

INTERNAL AUDIT

In-House Counsel
Advisory

August 27, 2021



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. Following the completion of this study Internal Audit was requested to provide oversight and support to Citizens on the implementation of agreed corrective action from the EY Study.

The EY report, and supplement report, were issued December 15, 2020. Within the report EY recommended **defining 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, holding that this would allow for greater efficiencies, as well as help manage legal spend.

The Claims Legal Services sub-unit is attached to the Claims Legal Unit of the Legal Department and operates in an advisory, collaborative role for litigated and non-litigated claims, as well as for SIU matters. The unit provides support to several Citizens' departments, including Claims, Claims Litigation and Underwriting through tasks and support activities that include but are not limited to: coverage opinions, legal advice, Civil Remedies Notices (CRN) response reviews, MRP support, Appraisal support based on specific claims under attorney-client privilege, product development support, legislative drafting, policy voidance, document and witness production, and garnishments.

In response to EY's recommendation, it is Claims Management's position¹ that if Claims Legal was to adjust claims, attorney client privilege would be lost. Claims Management also holds that in order to have Citizens' attorneys litigate on behalf of the **policyholder**, a separate captive firm would need to be established. Also, Claims Legal Management is of the opinion that In-House Counsel cannot be staffed under a company staffing model as there may be concerns regarding the unauthorized practice of law as addressed in an internal memorandum issued October 23, 2020.

Objectives and Scope

Internal Audit examined the subject of In-House Counsel to provide additional information on models for consideration.

Analysis

Internal Audit obtained a copy of the memorandum issued by Claims Legal Services unit on October 23, 2020 which addressed the question of whether in-house counsel may represent Citizens **in first party litigation and insureds in third party claims**. The memorandum also discusses the concerns from The Florida Bar regarding the unauthorized practice of law under the Florida common law rule that a corporation (other than a professional corporation) cannot practice law and cannot represent itself in legal matters. Per the memorandum, In-House Counsel cannot be staffed under a company staffing model as there may be concerns regarding the unauthorized practice of law. It concludes that at a minimum Citizens will need to create, fund, and staff a separate captive law firm in order to have In-House Counsel handle first and third-party lawsuits.

A captive firm is typically a small law firm that serves as the in-house legal unit of an insurance company, providing defense to the company and/or its policyholders. Captive Law Firms usually

¹ [EY Final Report Update - March 3, 2021](#) – Page 11

operate under a different name (i.e. The Law Office of John Doe; John Doe & Associates, John Doe, P.A.).

In consideration of statements raised in this internal memorandum Internal Audit reviewed and assessed the following:

- **The Florida Bar**

As it had become common for Florida insurance companies to establish groups of staff attorneys employed to handle the defense of claims made against insureds, through different forms and formats, in 2001 the Board of Governors of The Florida Bar approved the appointment of a commission to study the practices of the property and casualty underwriters of the insurance industry as they related to using insurance company staff attorneys to represent liability insurance policy holders.

The mission of the Commission focused primarily on the practice of law by attorney employees of insurance companies who represent insureds as related to liability policies (not staff attorneys defending the insurer). The Commission's report, published on March 1, 2002, sets the minimum standards necessary to establish a firm for purposes of the Rules (see <https://www-media.floridabar.org/uploads/2017/04/inspractrpt.pdf>). These standards include the functional and physical separation of personnel and records, the protection of client privacy and confidentiality interests through the separation of office and administrative systems and procedures, and disclosure by the lawyers of their employment relationship with the insurer. With regard to firm names, the Commission concluded that existing rules and applicable law permit insurance defense staff attorneys to practice law identifying themselves by a name such as "Law Offices of John Doe" or "John Doe & Associates", so long as there is both adequate disclosure of the employment relationship and compliance with the minimum standards essential to constitute a law firm as set forth in the report.

