



**COVERAGE, CLAIMS & LITIGATION COMMITTEE**  
**Meeting Agenda**

**Thursday, November 8, 2018**  
**IRMA Office – 9:30 a.m.**

- I. **CALL TO ORDER**
- II. **APPROVAL OF MINUTES**
  - ✓ September 19, 2018 (pg. 1)
- III. **MILLIMAN PRESENTATION – PREDICTIVE MODELING**
- IV. **CLAIMS & LITIGATION REPORTS**
  - A. Litigation Reports
    - 1. New Litigation Report – September – October 2018 (pg. 5)
    - 2. Closed Liability Claims Report – September 2018 (pg. 6)
    - 3. Firm Trending by Amounts Billed GL & WC (pg. 8)
    - 4. Subrogation Reports GL & WC - TBD
    - 5. Defense Counsel Performance Survey Report (pg. 13)
- V. ✓ **BUSINESS AUTO LIABILITY COVERAGE CHANGES** (pg. 15)
  - A. Definition of Member
  - B. Criminal Acts Serious Traffic Violations Exclusion
- VI. ✓ **MODIFICATION TO UNINSURED/UNDERINSURED MOTORIST COVERAGE** (pg. 21)
- VII. ✓ **RFPs FOR APPROVED DEFENSE COUNSEL PANEL** (pg. 23)
- VIII. ✓ **MT. PROSPECT CLAIMS HANDLING–WORKERS’ COMPENSATION CLAIMS** (pg. 25)
- IX. **CCLC MEETING DATES FOR 2019** (pg. 28)
- X. **WEBSITE REDESIGN – MEMBER FORUM** (pg. 29)
- XI. **EXECUTIVE SESSION**
  - A. Pending litigation pursuant to 5 ILCS 120/2 (c)(11)
  - B. ✓ Review of closed session minutes pursuant to 5 ILCS 120/2(c)(21)
- XII. **ADDITIONS TO AGENDA**
- XIII. **CONFIRMATION OF NEXT MEETING**
  - Thursday, February 14, 2019
  - 9:30 a.m. - IRMA Office
- XIV. **ADJOURNMENT**

*To ensure a quorum, please contact Donna Sluis at [donnas@irmarisk.org](mailto:donnas@irmarisk.org) or (708) 236-6349, if you are not able to attend the meeting.*

**Copy to: Jessica Frances, IRMA Chair**



**COVERAGE, CLAIMS & LITIGATION COMMITTEE  
Meeting Minutes**

**Wednesday, September 19, 2018  
IRMA Office – 9:30 a.m.**

**PRESENT:** Julia Cedillo, Chair                      Doris Harmon-Warren  
                  Greg Van Dahm                              John DuRocher  
                  Patrick Brennan                                  Kevin Wachtel  
                  Peter Vadopalas

**ALSO PRESENT:** Margo Ely                              Susan Garvey  
                          Donna Sluis    Jennifer Swahlstedt  
                          Keena Marks-Cutler

**ABSENT:** Bryon Vana                                      Barbara Maziarek

**I. CALL TO ORDER**

Cedillo called the meeting to order at 9:32 a.m., roll was taken and a quorum declared.

**II. APPROVAL OF MINUTES**

It was noted to remove the “?” from Item IV in the minutes. A motion was made by Harmon-Warren and seconded by Brennan to approve the minutes of May 3, 2018. A voice vote was called and the motion carried.

**III. CLAIMS & LITIGATION REPORTS**

Cedillo went through each of the reports with the committee. The New Litigated Claims report April – August had much discussion on the number of false arrest claims.

**IV. 2019 COVERAGE RENEWAL**

LeTourneau presented the 2019 Coverage Renewal to the committee. After much discussion, a motion was made by DuRocher and seconded by Wachtel to approve the 2019 Excess & Reinsurance Coverage Program renewal. The motion carried.

**V. 2019 CLAIMS AUDIT RECOMMENDATION**

Cedillo reported that we went through an RFP process for the claims audit, which is required by our Bylaws to be completed. The contract that we signed with Northshore included a first year audit cost of around \$30,000 then subsequent follow-up audit at a reduced cost. What’s being recommended by staff that we go ahead and move forward with the follow-up audit with Northshore at the reduced price of \$14,175. After some

discussion, a motion was made Brennan and seconded by DuRocher to approve the selection of NiiS to complete the 2019 Claims Audit at a cost of \$14,175. The motion carried.

#### **VI. 2019 PRELIMINARY BUDGET**

Cedillo reported that the committee is responsible for the following items 3rd Party Claims Administration; Claims Audit; Insurance Brokerage Consultant Services and the Property Appraisal Services, which are outlined in the memo on page 23 of the packet. The last time we talked about our budget there's always a little discussion about the insurance brokerage consultant services and JLT Re's bonus. Staff has communicated to us consistently that they are very happy with the services that the brokerage firm provides and the guidance in obtaining the lines of coverage. This bonus structure is built in the contract that we have with them and staff is recommending we include the 5% bonus in the budget. The property appraisal services increased from \$15,000 to \$20,000 to allow for any new members coming into IRMA. A motion was made by Wachtel and seconded by Harmon-Warren to approve the Committee's preliminary budget for 2019. The motion carried.

#### **VII. COVERAGE CHANGES**

Cedillo reported that the action being requested is to consider and approve recommended changes to the IRMA General Liability, Public Officials Liability and Business Auto Liability coverages as presented. Garvey commented that we are taking the Business Auto Liability changes proposed off the agenda and will bring them back to the next meeting. Garvey reported to the committee the changes to the coverages for the General Liability – Law Enforcement Activities, Coverage A and B and for the Public Officials Liability-Employment Practices. The changes to the coverage documents are on pages 28-37 of the packet. After much discussion, a motion was made by Harmon-Warren and seconded by Vadopalas to approve the recommended changes to the IRMA General Liability and Public Officials Liability coverages as presented plus adding the comma under General Liability, Coverage B. The motion carried.

#### **VIII. EXPANDED AUTO COVERAGE FOR NEW VEHICLES**

Cedillo reported that this item was discussed previously. The recommendation regarding expanded auto coverage for new vehicles included enhancing the auto liability coverage to provide for full replacement value coverage for member vehicles under 1 year old. This group requested additional information from staff to determine what the overall budgetary or financial impact would be on the membership and there is information included by staff to that regard. The comments in the staff memo are even assuming an additional \$10,000 per vehicle because they took a suggested retail price for the replacement of 6 particular vehicles that had a loss over 3 years of data. Any impact to the pool would be minimal at best. The other item requested by staff was to look into whether or not we wanted to expand beyond the one year to two (2) years. Staff looked into the commercial reinsurance to see if anybody was offering and who was and it's less common than the replacement under 1 year. After much questions and discussion, a motion was made by Van Dahm and seconded by Wachtel to approve staff's

recommendation with the use of the model year for evaluation for the 1 year period. Brennan was opposed. The motion carried.

