defend estimate (self insured or pooled)

What We Already Know

- Facts of the case
- Sympathy = $$$$$ How likeable is their client and how well do they present
- How well our employee‘s will present in court

What We Already Know

- Is this a motion case
- Is this a fees exposure case/ 1983
- What attorney we intend to use to defend
- Where some of the bomb shells lie. (warts)
- Plaintiff counsel and their firm’s reputation

Defenses

- Notice of Claim Statute – “Is it us?”

  A. Did they file in time?

  B. Is the Notice of Claim sufficient?

  C. Is there a Sum Certain?

Defenses

- Open and Obvious
- Lack of Notice

  A. Constructive

  B. Actual
- Immunities

  A. Judicial

  B. Entity ordinance or statute

Initial demands are like pricing art!



It is a matter of PERSPECTIVE!!

BUT

An Opportunity Exists NOW Through Conversation

- Call plaintiff's counsel to discuss. Face to face is always best
- Open and candid conversation on what we know about the facts
- Appraise whether there is an opportunity for early resolution

Things to know

- Plaintiff counsel may have co counsel control issues
- Be aware of the Politics that may block settlement
- Consider an investment in a private investigator
- Google, Facebook social media (EARLY)

I have video☺

VIDEO

Benefits to an early discussion?

- You may be surprised at what the Plaintiff's attorney is willing to share
- Be realistic on your case valuation and case offsets
- Early hiring of an expert may be a waste of funds prior to a discussion
- You may settle the case



- Attorney letter within the first week with no contact from the claimant. Probable inflation of medical
- Attorney does not return calls – likely unable to resolve – time to hire an attorney, protracted process coming
- Multiple attorney’s involved with a reputation of attitude - -- we are going to trial



- Initial discovery indicates:

1. No treatment or transport required at the time of the incident
2. Initial contact with claimant days or weeks later where claimant states no medical just a little sore
3. Claimant is litigious or a frequent flyer
4. Claimant has ample funds

More Red Flags

- The facts of the incident do not correspond to the severity of the injury
- *Beware the "Egg Shell Plaintiff"*

- *VIDEO*

Offer of Judgment

- Early in the case
- Includes reasonable attorney fees to date as approved by the judge
- Modified later as new perspectives of case value evolve

Mediation

- We learn where they feel their case is strong and what some of their strategy will be at trial
- An effective mediator can bring a reality check to unrealistic plaintiff's
- You know it worked when everyone is upset with the agreement!



RECAP

- Early reporting / 24 hours
- Fact gathering
- The plaintiff. Are they sympathetic, eggshell, likeable, reasonable
- How will it play in front of a jury
- Consider early face to face discussion on the merits of the case

RECAP

- More than one point of view, be open to a different perspective
- As the facts change consider additional discussion for settlement
- Use of mediation as a tool

Sometimes you just have to tell them - -- -- - ---

VIDEO

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Questions?