The Commission also addressed the potential infringement of the attorney's independent professional judgment when an insurer exercises control over the defense of a claim as well as the extent to which traditional conflicts of interest rules apply. With regards to the attorney's independent professional judgment, the Commission determined that attempting to analyze the matter in the context of the unlicensed practice of law is not practical. Instead, they focused on the attorney's ethical duty to maintain independent professional judgment and recommended that The Florida Bar concentrate on enhancing the professional consciousness of attorneys confronted with the ethical dilemmas arising in the insurance defense context. They reiterated the recommendations of the Insurance Practices Special Study Committee and urged immediate implementation of an ongoing program of continuing legal education to provide guidance and assistance to insurance defense counsel.

As to the issue of conflicts of interest, the Commission studied the rules applicable to potential and realized conflicts between the interests of the liability insurance policyholder and the liability insurance company. They determined that all conflict of interest rules apply to all attorneys without regard to the nature of the cases they handle. In determining under what circumstances the exchange of information between the insurance defense staff attorney and other nonlawyer employees of the insurance company breaches confidentiality rules, **the Commission found that Rule 4-1.6 governs, just as it would between the insurance company and non-salaried outside counsel.**

Per the internal memorandum issued by Claims Legal Services, and referenced above, not only can a corporation proceeding *pro se* not represent itself in court, but also cannot practice law through any of its employees even if those employees are licensed attorneys. The memorandum explains that because corporations cannot practice law, and to protect the professional independence of in-house counsel, commercial insurance companies in Florida use the captive law firm model in which a separate law firm with separate facilities and separate employees is created and funded by the insurer. Also, it asserts that because Citizens is a governmental entity of the State of Florida, its enabling statute has set forth processes which require Citizens to maintain the highest ethical standards. Those potential ethical issues are not discussed.

Below is a review and discussion of some of the articles, cases and opinions referenced in the internal memorandum with a perspective of the context in which they were published or issued:

- The courts and governing bodies discuss the topic of insurance companies employing lawyers to represent policyholders, focusing on protecting the public from receiving legal services and/or advice by licensed attorneys who are in any way, shape or form influenced or controlled by non-lawyers. This is relevant in the third-party liability claims, not in first party claims.
- The defendant entities in the cases cited were offering legal services to the public for a profit, not insurance companies defending themselves against lawsuits

1. *Bar Governors Reject Three Insurance Ethics Opinions, Fla. Bar News, January 1, 2001*

This article, which was published before the Report of the Special Commission on Insurance Practices II of March 1, 2002, details why the proposed ethics opinions were not adopted. The Florida Bar rules were not clear as to allowing the procedure that was carried out.

Notwithstanding, **all three opinions involved the obligations of attorneys hired by insurance companies to represent policyholders.** Interestingly, the article mentions that a slight change was proposed by Board member David Bianchi. This change clarified that the rule did not apply to governmental entities, who frequently have their staff attorneys named to defend them. The following is a summary of the proposed opinions as published in the article:

- PAO 99-2, which holds that an attorney hired by an insurance company to represent an insured may not provide information relating to the representation to an outside auditor at the request of the insurance company without the specific consent of the insured. Such consent cannot be implied by the contract between the insured and the insurance company.
- PAO 99-3, which holds that an attorney is ethically prohibited from entering into an agreement with an insurance company to represent insureds where the attorney's independent professional judgment and the client's rights will be affected by restrictive billing practices imposed by the insurance company.
- PAO 99-4, which holds that an attorney paid a salary by an insurance company to defend company insureds faces a potential conflict of interest. Absent an

actual conflict, however, the attorney ethically may undertake such representation only if: the attorney reasonably believes that he or she can adequately represent the insured's interests; the insured consents after consultation; the attorney's professional independence in representing the insured is assured; the attorney honors the duty of confidentiality owed to the insured; and the attorney is not assisting the insurer in conduct constituting the unlicensed practice of law.

2. ***Florida Bar v. Consolidated Business and Legal Forms, Inc.*, 386 So. 2d 797 (Fla. 1980)**

In this case, The Florida Bar charged the defendant with engaging in the unauthorized practice of law by engaging in the business of offering legal services through members of The Florida Bar who were full time employees of the entity. The services included uncontested dissolution of marriages, personal bankruptcy, change of name, simple wills, and uncontested adoptions, among others.