**IX. CLAIMS MANUAL CHANGES**

Cedillo reported this goes back to our earlier discussion regarding Northshore and some of the recommendation they made in particular with regard to the reserve approach. These recommended changes are on pages 47 and 48 of the packet. Garvey provided the committee with an overview of the changes to the policy on the Claims Reserving and Excess Reporting to the committee. Also included in the packet were the changes to the Claims Manual. The major change to the manual was the separation of the workers' compensation procedures from the general liability procedures. Metzger gave a summary of the changes on the workers' compensation procedures. A motion was made by Wachtel and seconded by Harmon-Warren to approve changes to IRMA's Claims Manual in response to recommendations from the Claims Auditor in the most recent Claims Audit. The motion carried.

**X. LITIGATION SUCCESSES**

Cedillo asked if anyone had questions or comments on any of the successes. There was some discussion on the Willowbrook Big Win in Gun Club Zoning Case and other cases.

**XI. EXECUTIVE SESSION**

A motion was made by Harmon-Warren and seconded by Vadopalas to move into Executive Session to discuss matters of: pending litigation and review of closed session minutes pursuant to 5 ILCS 120/2(c)(21) and (11) respectively.

A roll call vote was called and the motion carried.

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Back in regular session, a motion was made by Harmon-Warren and seconded by Wachtel to concur with IRMA's recommendation to settle a workers' compensation involving the death of a public works employee for \$556,593.02. The motion carried.

A motion was made by Brennan and seconded by DuRocher to approve the Executive Session Minutes of May 3, 2018. The motion carried.

**IX. ADDITIONS TO AGENDA**

None

**X. CONFIRMATION OF NEXT MEETING**

Cedillo reported that the next scheduled meeting of the CCLC would be Thursday, November 8, 2018 at 9:30 a.m. at the IRMA Office.

**XI. ADJOURNMENT**

At 11:50 a.m., a motion was made by Harmon-Warren and seconded by Vadopalas to adjourn the meeting. A voice vote was called and the motion carried.

Submitted by:

Accepted by:

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Susan Garvey  
Director of Legal Services

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Julia Cedillo  
Chair, Coverage, Claims & Litigation Committee

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**New Litigated Claims  
September - October 2018**

Received	Member	Type	Description	Attorney
9/11/2018	Roselle	GLLEA	False arrest, malicious prosecution, indemnification	Querrey
9/11/2018	Arlington Hts	GLLEA	False arrest, malicious prosecution, civil conspiracy IIED indemnifica	Sotos
9/11/2018	Hazel Crest	GLLEA	Alleged wrongful death; conspiracy w/CPD	Querrey
9/25/2018	Mundelein	GLBI	Survival Action; decedent died in fire	Yambert
9/25/2018	Lake Zurich	GLBI	Survival Action; decedent died in fire	Yambert
9/25/2018	Lake Forest	GLBI	Survival Action; decedent died in fire	Yambert
9/25/2018	Libertyville	GLBI	Survival Action; decedent died in fire	Yambert
10/3/2018	Tinley Park	GLPOL	Alleged wrongful termination; Eberhardt	Hartigan
10/3/2018	Richton Park	GLLEA	Alleged failure to protect	Best
10/3/2018	Lemont	GLLEA	Alleged excessive force (cuffs too tight)	Sotos
10/15/2018	Roselle	GLBI	Sidewalk trip and fall	Querrey
10/18/2018	Lisle	GLBI	Improper ownership/maintenance of street lights and traffic signal	Yambert
10/24/2018	Mt Prospect-TPA	GLBI	Trip and fall- TPA file	Hartigan
10/24/2018	Mt Prospect-TPA	GLBI	Trip and fall- TPA file	Hartigan
10/25/2018	Barrington	GLBI	Trip and fall	Yambert
10/25/2018	Tinley	ALBI	MVA with injuries	O'Reilly
10/26/2018	Cary	GLLEA	False arrest, malicious prosecution, failure to intervene	O'Reilly
10/29/2018	Cary	EI	Respondent in Discovery - fall at train station	O'Reilly
10/31/2018	Roselle	GLPOL	ProSe - intentional infliction emotional distress	Querrey

GLBI = 3rd party bodily injury  
 GLLEA = law enforcement activities  
 GLPOL= public officials liability  
 EI = Early Intervention

## Closed Litigated Claims by Firm September 2018

### Best Vanderlaan & Harrington

Adjuster	Claim Number	Event Date	Date Closed	Member	Claim Type	Description	Verdict/Outcome	Indemnity	Defense

### Chilton Yambert & Porter

Adjuster	Claim Number	Event Date	Date Closed	Member	Claim Type	Description	Verdict/Outcome	Indemnity	Defense
Zarcone	158925-02	7/20/2011	9/24/2018	City of Crystal Lake	GLBI	Multiple injuries to foot	Dismissed on MSJ	0	89,277
Zarcone	164414-01	8/25/2012	9/20/2018	Carol Stream Fire Protection District	GLBI	Alleged negligence of paramedic.	Settled Prior to Trial	150,000	11,345

### Hartigan & O'Connor

Adjuster	Claim Number	Event Date	Date Closed	Member	Claim Type	Description	Verdict/Outcome	Indemnity	Defense
Sierra	168235-01	8/19/2015	9/10/2018	Village of Lemont	GLBI	Trip and Fall	Settled Prior to Trial	90,000	34,306
Zarcone	169675-01	1/11/2016	9/20/2018	Village of LaGrange	GLBI	Slip and fall due to weather	Dismissed on MSJ	0	25,584

