

INTERNAL AUDIT

Independent Adjusters vs.
Full Time Employees
Advisory

June 25, 2021





Advisory Memorandum

Background

In 2020, Ernst & Young (EY) was engaged by Citizens to perform an operational assessment of the litigated claims management process *vis a vis* industry leading practice. EY's report and supplement were issued December 15, 2020 and contained observations on six components of the Claims Litigation operation (Appendix A). The reports include improvement opportunities (Appendix B) and recommendations to improve efficiency and effectiveness as well as suggested approach for implementing these.

One of these components of the Claims Litigation process was the Organizational Structure and Roles & Responsibilities. Here EY observed that Claims Litigation highly relies on Independent Adjusters (IA's). EY conveyed concerns over the IA's capabilities which limit their autonomy and authority level. The EY reports show that as of May 2020, out of the 278 Claims Litigation Specialists positions, 248 were held by IA's working remotely while 30 were full time employees (FTE's) working out of Citizens' Jacksonville office. The reports state that IA teams were kept working together for consistency purposes. Despite opining that the heavy reliance on IA's impacts Claims Litigation Manager efficiency, no improvement opportunities for this component were presented in the reports.

During a presentation on March 3, 2021¹ before Citizens' Board of Governors, Claims Management reviewed the observations contained in EY's reports and presented an action plan to address the recommendations. The initiatives to be considered by Claims Management were distributed amongst the corresponding business unit teams for analysis and to propose possible solution options. With regards to the IA observation made by EY, Claims Management expressed that Claims Litigation would be evaluating the current staffing model to determine the appropriate utilization of staff versus IA's and validate that there is an appropriate governance for the litigation structure.

Objectives and Scope

Internal Audit is performing advisory support on the progress of the initiatives being considered and subsequently implemented by Claims Management in response to EY's observations and recommendations.

With Claims Litigation having presented their analysis with regards to the IA initiative, Internal Audit has examined it and is providing additional information for management consideration.

Claims Litigation Analysis

Staffing Model: Staff Adjuster vs. Independent Adjusters – Claims Litigation

Ownership: Claims Litigation – Elaina Paskalakis

Priority: High

In order to approach the analysis, and in collaboration with Human Resources and Vendor Relations, Claims Litigation mapped out IA and FTE positions in the unit, categorized equivalent position levels and compared them side by side from a financial standpoint (see tables 1 & 2).

¹ [E&Y Final Report Update - March 3, 2021](#)



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FTE	Count	Average Salary	Average Benefits	Average Taxes	Total per individual	Total for Litigation
Claims Adjuster - Interm	0	\$0	\$0	\$0	\$0	\$0
Claims Adjuster - Sr	2	\$84,713	\$29,233	\$6,293	\$120,239	\$240,478
Claims Adjuster Lead	24	\$83,762	\$21,685	\$6,222	\$111,669	\$2,680,056
Claims Litigation Analyst - Sr	4	\$79,536	\$22,972	\$5,908	\$108,416	\$433,664
Claims Principal	2	\$91,333	\$25,825	\$6,785	\$123,943	\$247,886
Total	32					\$3,602,084

Table 1

IA	Count	Day Rate	*Yearly Rate (50 wks)	Total for Litigation	**Catastrophe Rate
Litigation Administrator	22	\$575	\$143,750	\$3,162,500	\$875
Adjuster I	7	\$525	\$131,250	\$918,750	\$800
Adjuster II	301	\$625	\$156,250	\$47,031,250	\$950
Adjuster III	10	\$725	\$181,250	\$1,812,500	\$1,100
Team Lead II	14	\$725	\$181,250	\$2,537,500	\$1,100
Team Lead III	0	\$850	\$212,500	\$0	\$1,275
Total	354			\$55,462,500	
*not including weekend work		**Lit hasn't worked CAT since 2017			

Table 2

Per the analysis made by Claims Litigation Management, their team is currently composed of 386 positions, out of which 32 are FTE's and 354 are IA's. The FTE salaries range from \$79,536 to \$91,333, for a total yearly spend of \$3,602,084, including taxes and benefits for the current 32 FTE positions.