The entity was organized as a for-profit corporation and its officers and stockholders were non-lawyers with no legal training, who supervised and controlled the day to day business for the sole **purpose of personal financial gain derived from providing legal services to individuals** (emphasis added). The case explains that this practice differs from businesses who maintain lawyers as full-time employees primarily to further a course of business other than the practice of law. Not only did non-lawyer officers maintain a degree of control over the legal services, but also the lawyers' compensation encouraged a high-volume turnover of clients in order to increase their income.

The report prepared by the referee appointed by the Court to conduct hearings, Circuit court Judge David F. Patterson, reflected the inherent danger of the intervention of lay persons or organizations in the attorney-client relationship. The entity was permanently enjoined from providing legal services to the public.

3. ***Florida Bar v. We the People Forms and Service Center of Sarasota, Inc.* 883 So.2d 1280 (Fla. 2004)**

The Florida Bar filed a Petition Against the Unlicensed Practice of Law against We The People. The entity advertised legal form preparation services beyond those allowed by the Florida Supreme Court for a non-lawyer and **also offered legal services directly to their customers** by employing a licensed Florida attorney to give legal advice in cases relating to bankruptcy, dissolution of marriage and living trusts.

The Court concluded that there was substantial evidence to support the referee's factual findings and enjoined the entity from engaging in the unlicensed practice of law in Florida.

4. ***In re Rules Governing Conduct of Attorneys in Florida*, 220 So.2d 6 (Fla. 1969)**

This was a 1969 petition from The Florida Bar for the Supreme Court of Florida to approve an addition to the Rules Governing the Conduct of Attorneys in Florida. As indicated in the memorandum, the following language was proposed:

“An attorney employed in a master-servant or employer-employee relationship by a lay agency, such as a bank, savings and loan association, trust company or insurer, shall not render in the scope of his employment legal services on behalf of or in the name of customers, patrons or insureds of the lay agency unless it shall clearly appear that the sole financial interest and risk involved is that of the lay agency.”

The Court explained that the obvious objective of the proposal was to restrict representation of individuals by so-called "house counsel". The announced motive of the Florida Bar was to protect the public against the dangers of potentially duplicitous representation. The Florida Bar advised that a **primary source of concern was the practice of certain major insurance companies to maintain full time employed counsel who also represent policyholders**. The problem occurs when a conflict develops between insurer and insured, such as when a claim exceeds policy coverage or when a compromise settlement is in the making. This petition was denied by the Court as the proposed rule did not completely solve the problem which it sought to remedy, but rather discriminated against a class with no reasonable basis for the distinction.

The Court goes on to reason that when a lawyer undertakes the representation of a particular client, he should be free to exercise completely unhampered professional judgment solely for that client. He should not be swayed directly or indirectly by his own interest or those of other clients or third parties.

5. *State Bar Ass'n v. Connecticut Bank & Trust Co.*, 140 A.2d 863, (Conn. 1958)

In this case, on appeal, the Plaintiffs alleged (in their individual complaints) that the defendants had been unlawfully practicing law in violation of common law. The lower Court had found certain issues in favor of the defendants.

The defendants were Connecticut Bank and Trust Company, a state bank and trust company organized under the laws of Connecticut and Hartford National Bank and Trust, a national banking association incorporated and organized under the laws of the United States with a principal office in Hartford. The employees of the trust department of each defendant composed, drafted and filed in the probate courts petitions, accounts, inventories, lists of claims, and applications for the probate of wills, for widows' allowances, for the payment of its own claims against estates it was administering and for approval and acceptance of its accounts and reports. Each defendant, acting in a fiduciary capacity, caused its appearance and representation to be made by its trust department employees at hearings and proceedings in the probate courts, including hearings and proceedings on applications for widows' allowances, for the admission to probate of wills in which it was named as executor, for the compromise of claims for or against the estates it was administering, for the adjudication of its claims against those estates, and for approval and acceptance of its accounts and returns.

The Court explained that upon the basis of the facts found, it could not say that the lower Court erred in concluding that each defendant, acting by and through its trust department employees, lawyers or laymen, in preparing tax returns and dealing with and appearing before state and federal tax authorities in connection with taxes

claimed to be due from estates administered by it did not engage in the unlawful practice of law. It did however say, that if the record indicated that either the preparation of the tax returns or the matters dealt with involved tax law problems of a type such that their solution would be “commonly understood to be the practice of law”, it would hold that the acts performed constituted the unlawful practice of law.