**Closed Litigated Claims by Firm September 2018**

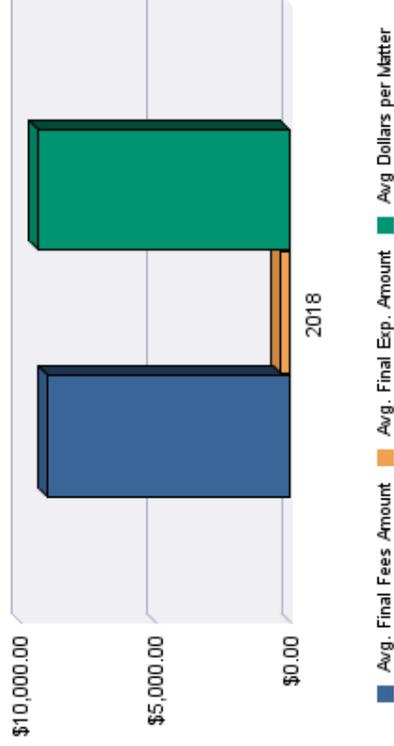
Zarcone	173754-01	5/17/2018	9/12/2018	Village of Lisle	GLPOL	Village allegedly violated civil rights	Vol. Dismissal (Prior to Trial)	0	8,686
<b>O'Reilly Law Offices</b>									
<b>Adjuster</b>	<b>Claim Number</b>	<b>Event Date</b>	<b>Date Closed</b>	<b>Member</b>	<b>Claim Type</b>	<b>Description</b>	<b>Verdict/Outco</b>	<b>Indemnity</b>	<b>Defense</b>
Zarcone	167724-01	7/7/2015	9/13/2018	Village of Burr Ridge	GLPD	Water damage	Settled Prior to Trial	0	15,356
<b>Querrey &amp; Harrow Ltd</b>									
<b>Adjuster</b>	<b>Claim Number</b>	<b>Event Date</b>	<b>Date Closed</b>	<b>Member</b>	<b>Claim Type</b>	<b>Description</b>	<b>Verdict/Outco</b>	<b>Indemnity</b>	<b>Defense</b>
<b>The Sotos Law Firm</b>									
<b>Adjuster</b>	<b>Claim Number</b>	<b>Event Date</b>	<b>Date Closed</b>	<b>Member</b>	<b>Claim Type</b>	<b>Description</b>	<b>Verdict/Outco</b>	<b>Indemnity</b>	<b>Defense</b>

**Intergovernmental Risk Management Agency**

**Best Vanderlaan & Harrington**

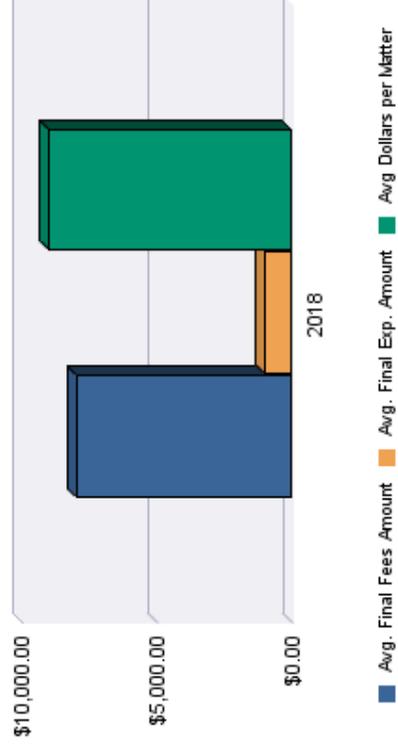
	Year
	<b>2018</b>
# of Matters	30
# of Invoices	185
Avg # of Invoices per Matter	6
Final Fees Amount	\$269,261.80
Final Exp. Amount	\$10,335.90
Final Amount	\$279,597.70
Avg Fees per Matter	8,975.39
Avg Exp per Matter	344.53
Avg Dollars per Matter	\$9,319.92

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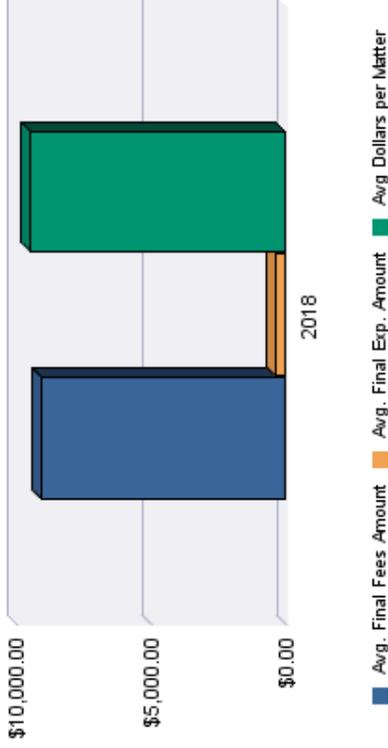
**Hartigan & O'Connor**

	Year
	<b>2018</b>
# of Matters	37
# of Invoices	217
Avg # of Invoices per Matter	6
Final Fees Amount	\$295,180.30
Final Exp. Amount	\$37,213.03
Final Amount	\$332,393.33
Avg Fees per Matter	7,977.85
Avg Exp per Matter	1,005.76
Avg Dollars per Matter	\$8,983.60



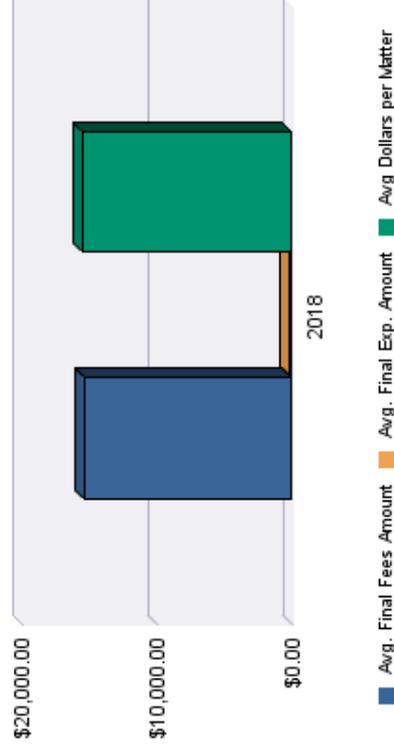
## O'Reilly Law Offices

	Year
	<b>2018</b>
# of Matters	28
# of Invoices	69
Avg # of Invoices per Matter	2
Final Fees Amount	\$253,469.00
Final Exp. Amount	\$11,027.40
Final Amount	\$264,496.40
Avg Fees per Matter	9,052.46
Avg Exp per Matter	393.84
Avg Dollars per Matter	\$9,446.30



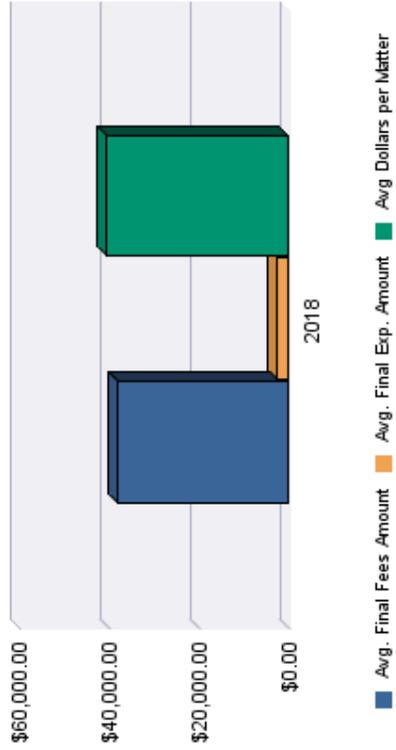
## Querrey & Harrow Ltd.