As to the IA's, which are provided by several IA firms contracted by Citizens, their compensation is based on a daily rate that ranges from \$525 (Adjuster I) to \$725 (Team Lead II / Adjuster III). There is an additional level/rate of \$850; however, there are no positions currently filled at that rate. The analysis made by Claims Litigation calculates the yearly spend (50 weeks) for the 354 IA positions at \$55,462,500.

Claims Litigation holds that although moving fully to an FTE team could be suggested from a financial standpoint, there are several factors that make that model the least desirable choice. For example, an FTE model would not allow for scalability and creates the strong possibility of layoffs. It is explained that the need for personnel is based not only in lawsuit count, which varies yearly depending on storm activity, but also on changes in the private market, which can increase Citizens' policies in force (PIF). Claims Litigation holds that moving fully to FTE's could entail



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layoffs should there be no storms within two years, denoting that this could be detrimental to employee morale and engagement, and for Citizens' reputation in the market. Also, a larger support system from Human Resources, Information Technology and Facilities would be required with an FTE team when onsite presence operations resume. Claims Litigation also reasons that because FTE salaries are lower than those of IA's, it would be difficult to find candidates willing to work for Citizens as FTE's, especially if required to move to Jacksonville.

The unit concludes the analysis by recommending:

1. Creative ways to attract FTE candidates, such as training pipeline and review/adjustment of salaries be looked into.
2. Strategic placement of FTE's in the following specific teams: Triage; Specialty; Large Loss; Liability; and Team Leads.

Internal Audit Review

IA / FTE ratio:

At the time of EY's assessment, the Claims Litigation unit had approximately 25 IA's for every 3 FTE's. The analysis made by Claims Litigation shows that the number of IA's has increased, whereas now there are approximately 35 IA's for every 3 FTE's.

While the need for additional IA resources during a CAT event will be required for Citizens to expeditiously fulfill contractual obligations with its insureds, the current proportion of FTE's vs IA's may not be the most suitable for Citizens' needs. Per the ELT Metrics report for the month of March 2021, the number of new and pending lawsuits for the past months has been increasing (see Figure 1). This trend of month over month increases in the number of lawsuits is not expected to ease anytime soon, due to Citizens' unique position in the Florida insurance market.

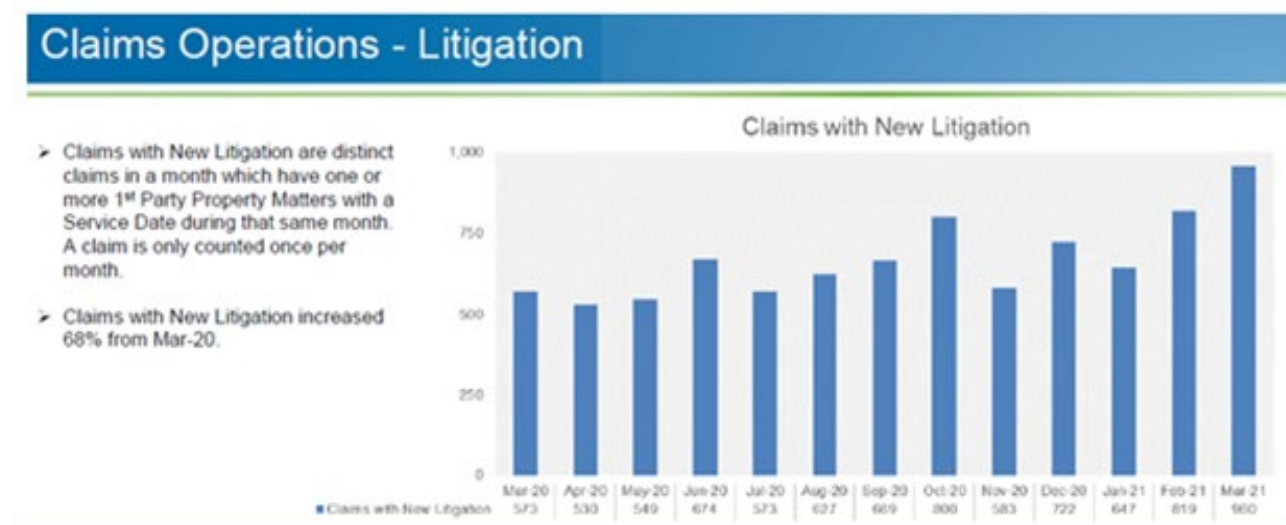


Figure 1 (a)