The Court found errors in part in both cases, set aside the judgments and remanded them with direction for judgments to be rendered to accord with the opinion.

6. ABA Standing Committee on Ethics & Professional Responsibility, Formal Opinion 03-430, *Propriety of Insurance Staff Counsel Representing the Insurance Company, and Its Insureds; Permissible Names for an Association of Insurance Staff Counsel*, July 9, 2003.

This formal opinion from the American Bar Association addresses two ethical issues:

- a. May insurance staff counsel represent both their employer and their employer’s insureds in a civil lawsuit resulting from an event defined in the insurance policy?
- b. Under what name may an association of insurance staff counsel practice?

For purposes of the opinion “insurance staff counsel” are insurance company employees. They are alternatively also called “house,” “in-house,” “salaried,” or, less precisely, “captive” counsel.

The opinion’s background gives an overview of how a liability policy works when and if a lawsuit against an insured fall within the insurer’s duty to defend. Once a lawyer is named to defend the insured and the client-lawyer relationship attaches, the lawyer is bound by the rules of professional responsibility, not by the insurance contract. The question of whether the use of insurance staff counsel constitutes unauthorized practice of law was not addressed. This was because of issues of substantive state law, which were beyond the ABA’s Committee.

The opinion explains that the defense of an insured under an insurance contract gives rise to interrelated duties between the insurance company, the insured, and the lawyer retained by the insurance company (also known as the tri-partite relationship). If conflict of interests was to arise between the insurance company and the insured, the lawyer immediately must resolve it by either obtaining the insured’s informed consent or terminating his representation of the insured.

Just as addressed in the Report of the Special Commission on Insurance Practices II of March 1, 2002, this opinion provides some background regarding the disclosures that an insurance defense lawyer must make to the insured-client. The ABA addressed these in Formal Opinion 96-403, which include the disclosure of the employment status and affiliation with the insurance company.

The opinion goes on to address the matter of names by which an insurance staff counsel may identify itself. It is recognized that there are substantial variations in approaches taken by different insurance companies. When a traditional captive model is adopted, insurance staff counsel operations are most commonly unincorporated divisions of the insurance company’s corporate law department. Typically, the offices of insurance staff counsel are physically and organizationally separate from the

insurance company's business operations. It concludes that insurance staff counsel may refer to themselves as a "firm", "law firm" or an "association" of lawyers, provided that the names satisfy Rule 7.5(a), which cautions that, "[a] lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1." Rule 7.1, in turn, reads:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law or omits a fact necessary to make the statement considered as a whole not materially misleading.

The potential for misleading is eliminated when insurance staff counsel discloses their employment status to their insureds-clients in the manner described.

Finally, the internal memorandum issued by Claims Legal Services describes the model adopted by State Farm in Florida, whereby captive law firms with separate names and facilities, reporting to regional counsel separate from non-attorney managers were created. The memorandum points out to the ethical concerns raised in Opinions 99-3 and 99-4 that the appearance of an insurance company practicing law is prohibited by Florida law. **It must be kept in mind that these opinions only addressed obligations of attorneys hired by insurance companies to represent policyholders and they were not adopted by the Florida Bar.** As such, they are not formal or persuasive opinions.

After evaluating the internal memorandum as well as the progeny of articles and case law referenced therein, it is evident that the Courts and governing bodies have focused on protecting the public from receiving legal services and/or advice by licensed attorneys who are in any way, shape or form influenced or controlled by non-lawyers. The reason being that there is an inherent conflict between the needs of a client and the business model of those entities that provide those services.

The other In-House Counsel model available is the staff model. Through this model attorneys are hired as full-time employees to defend litigated claims without the need to create separate corporate structures, like those typical of captive firms.

As to the structures for reporting and accommodation for In-House Counsel the question was examined in an extensive article published by Eric Sigurdson² in 2017 regarding the In-House Counsel subject. Sigurdson cites numerous references, including Mallen and Smith, Legal Malpractice, 4th ed. 2012, the ABA's Formal Opinion 03-430 (previously addressed in this report), case law, and articles.