	Year
	<b>2018</b>
# of Matters	17
# of Invoices	77
Avg # of Invoices per Matter	5
Final Fees Amount	\$261,166.20
Final Exp. Amount	\$2,663.94
Final Amount	\$263,830.14
Avg Fees per Matter	15,362.72
Avg Exp per Matter	156.7
Avg Dollars per Matter	\$15,519.42



**The Sotos Law Firm, P.C.**

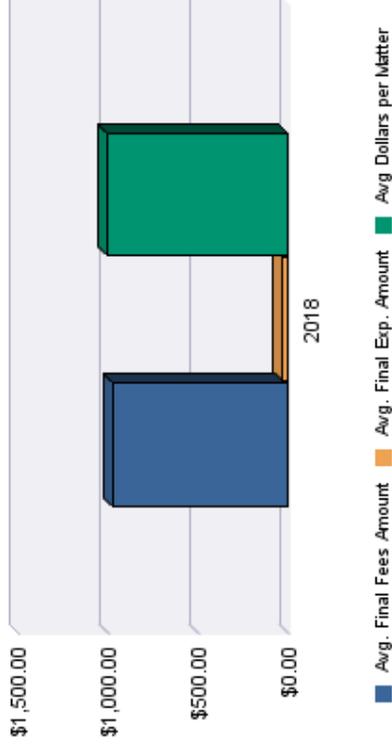
	Year
	<b>2018</b>
# of Matters	14
# of Invoices	79
Avg # of Invoices per Matter	6
Final Fees Amount	\$531,416.09
Final Exp. Amount	\$34,125.44
Final Amount	\$565,541.53
Avg Fees per Matter	37,958.29
Avg Exp per Matter	2,437.53
Avg Dollars per Matter	\$40,395.82



**Workers Compensation**

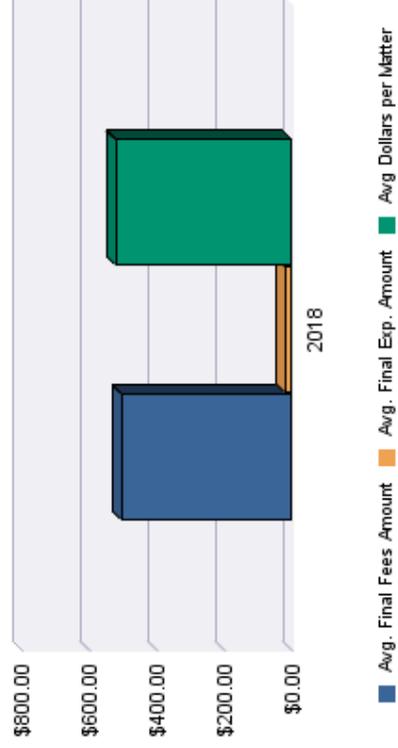
**Ancel Glink Diamond Bush DiCianni & Krafthefer PC**

	Year
	<b>2018</b>
# of Matters	2
# of Invoices	2
Avg # of Invoices per Matter	1
Final Fees Amount	\$1,954.80
Final Exp. Amount	\$60.00
Final Amount	\$2,014.80
Avg Fees per Matter	977.4
Avg Exp per Matter	30
Avg Dollars per Matter	\$1,007.40



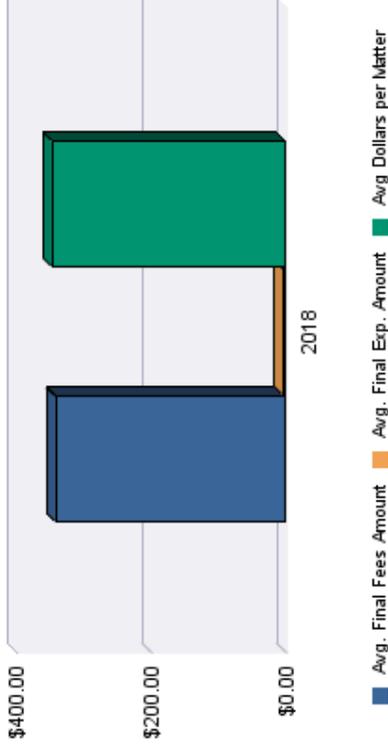
**Bryce Downey & Lenkov LLC**

	Year
	<b>2018</b>
# of Matters	24
# of Invoices	42
Avg # of Invoices per Matter	2
Final Fees Amount	\$12,066.00
Final Exp. Amount	\$446.77
Final Amount	\$12,512.77
Avg Fees per Matter	502.75
Avg Exp per Matter	18.62
Avg Dollars per Matter	\$521.37



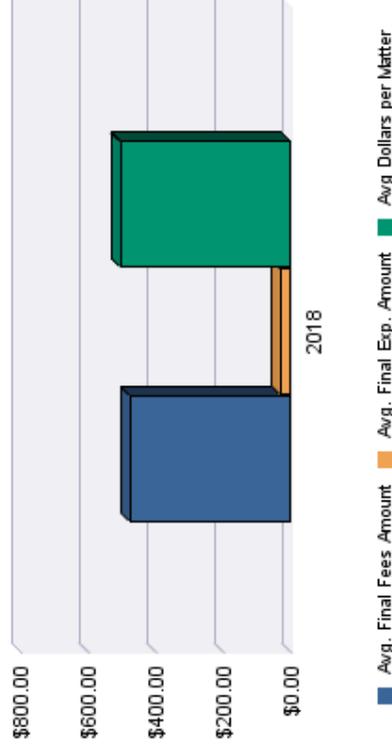
**Power & Cronin, LTD**

	Year
	<b>2018</b>
# of Matters	36
# of Invoices	38
Avg # of Invoices per Matter	1
Final Fees Amount	\$12,283.20
Final Exp. Amount	\$157.00
Final Amount	\$12,440.20
Avg Fees per Matter	341.2
Avg Exp per Matter	4.36
Avg Dollars per Matter	\$345.56



**Rusin & Maciorowski Ltd**

	Year
	<b>2018</b>
# of Matters	32
# of Invoices	39
Avg # of Invoices per Matter	1
Final Fees Amount	\$15,162.20
Final Exp. Amount	\$985.00
Final Amount	\$16,147.20
Avg Fees per Matter	473.82
Avg Exp per Matter	30.78
Avg Dollars per Matter	\$504.60





## MEMORANDUM

TO: Coverage, Claims, & Litigation Committee

FROM: Susan Garvey, Legal Director  
Keena Marks-Cutler, Supervisor of Liability Claims Operations

DATE: October 31, 2018

RE: Defense Counsel Performance Survey Report

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**Purpose:** The purpose of this memorandum is to report to the CCLC regarding staff's efforts to monitor attorney performance through contact with members.