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Claims Operations - Litigation

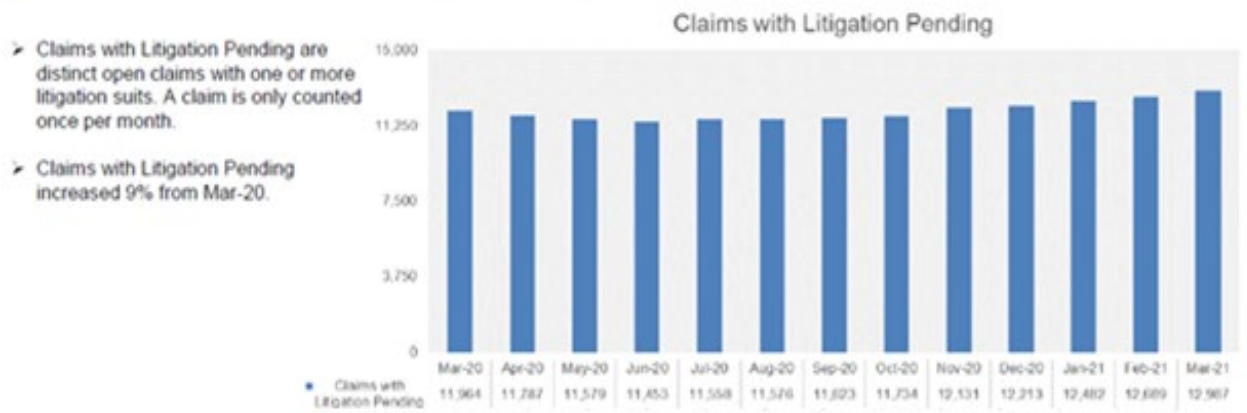


Figure 1 (b)

IA Yearly Spend & Projected Salaries:

The computation made by Claims Litigation for IA yearly spend (\$55,462,500) considered the base daily rates contained in IA contracts. However, these rates may increase under the following scenarios:

- **Temporary Daily Rate Increases** – Citizens has amended IA contracts in the past to allow for temporary daily rate increases due to market availability of IA's.
- **Catastrophe (CAT) Rates** – CAT rates apply to services performed during a catastrophe deployment. Notably, the analysis made by Claims Litigation contains a note indicating that Litigation has not worked CAT since 2017.

Claims Vendor & System Management provided data on the IA spend for the Claims Litigation unit. For the years 2018 – 2020, the following is the actual spend:

Firm	2018	2019	2020
Lozano Insurance Adjusters, Inc.	\$10,838,632.70	\$10,937,902.01	\$10,200,008.61
Bradley Stinson and Associates	\$6,728,928.63	\$7,661,250.45	8,232,432.52
Pacesetter Claims Service, Inc.	\$7,689,689.62	\$5,717,001.68	\$6,501,655.68
Claims Questions, LLC	\$11,643,332.27	\$15,856,158.05	\$16,796,568.83
CIS Claim Service, LLC	\$10,757,687.00	\$12,759,069.16	\$11,556,372.34
Alacrity Solutions Group, LLC	\$4,157,504.88	\$7,714,612.50	\$6,427,669.98
TOTAL	\$51,815,775.10	\$60,105,993.88	\$59,714,737.96

The information shows that for the years 2019 and 2020, the actual spend surpasses the calculation made by Claims Litigation Management for all 354 IA positions by \$4.6M and 4.2M, respectively.



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As to the yearly salary of IA's, the computation made by Claims Litigation Management for comparison purposes takes into account the daily rates in the IA contract projected over a period of 50 weeks. Consideration must be given to the pay differential of the IA's, and benefits, if any. The actual compensation of the IA will depend on the employment relationship with the IA firm.

Based on a limited survey, Internal Audit has learned that when the IA is a contract worker, the differential pay can range from 70% to 85%** of the daily rate in the IA contract, depending on several factors which include, but are not limited to:

- The IA firm's clients and rates
- Additional and alternative services offered by the IA firm that generate other income (e.g. field investigations or inspections)
- The IAs' position and qualifications.