Sigurdson's article maintains that staff counsel department should be designed to be comparable to a law firm to preserve the greatest independence of counsel, that the exercise of professional judgment must be by staff counsel, not by claims personnel, and the attorney-client aspects of written records of insureds' representation should be confidential from the claims department.

² Retired. Former Resident Attorney for Liberty Mutual's Canadian Staff Counsel legal department, and Former General Attorney for TD Insurance's in-house Staff Legal Department.

Sigurdson holds that an important consideration is the implementation of guidelines and/or policies that support and enhance counsel's independence and allow compliance with Rules of Professional Conduct in the jurisdiction where offices operate. A list of important safeguards is provided:

- Adherence to the Rules of Professional Conduct
- Independence from the Claims Department
- Separate identifiable Staff Counsel department and office space (even if on company premises), with its own set of files and administrative staff and support system, with lines of supervision and control by senior lawyers
- Persons responsible for employment review and promotion of staff counsel personnel should be staff counsel managing lawyers and operational managers within the staff counsel department
- Exercise of independent professional judgment by staff counsel lawyers on behalf of clients
- Staff counsel lawyers' professional and ethical duties and responsibilities owed to the insured client
- Staff counsel disclosure of employment affiliation to all their insured clients, in writing at the outset of the solicitor-client relationship, including a clear delineation of the scope of the retainer

● **Industry Survey**

Internal Audit performed a survey and obtained information from 11 of the 40 plus Florida admitted carriers. The survey focused on utilization of In-House Counsel within the companies and the model adopted for such a program. The results are as follows:

Company	In-House Counsel	Model	Reporting Line	Comments
American Integrity	Yes	Staff	Legal	Litigation performed by <i>in-house</i> counsel. In-house function reported to Claims before the hiring of CGC and creation of the Legal Department.
Heritage Insurance	Yes	Staff	Unknown	Litigation performed by <i>in-house</i> counsel
Homeowners Choice	Yes	Staff	Unknown	Litigation performed by <i>in-house</i> counsel
Florida Peninsula Insurance Company	No	N/A	N/A	Litigation handled by outside counsel
UPC Insurance (United)	No	N/A	N/A	Litigation handled by outside counsel
Universal Property & Casualty	Yes	Staff	Legal	Big <i>in-house</i> Staff counsel group with aggressive plans of bringing more work inside.
FCCI	Yes	Staff/ Captive	Legal	Litigation performed by <i>in-house</i> counsel Captive used for 3 rd Party Liability Defense.
Universal North America	Yes	Staff	Legal	Litigation performed by <i>in-house</i> counsel

Tower Hill	No	N/A	N/A	Litigation handled by outside counsel. Currently exploring in-house.
Centauri Insurance	No	N/A	N/A	Litigation handled by outside counsel. Currently evaluating in-house counsel
Bankers Insurance	No	N/A	N/A	Litigation handled by outside counsel

Most of the Florida carriers surveyed have In-House Counsel through a staff model, rather than a captive firm model. While information could not be obtained as to the reporting line for all the insurers, it seems typical for In-House Counsel to be under the Legal Department. This reporting line is in alignment with the treaties, articles, and opinions regarding this aspect.

Job postings (Appendix A) found online for the Staff Counsel position for three Florida domestic carriers contain similar descriptions and requirements such as:

- Juris Doctor degree
- Licensed by The Florida Bar
- Represent the company in Claims and Lawsuits filed against the company
- Responsible for all phases of litigation, including through trial

Future Staffing Structures for Consideration

Internal Audit first considered the EY recommendation which stated:

“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 [...] senior counsels’ responsibilities would include – but would not be limited to – preparing coverage opinion letters, handling specific litigation and pre-litigation matters, and negotiating and drafting agreements”.

Internal Audit is in agreement with management’s view that Senior Counsel is better suited to continue delivering the tasks pursuant to their current position profiles and it would not make sense to have highly skilled attorneys working on low-severity/low-complexity matters. However, given the results from our analysis, summarized above, Internal Audit is of the opinion that there will be value in further evaluating the opportunity to establish an in-house counsel model that fits Citizens’ governance structures and offer the ability to reduce claims counsel cost.