**Background/Discussion:** To ensure that members are properly represented by counsel and to identify potential problems with representation during the litigation process, we contact members to inquire about attorney interactions and performance. Since the last CCLC meeting, we received member feedback from 8 members regarding litigated files and obtained the following information related to attorney performance:

- Attorney Performance:
  - O'Reilly Law Office:
    - Molly prepared the members very well for their depositions. She explained commonalities and differences between the types of questions they would each be asked and she ensured that both deponents had a thorough understanding of the basis for the Plaintiff attorney's questions.
  - Best, Vanderlaan & Harrington:
    - The member's interactions with Allie Burnett were positive. He felt free to call counsel with questions and she kept him abreast of the status of the litigation. He felt adequately prepared for his deposition and she explained the rationale behind the plaintiff attorney's anticipated line of questioning.
  - Querrey & Harrow:
    - NA/ No recent cases ripe for survey.
  - Hartigan & O'Connor:
    - "Both Mike and Patrick did an excellent and timely job getting up to speed on the matter and energetically represented the Village's interests."
    - Mike was direct in discussing possible outcomes and established a relationship of trust and confidence.
    - The deponent now understands the value of writing things down. After Mike's preparation, he felt better prepared than the opposing party while giving testimony.

- Chilton, Yambert & Porter:
  - Counsel was direct in discussing possible outcomes and he developed a relationship of trust and confidence.
  
- Sotos Law Firm:
  - NA/ No recent cases ripe for survey

**Recommendation:** Continue to survey members on litigated cases to proactively identify and correct potential deficiencies and address issues or concerns that may arise.

SG/KMC/ds

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## MEMORANDUM

TO: Coverage, Claims & Litigation Committee  
FROM: Susan Garvey, Director of Legal Services  
DATE: October 29, 2018  
RE: Business Auto Liability Proposed Coverage Changes

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**Action Requested:** Consider and approve recommended changes to the definition of Member and a new exclusion for criminal acts in the IRMA Business Auto Liability coverages as presented.

**Background:** These proposed coverage changes to the Business Auto Liability coverage were removed by Staff from consideration at the September 19, 2018 meeting to clarify the acts that are proposed to be a part of the criminal acts and serious traffic offenses exclusion. The proposed changes to the definition of Member have not changed.

A recent case raised a question about the definition of Member in the Business Auto Liability coverage and the exclusion of criminal type conduct from coverage. A member employee driving a Village vehicle, while on personal time and not working and in violation of the member's policy, was involved in an accident and charged with DUI. IRMA denied coverage to the employee (now former employee) and denied coverage to the driver of the other vehicle. The denial of coverage was based upon the argument that the employee was not acting within the scope of his employment and was not a permitted user of the vehicle when he was driving the vehicle in violation of the member's policy.

The case also raised the question of the exclusion from coverage for criminal acts and/or serious traffic offenses, such as DUI.

Staff is proposing the following changes to address those questions and to clarify that such actions will not be covered by IRMA.

### **Discussion:**

#### Business Auto Liability – Definition of Member

To be entitled to coverage under any of the IRMA coverage documents, including the Business Auto Liability coverage, the employee must be a member of IRMA as that term is defined in the appropriate coverage. In reviewing the definition of member as it now reads in the Business Auto Liability coverage, it is extremely broad, referencing a general "You". This could raise a matter of interpretation of who is included in the term "You". Staff is proposing a modification to the definition of member in the Business Auto Liability coverage to specifically define Member as "the entity, its employees and lawfully elected and appointed officials." The proposed modification to the definition of member is attached for consideration and provides clarification.

Business Auto Liability – Exclusion for Criminal Acts or Serious Traffic Offenses

The pool should not be liable for the criminal or illegal conduct of an employee who is acting outside the scope of his/her duties. Staff is proposing adding an exclusion to the Business Auto Liability coverage for claims that arise out of criminal conduct and serious traffic offenses. The exclusion would exclude coverage for the employee, official, agent, volunteer or other person using a covered vehicle with your permission for criminal acts that are punishable by jail and for serious traffic offenses that are punishable by jail and/or subject to the immediate loss of driving privileges.

However, to be clear, if an employee is denied coverage because of criminal or serious traffic offenses, the member entity (municipality) would still be entitled to coverage if it is named in the claim/lawsuit. As further explanation, in the recent case, if the member and the employee is sued by the other driver, the member would be entitled to a defense and indemnification, but coverage and defense would be denied to the individual employee who engaged in the criminal conduct. The proposed modifications are attached for consideration.

**Recommendation:** Approve the changes to the Business Auto Liability coverage as presented in the attachments.

SG/ds  
Attachment

## SECTION II - LIABILITY COVERAGE

### A. COVERAGE

We will pay all sums a "Member" legally must pay as damages because of "bodily injury" or "property damage" to which this coverage applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums a "Member" legally must pay as a "covered pollution cost or expense" to which this coverage applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this coverage applies that is caused by the same "accident".

We have the right and duty to defend any "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend "suits" for "bodily injury" or "property damage" or a "covered pollution cost or expense" not covered by this Coverage Form. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Coverage has been exhausted by payment of judgments, settlements or supplementary payments.

#### 1. WHO IS A MEMBER

The following are "Members" for any covered auto:

- a. The Public Entity Member, it's employees and all persons who are lawfully elected or appointed officials of the Public Entity Member; You for any covered "auto".
- b. Anyone else is a "Member" while using with your permission a covered "auto" you own, hire or borrow except:
  1. The owner or anyone else from which you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
  2. Your employee if the covered "auto" is owned by that employee, or a member of his or her household.
  3. Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing or parking "autos" unless that business is yours.
  4. Anyone other than your employees, partners, a lessee or borrower or any of their employees, while moving property to or from a covered "auto".

~~5. A partner or yours for a covered "auto" owned by him or her or a member of his or her household.~~

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- c. Anyone liable for the conduct of a "Member" described above but only to the extent of that liability.

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## 2. COVERAGE EXTENSIONS

- a. Supplementary Payments. In addition to the Limit of Coverage, we will pay for the "Member":
  - 1. All expenses we incur.
  - 2. Up to \$250 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
  - 3. The cost of bonds to release attachments in any "suit" we defend, but only for bond amounts within our Limit of Coverage.
  - 4. All reasonable expenses incurred by the "Member" at our request, including actual loss of earning up to \$100 a day because of time off from work.
  - 5. All costs taxed against the "Member" in any "suit" we defend.
  - 6. All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Coverage.

- b. Out-of-State Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

- 1. Increase the Limit of Coverage for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- 2. Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

**B. EXCLUSIONS**

This coverage does not apply to any of the following:

**1. EXPECTED OR INTENDED INJURY**

"Bodily injury" or "property damage" expected or intended from the standpoint of the "Member".

**2. CRIMINAL ACTS OR SERIOUS TRAFFIC OFFENSES**

An employee, elected or appointed official, agent, volunteer or other person who is using a covered auto with your permission who commits a jailable criminal offense, a misdemeanor or felony traffic offense that is a jailable offense and/or may result in the immediate loss of driving privileges.

**23. CONTRACTUAL**

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is a "covered contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "Member" would have in the absence of the contract or agreement.

