

Manager/Supervisor Risk Management

#81– 8/16/12

A twice weekly e-mail training for YCPARMIA members

TOPIC: CIVIL LITIGATION – CONCLUDING A CLAIM

A claim for damages against an entity almost always starts with a claim – either a Government Code claim, or one filed by an employee with the EEOC or DFEH. This starts an investigative process that ends with a denial, a compromise settlement, or a judgment. Our “closing statistics” for the last seven years are interesting:

- YCPARMIA receives an average of about 92 civil claims a year from our members (who also handle an additional number of small property claims in-house).
- We have averaged 52 denials that closed the file and ended our member’s exposure. This means that 57% of all claims received are closed prior to litigation with no payments.
- When our investigation indicates an exposure we attempt to negotiate a settlement. We have averaged 20 settlements on non-litigated files per year – about 22% of claims reported. The negotiated settlement can range from the full damages claimed down to small percent based on our evaluation of our member’s exposure.
- Claims that are not denied or settled go into litigation. At any given time, YCPARMIA has about 33 open files in suit. This number is higher than our historical average, and possibly reveals an unintended consequence of courts forcing litigated files into mediation. Plaintiff’s attorneys seem to be avoiding negotiations until after filing suit, and trusting in court ordered mediation to resolve their often questionable claims.
- Over the last seven years we have closed 95 litigated claims.
 - Of these, 62 files (65%) were closed with no payments other than defense costs.
 - We have settled 33 litigated files (35%) with bodily injury or property damage payments made to the plaintiffs.

These statistics indicate that a claimant’s odds of recovering damages from YCPARMIA members do not improve with the filing of a lawsuit.

- The remaining files are open and active.
- Our civil cases do go to trial – but rarely. Over the last 30 years YCPARMIA has only had 6-8 trials, with mixed results. Trials end in a judgment for one side or the other, and often go on to a lengthy appeal process. The cost involved in the process is prohibitive, and makes even the best win a financial loss.

Since its formation in 1979, over 62% of YCPARMIA’s liability payments have been for defense costs rather than for damages paid to claimants. Our approach has been consistent; financial considerations occasionally come into play, but there must be legal liability to support any settlements that we make. Experience has taught us that settling claims that lack merit only serves to invite more meritless claims. Defending claims can be more expensive, but we are confident that we are saving money in the long run by embracing a “fair but firm” claims philosophy.

Next topic: Civil litigation – Attorneys