An In-House Counsel unit would be able to handle low-severity/low-complexity matters, such as:

- EUO’s
- Appraisals
- Bad Faith Language Suits
- County Court/Small Claims
- No Peril Created Opening MSJ’s
- Suits from non-Compliant AOB’s
- Appraisal Support
- Civil Remedies Notices (CRN) Response Review

Under an In-House Counsel unit, Florida licensed attorneys, under comprehensive litigation and reporting guidelines, can handle these low-severity/low-complexity matters associated with first party property claims. It is not recommended that in-house counsel be used to represent the policyholder for third party liability litigated claims. Insureds’ representation in third party liability litigated claims should remain being assigned to Outside Defense Counsel. This will avoid potential conflicts of interests and help keep consistency with the opinions from The Florida Bar.

An approach that can be considered for an In-House Counsel program is the staffing of early in their career/recent law school graduate lawyers, who can tackle this type of low-severity/low-complexity matters under the guidance of an experience claims defense lawyer. Citizens could provide a great career starter job as a steppingstone for a legal career. These new lawyers may be motivated not only by Citizens' well known employee-focused culture, as recognized as one of the best companies to work for in Florida, but also by the incentive of student loan forgiveness after ten (10) years of service³. In addition, this model would be a good way to handle high volumes of legal filings.

Internal Audit's review and analysis concludes and supports that an insurance carrier's use of **In-House counsel, through a staff model, to represent the organization against suits involving first party property claims is appropriate** and is currently used by insurance carriers within Florida. It is well recognized in Florida that a corporation, unlike a natural person, cannot appear in a court of law without an attorney; however, this does not mean that a corporation may not employ licensed counsel to represent its interests in Court. By doing this, Citizens is not engaging in the business of practicing law as it is not offering legal services to the public for a profit.

Consideration must be given as to where the in-house counsel should be hosted. As Internal Audit sees it, there are two options:

- 1) embedded in the Legal Department reporting through the Claims Legal function, or
- 2) embedded in the Claims Function either reporting directly to the Chief Claims Officer or through the Claims Litigation function.

Pro's and Cons to consider with these options include:

- **In-House Counsel embedded in Claims Legal**
 - This approach would require the review and update of the Senior Counsel - Claims Legal position profile or the creation of a separate Senior Counsel position as well as the creation of a Staff Counsel position.
 - In-House Counsel would not be reporting to its operational function. There could be a disconnect between operational functions.
- **In-House Counsel embedded in Claims/Claims Litigation**
 - This approach would require the creation of a separate Senior Counsel position as well as the creation of a Staff Counsel position.
 - The appearance of lack of independence of counsel could be created; however, if counsel is to represent only Citizens under the structure for consideration (and not policyholders), these concerns may be unwarranted. Counsel would still be bound by Rules of Professional Conduct.
 - In-House Counsel would report to its corresponding operational function, streamlining litigation management activities.

Internal Audit engaged Adams & Reese to review this advisory memorandum and provide a legal opinion and insights on the subject of In-House Counsel. Their findings can be summarized as follows:

³ The Student Loan Forgiveness Program is part of the benefits package offered to eligible Citizens employees.

1. In-house staff counsel may represent Citizens in first party claims against Citizens, and Citizens insureds in third party claims against those insureds, in conformity with the law and applicable ethical rules.
2. There is no legal or ethics requirement for in-house staff counsel to be formally organized as a “captive law firm” to represent Citizens insureds, and additional concerns accompany the creation and use of a captive law firm.
3. The claims legal function should not be realigned to the claims department from its current organization under the legal department.