**34. WORKERS' COMPENSATION**

Any obligation for which the "Member" or the "Member's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

**45. EMPLOYEE INDEMNIFICATION AND EMPLOYER'S LIABILITY**

"Bodily injury" to:

- a. An employee of the "Member" arising out of and in the course of employment by the "Member", or
- b. The spouse, child, parent, brother or sister of that employee as a consequence of paragraph a. above.

This exclusion applies:

- 1. Whether the "Member" may be liable as an employer or in any other capacity; and

2. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

Auto.10

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**M E M O R A N D U M**

TO: Coverage, Claims & Litigation Committee

FROM: Susan M Garvey, Director of Legal Services

DATE: October 29, 2018

RE: Modification to Uninsured and Underinsured Motorist Coverage

**Action Requested:** Consider and approve recommended changes to the IRMA Uninsured and Underinsured Motorist Coverage (“UM/UIM”) to reduce the limits from \$500,000 to \$50,000.

**Background:** UM/UIM coverage is statutorily required in Illinois and is intended to protect against being in an accident where the at-fault driver doesn't carry liability insurance or whose liability limits are too low to cover the damage or medical expenses.

Prior to 2001, IRMA’s UM/UIM limits were \$1 million. It was the intent of the membership at that time to provide the coverage in the event a family member is injured while riding in a member owned vehicle that is hit by an uninsured or underinsured driver. However, in response to concerns raised about member employees being able to essentially recover twice from IRMA – collect both workers’ compensation benefits and UM/UIM benefits - the membership voted to reduce the limits to \$500,000 and include a complete exclusion of coverage for an individual receiving workers’ compensation benefits.

There is legal question as to the validity and enforceability of the complete exclusion of UM/UIM coverage in a workers’ compensation case. Although a recent case found that a workers’ compensation exclusion in an underinsured motorist claim (but not uninsured) was enforceable, other case law indicates that it is not. Staff continues to battle with injured employees’ attorneys on this issue, but we have not yet litigated the issue.

In the past 4 years, there have been 8 cases involving employees who received workers’ compensation benefits and also sought UM/UIM benefits. Of note, there has not been a case involving injury to a member’s family member.

**Discussion:** The Illinois Vehicle Code (625 ILCS 5/7-601) requires motor vehicles to be insured in minimum amounts of \$25, 000 for bodily injury to any one person, \$50,000 for bodily injury to 2 or more persons and \$20,000 because of injury to property. The Illinois Insurance Code (215 ILCS 5/143a (1) requires vehicles to be insured for UM/UIM coverage at the same minimum limits. However, municipalities are exempt from the provisions of the Illinois Vehicle Code. Pursuant to 625 ILCS 5/7-601(b)(4):

625 ILCS 5/7-601 (b)(4)

(b) The following vehicles are exempt from the requirements of this Section:  
\* \* \*

(4) vehicles owned by the United States, the State of Illinois, or any political subdivision, **municipality** (emphasis added) or local mass transit district;”

Additionally, because IRMA is not an insurance company and not subject to the provisions of the Illinois Vehicle or Insurance Code, IRMA and its Members are not required to provide the statutorily required UM/UIM coverage. Because IRMA is in the nature of self-insurance, the membership can establish its own coverage and while not required to, the IRMA membership has previously included UM/UIM in its coverage program far in excess of the minimum limits required by law.

Claims for UM/UIM by injured employees receiving or having received workers' compensation benefits are routinely denied pursuant to the IRMA coverage exclusion. However, staff continues to battle with injured employee's attorneys regarding the validity of the exclusion for workers' compensation benefits contending that because the membership establishes its own coverage and they are not required to provide UM/UIM coverage, the exclusion for employee's receiving workers' compensation benefits is arguably valid. Obviously, the injured employee's attorney disagrees. The resolution of this question involves litigating a declaratory action, which could be very expensive with no guarantee of success – and not necessary if we revise the coverage. A loss in a declaratory action could result in the entire \$500,000 UM/UIM limit potentially being available to the injured employee – a windfall to the employee who has already received lost wages tax free, all medical bills paid and a lump sum settlement to compensate the employee for the permanency of the injury under the Workers' Compensation Act.

Based upon these fiscal considerations, these types of UM/UIM claims are being considered for settlement with the employees on a "cost of defense" of the declaratory action, rather than risking the more substantial exposure. Consequently, the only individuals potentially benefitting from the UM/UIM coverage are employees who have, or are, receiving workers' compensation benefits - the exact situation the membership intended to avoid.

Staff is recommending that the UM/UIM limits be reduced to \$50,000. IRMA is entitled to a set-off against any uninsured or underinsured payments for workers' compensation benefits paid. With a lower UM/UIM limit and the ability to off-set any UM/UIM benefits to amounts paid in the workers' compensation case, the exposure for UM/UIM coverage is substantially lowered or eliminated as to injured employees, thus removing the windfall to those employees. Of the recent 8 cases, only one of them is reserved under the proposed \$50,000 limit. Even with the reduced limits there is still coverage available for member's family members in the event of an incident while in a member vehicle.

With IRMA's increased focus on marketing and recruitment, there have been a number of coverage comparisons between IRMA coverage and competitor's coverage. Those comparisons show that IRMA's competitor's UM/UIM coverage is excluded, not shown or in minimum limits. As such, this revision will not negatively impact our recruitment efforts. Even with a \$50,000 limit, IRMA is still providing richer coverage.

**Recommendation:** Approve Staff's recommendation to remove the exclusion for the receipt of workers' compensation benefits and reduce the UM/UIM coverage limits to \$50,000.

SMG/ds



## MEMORANDUM

TO: Coverage Claims Litigation Committee

FROM: Margo Ely, Executive Directors  
Susan Garvey, Director Legal Services

DATE: October 31, 2018

RE: RFP's for Approved Defense Counsel Panel

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**Action Requested:** Consider and approve the modification to Section 6.06 of the Claims Manual as attached to provide for the consideration of an Approved Defense Panel Counsel RFP process every 7 years as recommended by the Executive Director with the agreement of the Committee.

**Background/Discussion:** Section 6.06 of the IRMA Claims Manual, Selection Guidelines for IRMA Counsel provides that the Executive Director has the responsibility for the evaluation, selection, assignment and dismissal of Approved Defense Panel Counsel. Section 6.06 also provides for this Committee to monitor the selection of Approved Defense Panel Counsel. While Section 6.06 does lay out parameters for the Executive Director to add or remove counsel from the approved panel, it does not provide for a regular RFP process. IRMA's other professional services such as its actuary, auditor and investment consultant regularly go through an RFP process. Staff receives frequent inquiries from law firms about becoming approved panel counsel for IRMA and having a set RFP process would aid in the transparency of IRMA's process for selection of counsel to IRMA's approved panel. It would also serve as a thorough review and evaluation of current panel counsel and would allow for the evaluation of the qualifications of prospective counsel to identify firms to remain on or be added to IRMA's panel of approved counsel.