In addition to the above, any benefits that IA's may have will depend on the employment relationship. If the IA is a contract worker, benefits may not necessarily be included. On the other hand, if an IA is an employee of the IA firm benefits and incentives may be included. The IA sector's current salary range is unknown at this time; however, remote work is among the incentives being offered by IA firms, which is attractive for many IA's.

**Utilizing Claims Litigation analysis and assuming that the IA's are contract workers, the following would be the potential take-home pay for the IA's:

Claims Litigation Calculated IA Spend	\$55,462,500.00
**Potential IA Take-Home Pay	\$38,823,750.00 - \$47,143,125.00

Claims Litigation Recommendations:

Claims Litigation has recommended FTE's be placed in five (5) of their teams. It is Internal Audit's understanding that the teams recommended by Claims Litigation to be staffed with FTE's are already staffed with FTE's as part of the department's strategic approach. It is not clear however if the unit is considering additional FTE's for these teams.

Pros and Cons & Alternatives for Consideration

Below are pros and cons, from Citizens' and the employee's / resource's point of view, of filling **all** of Claims Litigation positions with either FTE's or IA's.

Full-Time Employees:

Pros	Cons
Job stability for resource	Does not allow for scalability
Improved resource engagement	Does not allow resource to relocate as desired
Financial savings	Legacy costs (health insurance, retirement plans, etc.)
Certainty of costs	Need for larger support structure (HR, IT, Facilities)



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Direct training by Citizens of resources	Requires asset to relocate if needed onsite
Allows for higher productivity	Longer hiring process
Opportunity for consistency with guidelines	
Better understanding of Citizens' culture and organizational/departmental strategies	
Employee has benefits and incentives	
Opportunities for promotion	
Increased loyalty to Citizens	
Financial savings	

Independent Adjusters:

Pros	Cons
Allows Citizens to use a scalability model	Resource may not have employment benefits or incentives
Allows resource to relocate as needed or desired	Co-employment concerns
Resource can earn higher income on CAT deployments	Limited ability to train asset
No Legacy Costs	More expensive model
	Lack of commitment
	No incentive to settle claims quickly
	Productivity challenges

Management may want to consider the following options or approaches to optimize the ratio of FTE's vs IA's. These approaches may be considered in conjunction with other existing or proposed initiatives, such as the In-House Counsel initiative presented in Internal Audit Advisory 21-MAS-07:

- **Partial FTE Staffing**

- Instead of a full FTE workforce, consider partially staffing FTE's in other units/teams, such as the AOB teams, which experiences a high frequency of lawsuits. This approach could support significantly reducing the annual cost while maintaining a scalable IA workforce.
- Staff/Assign FTE's for long-term or complex litigated matters
- Staff/Assign FTE's for cases marked for settlement candidates by the Triage unit

Claims Management Response:

We are supportive of the Partial FTE Staffing recommendation made by OIA. The Litigation team conducted an analysis of the costs associated with an IA as compared to a staff position and based on these results, Citizens spends on average \$156,674 per IA deployed as compared to an average of \$112,565 for a staff position. Each staff position potentially reduces Citizens litigation handling cost of approximately \$44,109.



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Citizens strategy has been to staff the positions with the most complex suits to ensure appropriate oversight and handling. The strategic areas of focus are: Triage, Specialty (Immunity, Fraud, MRP and Attorney's Fees), Large Loss, Liability, and Commercial. The less complex cases are assigned to IA's with Citizens managers in place to provide appropriate oversight. It should be noted that when suit volume across any of these strategic teams increases drastically, we leverage IA's to handle the increase until staffing can be approved and hired. This has recently happened in the Specialty team where we have added IA's to handle the increase suit volume pending the replacement by staff. We have received approval to add 7 additional positions to the Specialty team and as these positions are staffed, the IA's will be released.

Citizens recognizes the average savings for each additional staff position created and will continue to look for opportunities to move additional positions in the future to staff positions as recommended by OIA. We currently are faced with hiring challenges for staff positions as most of the resources that meet the qualifications are IA's and many are not willing to move into a staff position or to relocate to Jacksonville. Citizens will continue to look for opportunities to attract more qualified candidates so that staff positions can be increased over time.