Legal Spend Data

The Claims Litigation dashboard shows the following legal spend for first party – residential property matters as of March 25, 2021:

Year	Total Attorney Fees Paid	EUO's	AOB's
2018	\$74,816,896	\$296,602	\$14,610,563
2019	\$91,232,197	\$394,334	\$22,806,303
2020	\$79,045,639	\$402,293	\$19,201,925
2021	\$5,467,276	\$18,282	\$1,121,987

Internal Audit obtained a report through IT data analytics showing legal spend for **closed** claims. For first party property claims closed during the years 2018 to 2021 it shows:

Year	Total Attorney Fees Paid	County Court/ Small Claims ⁴	No Peril Created Opening ⁵
2018	\$54,333,064	\$10,622,548	\$7,848,261
2019	\$72,624,716	\$16,095,913	\$11,486,662
2020	\$61,894,062	\$15,011,867	\$11,090,112
2021	\$13,368,639	\$3,068,253	\$1,696,358

The table below shows the average legal spend for years 2018 – 2020 for the data obtained from the Claims Litigation dashboard and the IT Data Analytics report:

Assignment	Average Attorney Fees 2018 – 2020
EUO's	\$364,409 per year
County Court/Small Claims	\$13,910,109 per year (or \$4,338 per case)
No Peril Created Opening (NPCO)	\$10,141,678 per year (or \$10,754 per case)
AOB's	\$18,872,930 per year

⁴ Report shows 3,083 cases in 2018 with an average spend of \$3,445 per case; 3,743 in 2019 with an average spend of \$4,300 per case; 2,793 in 2020 with an average spend of \$5,374 per case and 522 in 2021 (as of 3/31/2021) for an average spend of \$5,877 per case.

⁵ Report filtered by NPCO and showing 858 cases in 2018 (28 marked “Settle”) with an average spend of \$9,147 (or \$3,545); 1,056 cases in 2019 (30 marked as “Settle”) with an average spend of \$10,877 per case (or \$3,545); 916 cases in 2020 (27 marked as “Settle”) with an average spend of \$12,107 per case (or \$9,118 per case); 118 cases in 2021 (2 marked as “Settle”) with an average spend of \$14,376 per case (or \$15,993 per case).

Potential Costs

The following is a rough estimate of the potential costs for staffing an In-House Counsel unit:

Position	Quantity	Salary Range	Yearly Cost ⁶
Senior Counsel	6	\$100,000 - \$125,000	\$840,000 – \$1,050,000
Staff Counsel	36	\$85,000 - \$100,000	\$4,284,000 – \$5,040,000
Paralegal	9	\$50,000 - \$65,000	\$630,000 – \$819,000
		Total	\$5,574,000 – \$6,909,000

Note: The number of attorneys / staff required for either model will depend on the type of matters that the unit would be handling, the assigned venues or jurisdictions. Management may want to consider the Distributed Workforce Policy or a Work from Home program for some of these positions. As counsel would have to appear in court, basing all positions out of Jacksonville would not be practical or efficient for traveling purposes.

If a captive model is desired, additional factors to consider are the process and costs associated with creating separate corporate structures as well as the compliance and reporting requirements that such structures may entail.

Potential Savings

Based on the data obtained and the rough estimate of potential costs, if for instance an In-House Counsel unit would be handling EUO's, County Court/Small Claims and NPCO matters, the following is an example range of the potential yearly savings:

Potential Savings	
Average Fees County Court/Small Claims 2018 - 2020	\$13,910,109
Average Fees No Peril Created Opening (NPCO) 2018 - 2020	\$9,309,622 ⁷
Average Fees EUO's 2018 - 2020	\$364,409
Sub Total:	\$23,584,140
Less: Potential Costs of In-House Counsel unit	\$5,574,000 - \$6,909,000
Potential Savings Range	\$16,675,140 - \$18,010,140

Note: The range of potential savings could be reduced with a captive model due to the potential additional costs associated with creating separate corporate structures and their compliance / reporting requirements.

While there could be significant savings through the use of In-House Counsel, there are other advantages such as certainty of costs, improved relationships and engagement with Claims & Claims Litigation personnel, potential for consistent adherence to litigation guidelines and timeframes, improvement of operational efficiency, and better understanding of Citizens' culture, among others.

⁶ Cost has been calculated at 1.4 of salary base to account for benefits. Equipment and support have not been factored into annual costs.

⁷ As there are NPCO matters filed in County Court / Small Claims, the amount has been reduced according to the data obtained through the IT Data Analytics report. The report shows 190 cases in 2018 with a spend of \$1,343,080; 187 cases in 2019 with a spend of \$1,747,219 and 108 cases in 2020 with a spend of \$975,870, for an average of \$832,056.