Setting a time frame for completing an RFP process needs to include the consideration of the stability and continuity of representation for the members and the effort of IRMA staff in administering litigated claims and approved panel counsel. Currently, there are 5 legal firms that handle litigation of liability claims. If an RFP process is required every 2 to 3 years and there is a change of even just one firm each period, there would be a significant increase in the number of legal firms that staff would have to oversee and supervise. If a current firm is removed from the panel through an RFP, they could remain IRMA counsel on their assigned files for the duration of the files, which could be for more than one year. It is important that the period of time between RFPs be long enough to maintain the continuity of representation for the members and also not overburden the staff's administration of litigated matters.

For all of these reasons, staff recommends that Section 6.06 of the IRMA Claims Manual, Selection Guidelines for IRMA Counsel be modified to provide that a regular RFP process should be considered every 7 years upon recommendation of Staff and as approved by the Committee.

**Recommendation:** Approve the changes to Section 6.06 of the IRMA Claims Manual to provide for consideration of an RFP process for IRMA Approved Defense Panel Counsel every 7 years as recommended by the Executive Director with the agreement of the Committee.

ME/SG/ds  
Attachment

## SECTION VI

### SECTION 6.06

#### SELECTION GUIDELINES FOR IRMA COUNSEL

##### I. SELECTION OF IRMA APPROVED PANEL COUNSEL

The Executive Director shall have responsibility for the evaluation, selection, assignment and dismissal of Approved Panel Counsel.

The process for selecting Approved Panel Counsel shall be monitored by the Coverage, Claims & Litigation Committee and shall include the following general guidelines:

- The Executive Director shall report the need to add additional counsel to the Coverage, Claims & Litigation Committee.
- If there is a need to add additional counsel, a report of several prospective law firms will be developed by the Executive Director. The Executive Director will evaluate proposals, conduct interviews as needed, and report the final decision to the committee.
- Every 7 years a RFP process for Approved Panel Counsel shall be considered based upon the recommendation of the Executive Director with the agreement of the Committee.

Every two years, tOn a continuing basis, the Executive Director and Coverage, Claims & Litigation Committee will evaluate the Approved Panel Counsel. If, in the opinion of the Executive Director, a particular defense firm(s) is not in compliance with established standards, the Executive Director shall have the option of either removing the firm from the approved list or placing this firm on a "watch list" which would be a probationary measure allowing the Executive Director to monitor performance on a periodic basis. Whether or not the firm remains or is removed from the Approved Panel Counsel list depends on future compliance with remedial steps recommended by the Executive Director. The Executive Director shall have the overall, primary responsibility to monitor the costs and performance of the claims unit and defense counsel, and the overall responsibility for the coordination of all claims and claims litigation. As the overall policy administrator of IRMA, the Executive Director shall attempt to resolve all disputes between the member, claims unit and defense counsel so as to assure the orderly implementation of the policy and guidelines outlined herein, consistent with the Bylaws and policies of IRMA.

In addition to the selection of Approved Panel Counsel, the Executive Director shall have the responsibility and authority to appoint Special Counsel in certain litigated cases where there is a need for an attorney that is not one of the Approved Panel Counsel. The appointment of Special Counsel shall be reported to the committee at the next regularly scheduled committee meeting. In these circumstances, the qualification of the attorney based on the specific case shall be the primary consideration. Each such Special counsel shall comply with the IRMA Litigation Guidelines.



## MEMORANDUM

TO: Coverage, Claims, & Litigation Committee  
Membership Relations Committee

FROM: Margo Ely, Executive Director  
Susan Garvey, Legal Director

DATE: October 31, 2018

RE: Claims Administration Services for Mount Prospect's Previous WC Claims

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**Action Requested:** Concur with staff's recommendation that IRMA provide claims administration services to Mount Prospect for workers' compensation claims filed before Mount Prospect joined IRMA for a one-time payment as further described herein.

**Background/Discussion:** Mount Prospect joined IRMA in January 2018. Soon thereafter, the Village asked IRMA to take over their "pre-existing" general liability claims from their prior provider. The memorandum that explained this request is attached as Exhibit A. At that time, the membership approved of the recommended formula for pricing this ala carte service. The formula requires that the number of claims be multiplied by 1.5 and then figure the percentage of an adjuster's claim workload the claims will take and then calculate the cost based on an average adjuster salary and benefits.

As the attached memorandum projected, Mount Prospect has now requested that we take over their "pre-existing" workers' compensation claims starting January 1, 2019. We are still working with Mount Prospect and their current Third-Party Administrator to determine the actual number of cases at issue, but we believe it is approximately 6 cases. Based on the approved formula, the price for 6 cases service is \$7,726.

**Recommendation:** Concur with staff's recommendation and authorize claims administration services for Mount Prospect's workers compensation claims effective January 1, 2019 for a price based on the formula previously approved.

ME/SG/ds  
Attachment



## MEMORANDUM

TO: Coverage, Claims, & Litigation Committee  
Membership Relations Committee

FROM: Margo Ely, Executive Director  
Susan Garvey, Legal Director

DATE: April 26, 2018

RE: Claims Administration Services for Mount Prospect's Previous GL Claims

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**Action Requested:** Concur with staff's recommendation that IRMA provide claims administration services to Mount Prospect for 6 general liability claims filed before Mount Prospect joined IRMA for a one-time payment of \$7,726 as further described herein.

**Background:** IRMA is a full-service risk management agency, which means we provide all lines of coverage to our members and administer all of their claims. Municipalities that are not members of IRMA frequently procure insurance from various providers based on different lines of coverage and they may also have a "TPA" (third party administrator) handle their claims. It is not uncommon for their separate insurance coverages to expire at different times, which can cause consternation when considering joining IRMA. Over the past year, the IRMA membership has provided staff with flexibility to accommodate these staggered expirations, by providing credits to municipalities for other insurance coverage in force that overlaps the new member's date of IRMA membership.

Claims administration is a strength of IRMA's, based on our highly qualified and experienced staff. IRMA also provides the benefit of having one location where all claims information is maintained, simplifying insurance programs for municipalities. Mount Prospect has requested that IRMA "administer" their general liability claims that pre-date their IRMA membership. Their current "TPA" contract expires on June 30, 2018. Looking forward, Mount Prospect's "TPA" contract for their worker's compensation claims expires on December 31, 2018 and we anticipate Mount Prospect will, similarly, prefer to move those claims to IRMA.

**Discussion:** Staff recommends that the CCLC consider a formula, so that moving forward, we can price these types of requests and process them for approval. Since IRMA is a full-service organization that does not offer members the option to pick and choose the coverages and services provided, these requests will always require approval by the Board of Directors.