- **Fast Track Plan**

As Claims Litigation has pointed out, the need for personnel is triggered by the number of lawsuits, which often increases due to storm activity. As an example, Hurricane Irma has brought lawsuits in record-breaking numbers and because of Florida's 5-year statute of limitations for breach of contract, the number of lawsuits to be filed is uncertain.

One approach to reduce the need for IA's may be an aggressive fast-track plan to dispose of targeted claims quicker. This initiative may help decrease the outstanding lawsuits, allowing litigation specialists and managers to focus on effective litigation management and handling of pending suits to gradually decrease them. This may also decrease the need for IA's in larger numbers.

Claims Management Response:

There has been a lot of discussion around a Fast Track plan to address litigation that should be settled quickly. Claims Management will work closely with Claims Legal Services (which is part of the General Counsel's function) to evaluate and implement a program that focus on accelerating litigation settlement.

Staff does support this concept and we currently leverage our Triage team to evaluate each suit to determine if it is ripe for early settlement. When this determination is made, we are still forced into a limited discovery as most of the suits received only state a breach of contract without fully describing what is actually in dispute. The limited discovery fares out what the dispute is so that we can begin discussions with the Plaintiff on settlement vs. trial. When the strategy is deemed settlement, we make all efforts to move the suit to closure as quickly as possible to avoid additional plaintiff and defense counsel costs.



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When Citizens deems a suit as a settlement candidate, the decision is bilateral between the Plaintiff and Citizens. The Plaintiff Attorney is not incentivized to complete an early settlement under the one way attorney fee statute as time equals money, or said another way, they can accrue more fees and costs the longer they hold the suit open. Another important topic around early settlements is that if we discover anywhere in the process that we owe additional indemnity for the suit, we immediately make payment in good faith so that this cannot be used against us later in any settlement discussions.

There has been discussion around creating a team to handle these suits when the strategy is settlement with the thought that they could be resolved quickly and by a lesser qualified litigation specialist. Staff would like to stress that the settlement strategy does not necessarily dictate how easy a suit is to settle and often times can contain complex issues. For this reason, these claims are handled by qualified litigation specialists in their normal workflow based on their respective cause of loss or segmentation. The litigation specialist then works with Defense Counsel to develop a settlement strategy that will resolve the litigation as quickly as the Plaintiff Attorney will allow.

- **Distributed Workforce Policy / Work from Home**

Consider the staffing of additional FTE's through the distributed workforce policy or a work from home program. This is the current platform being used by Citizens and can be implemented to attract candidates.

Claims Management Response:

Staff is supportive of the Distributed Workforce Policy/Work From Home and are leveraging this across the litigation organization for staff and IA's. Citizens oversight staff has strategies in place to monitor and measure the work product of all Distributed Workforce positions and leverage all technology available to maintain contact with the teams.

In order to reduce the IA turnover during the pandemic, Citizens allowed the litigation specialists to work in a distributed workforce model and have communicated to the IA Firms that we will continue to allow the model to operate into the future. This is helping to backfill open positions with qualified IA litigation specialists that otherwise would not have moved to Jacksonville to work on Citizens litigated files.

We would like to thank management and staff for their cooperation and professional courtesy throughout the course of this advisory.

References

- E&Y Final Report Update – Board of Governors Meeting – March 3, 2021
- Ernst & Young (December 15, 2020) Claims Litigation Assessment
- Ernst & Young (December 15, 2020) Claims Litigation Assessment – Underlying Findings
- Executive Leadership Team Metrics Report – March 2021



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Advisory Memorandum – Appendix A

Executive summary Current state key observations

Below are the six components of the current state operation which are likely contributing to process inefficiencies and reduced effectiveness.