In determining the appropriate cost for these administration services, the first question is the number of claims. Since these claims will always be "older" claims, which are often more complex or difficult, we recommend that a multiplier of 1.5 be added to the number of claims. As such, Mount Prospect has 6 open GL claims, so after a multiplier of 1.5, they have the equivalent of 9 claims. The next part of the question is how to address the staff resources required to provide this service. We aim for our adjusters to have a claim workload of 130 claims. As such, 9 claims are approximately 6.9% of an adjuster's workload. Our average adjuster costs \$111,593 with

April 26, 2018

Re: Claims Administration Services for Mount Prospect's Previous GL Claims

Page 2

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salary and benefits. Therefore, the appropriate price for this service to Mount Prospect is 6.9% of \$111,593, or \$7,726.

**Recommendation:** Concur with staff's recommendation and authorize claims administration services for Mount Prospect's GL claims effective July 1, 2018 for a price of \$7,726.

**Coverage Claims and Litigation Committee (5/3/18):** The CCLC concurred with staff's recommendation to authorize claims administration services for Mount Prospect's GL claims effective July 1, 2018 for a price of \$7,726.

**Membership Relations Committee (5/16/18):** The MRC concurred with the staff and CCLC recommendation to authorize claims administration services for Mount Prospect's GL claims effective July 1, 2018 for a price of \$7,726.

**Executive Board (5/30/18):** The Executive Board concurred with the CCLC & MRC recommendation to authorize claims administration services for Mount Prospect's GL claims effective July 1, 2018 for a price of \$7,726.

ME/SG/ds



## MEMORANDUM

**TO:** Coverage, Claims & Litigation Committee  
**FROM:** Susan Garvey, Director of Legal Services  
**DATE:** November 1, 2018  
**RE:** 2019 Coverage, Claims & Litigation Committee Meeting Dates

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Following are the proposed dates for the 2019 Coverage, Claims & Litigation Committee meetings. For those who plan to continue on the committee, please mark your calendars.

Thursday, February 14, 2019	9:30 a.m.
Thursday, May 2, 2019	9:30 a.m.
Tuesday, September 17, 2019	9:30 a.m.
Thursday, November 7, 2019	1:30 p.m.

SG/ds



## MEMORANDUM

TO: Steering Committees  
Standing Committees

FROM: Jennifer Swahlstedt, Risk Management & Training Manager

DATE: October 25, 2018

RE: Member Forum – New Website Feature

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**Purpose:** To raise awareness of the member discussion forum, a new website feature added during the 2018 IRMA website redesign.

**Background/Discussion:** In 2018, IRMA redesigned the website to mirror current branding as well as increased functionality and use for all members. As part of the redesign, a discussion forum was established to facilitate networking and sharing of ideas between member departments. Members will be able to subscribe to any/all discussion boards, create a new thread/discussion/question, participate in discussion, and attach documents such as sample policies. By subscribing, members will be automatically alerted via email of any new discussion threads. Attached are instructions to subscribe and post within the discussion forum.

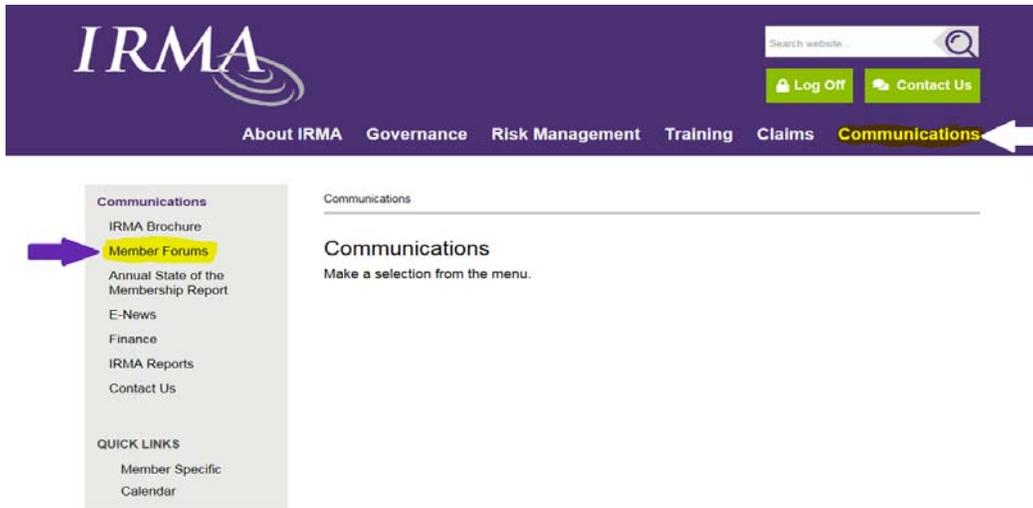
**Recommendation:** Please join in the conversation – subscribe [here](#).

Attachments: Member Forum – Subscription Instructions  
Member Forum – Creating a Discussion Instructions

## Member Forum – Subscription Instructions

**Step 1:** Log in to the website [www.irmarisk.org](http://www.irmarisk.org). If you do not have a username and log in, please contact Donna Sluis at (708) 236-6349 or [donnas@irmarisk.org](mailto:donnas@irmarisk.org). Once completed you will receive an email notification confirming your subscription.

**Step 2:** Click on “Communications” then “Member Forums”



**Step 3:** Select the Forum by clicking the hyperlink

Forum	Threads	Posts	Last post
<a href="#">Administration</a> Administrative Discussion by IRMA Members	0	0	(N/A)
<a href="#">Finance</a> A forum for the Finance Department	0	0	(N/A)
<a href="#">Fire Department</a> Fire Department Discussion by IRMA Members	1	1	jennifers (10/24/2018 8:34:41 AM)
<a href="#">Parks and Recreation</a> Parks and Recreation Discussion by IRMA Members	0	0	(N/A)
<a href="#">Police Department</a> Police Department Discussion by IRMA Members	0	0	(N/A)
<a href="#">Public Works</a> Public Works Discussion for IRMA Members	0	0	(N/A)

**Step 4:** Then click “Subscribe to Forum”

New thread [Subscribe to forum](#) Members > Administration

Thread	Created by	Posts	Views	Last post
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**Step 5:** Your email will automatically populate, then hit “OK”.

Subscribe to forum

Email:



## Member Forum – Creating a Discussion Instructions

Step 1: Select the applicable forum then click “New Thread”

[New thread](#) [Subscribe to forum](#) | [Members](#) > Administration

Thread	Created by	Posts	Views	Last post
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Step 2: Complete the fields. Remember to subscribe to post to receive updates on your discussions. Click “OK” to post.

New thread

User name:

Email:

Subject:

Post:

Subscribe to post:

Attach file(s):

### Optional: Attaching Files

Select “Attach File(s)” and follow prompts to upload documents. Select “Upload” when complete

Attachments  
Maximum allowed file size is 3000 kB.