Org structure and roles & responsibilities	Litigation management processes	Quality assurance	Internal performance management	Defense counsel performance management	Technology
<ul style="list-style-type: none"> Senior counsel lack defined roles, guidelines and codified performance expectations creating opportunities for inconsistent guidance and levels of support to the claims organization Key litigation management roles are performed across multiple groups, creating duplication of efforts, slowing decision making and limiting productivity There is a high utilization of Independent Adjusters, accompanied with concerns over their capabilities, limiting their autonomy and authority levels, and impacting Claim Litigation Manager efficiency 	<ul style="list-style-type: none"> Triage assignments into the Claims Litigation unit are highly manual, limiting Citizens' ability to align resources to the best suited facts and characteristics There were no claim handling litigation avoidance procedures documented or observed, and the assignment process once suit is filed is not data-driven The provided claim litigation guidelines do not promote adequate control over outside counsel activities or effective expense management consistent with leading industry practices The assignment of litigated claims to defense counsel does not utilize key litigation management performance metrics to drive decision making 	<ul style="list-style-type: none"> The questionnaires used by Claims QA, Claims Legal Billing and Claims Litigation Management should be revised The number of QA reviews for individual contributors are too low and are inconsistently performed, limiting Citizens' ability to identify trends and address training or performance opportunities in a timely manner. This also restricts the ability to consistently and effectively evaluate employees Provided QA performance reports contain only a quality score and cannot analyze root causes, limiting Citizens' ability to identify trends and training opportunities 	<ul style="list-style-type: none"> The current performance management framework does not consistently leverage the use of metrics and QA results to drive improvement or provide a comprehensive assessment of performance at the individual, departmental or organizational level Internal performance management lacks outcome-focused and objective goals and/or formal performance expectations Provided performance reporting cannot be broken down to granular levels; limiting claims leadership's ability to effectively and efficiently measure performance, and design continuous improvement plans 	<ul style="list-style-type: none"> Defense counsel performance is measured by various departments, with no clearly defined feedback loop or ownership, leading to a lack of consistency and transparency regarding performance expectations and performance management Defense counsel performance accountability is not clearly defined; it lacks specific, objective and measurable performance expectations and does not specify non-performance levels. This ultimately leads to inconsistent expectations and execution of performance 	<ul style="list-style-type: none"> Acuity lacks leading practice litigation management rules, forms and dashboards to help determine whether firms are billing appropriately for work performed, and to measure adherence to billing guidelines Acuity, in its current capacity, rates as average for most categories compared to other litigation management systems. Data and reporting currently rates as below average and e-Billing and financial rates above average Information transfer between Acuity and ClaimCenter is not automated, requiring manual entries, which led to observed inaccuracies and incompleteness in the Acuity data



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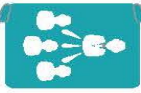
Executive summary

Prioritized litigation management improvement opportunities for \$11M-\$18M in potential savings



Enhance data-driven segmentation and assignment models

- Leverage historical claims and litigation data to develop analytical models that will drive assignment and support decision-making
- Develop analytical tools to support a future state segmentation model, including a complexity-based assignment model, a litigation avoidance predictive model, and a triage assessment decision support tool



Re-evaluate the roles and duties of key claims, claims legal, and litigation management resources

- Define the roles and responsibilities associated with senior counsel to promote consistency in tasks as well as to assist with the promotion of suit avoidance measures, including handling lower-severity litigated claims. This will allow for greater organizational efficiencies, as well as help manage legal spend
- Create a centralized Litigation Management unit within the claims organization to centralize the governance (identification, selection, maintenance, oversight) of defense counsel allowing the organization to identify preferred business partners, as well as compile and distribute key performance data of panel firms



Strengthen existing guidelines to promote effective management over litigated claims

- Revise provided Best Claims Practices Litigation & Non-litigated Liability and Claims Litigation Legal Services guidelines to drive improved efficiency, accuracy and consistency in the management of litigated claims



Improve defense counsel oversight and performance management

- Develop a formal, rigorous and consistent outside counsel performance management program that measures satisfaction with counsel performance as well as claim outcomes and adherence to Citizens' guidelines
- Enhance the defense firm prioritization model to assist with defense firm assignment by shortlisting the best firms suited to handle a particular matter, based on jurisdiction/location, defense firm's capacity, firm's historical performance, matter details, as well as considerations of any conflicts



Enhance Citizens' litigated claims performance management practices

- Enhance the Quality Assurance program to focus on impacts to litigated claim outcomes to help Citizens motivate consistent claim handler behaviors and adherence to guidelines
- Enhance the current performance management framework to leverage the use of outcome-focused metrics and QA results to drive improvement at the individual, departmental and organizational level