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

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The Honorable Chris Sprowls, Speaker of the House of Representatives

The External Auditor

Completed by Juan Carlos Rivera, Manager

Under the Direction of Joe Martins, Chief of Internal Audit



Appendix A - JOB POSTINGS STAFF COUNSEL

3/26/2021

American Integrity Insurance Company hiring Staff Counsel in Orlando, Florida, United States | LinkedIn



Staff Counsel

American Integrity Insurance Company - Orlando, FL

3 weeks ago · Be among the first 25 applicants

About Us

Our Company

American Integrity Insurance, the premier writer of Florida homeowners insurance, has more than 290,000 customers and is exclusively represented by more than 1,000 independent agents who specialize in this complex and ever-evolving market. We offer sound and comprehensive home, condo, rental property and manufactured home insurance to families throughout the Sunshine State. Comprised of over 240 insurance professionals, most of whom work in our Tampa-area headquarters, we have been recognized as a Top Place to Work in Tampa by the Tampa Bay Times and a Best Places to Work in Insurance by Business Insurance magazine for the past seven years.

A Day In The Life

Who Says Insurance Can't Be Fun? From company picnics to charity events, no one can ever say American Integrity Insurance doesn't understand the importance of having fun, helping others and giving back. Our company culture is our mission to continue providing reliable, customer-centric homeowners insurance to Florida residents and paying claims in a timely manner when our customers suffer a loss – and to do so with Integrity.

Learn more about American Integrity Insurance and our job opportunities at www.aiiflorida.com.

<https://www.linkedin.com/jobs/view/staff-counsel-at-american-integrity-insurance-company-2448408162>



Appendix A - JOB POSTINGS STAFF COUNSEL

3/26/2021

American Integrity Insurance Company hiring Staff Counsel in Orlando, Florida, United States | LinkedIn

Title: Staff Counsel

You'll Report to: Managing Attorney

The Staff Counsel will provide legal analysis, direction, and complete handling of lawsuits against the company arising out of the company's handling of homeowner property claims in Florida. The Staff Counsel will manage all aspects of litigation, including depositions and EUOs, discovery, motion practice, and trials. In addition, the he or she will be responsible for providing pre-litigation legal analysis, coverage opinions, and other guidance to the claims team in an effort to avoid and/or mitigate against claims and lawsuits against the company.

What You'll Do

- Reviews, evaluates and makes recommendations on behalf of the company on claims and lawsuits filed against the company, including extra-contractual matters.
- Handles complex legal case management.
- Directly manages claim lawsuits to achieve appropriate outcomes in the defense of the company.
- Researches, analyzes and reports on legislation, case law and industry trends impacting claims handling and the avoidance of extra-contractual claims.
- Attends mediations, trials and other proceedings as needed on assigned matters to ensure the company's interests are being advanced.
Reviews, analyzes and advises on claims initiatives and written materials to ensure consistency with best practices for avoidance of litigation and bad faith allegations.
- Creates and solicits feedback on the company's Litigation Management strategy.
- Prepares status and other reports to upper management as needed in connection with assigned inventory of litigation matters.
- Participates in training and mentoring of claims staff, including formal and informal training sessions and roundtables.

What You'll Need To Be a Top Candidate

Education: Juris Doctorate from an ABA-accredited law school required. Must be a licensed member in good standing of the Florida bar.

Experience: Minimum of 5 years of experience in **first party property insurance litigation.**

<https://www.linkedin.com/jobs/view/staff-counsel-at-american-integrity-insurance-company-2448408162>

3/26/2021

American Integrity Insurance Company hiring Staff Counsel in Orlando, Florida, United States | LinkedIn



Appendix A - JOB POSTINGS STAFF COUNSEL

Skills & Knowledge

- Ability to perform all functions of litigation, including EUOs, depositions, motions and hearings, mediations, trials and appeals.
- Trial experience in 1st party property is a plus.
- Demonstrated skill at complex litigation strategies and procedures, complex coverage issues and appeals.
- Demonstrated proficiency with Microsoft Office products (Word, Excel, PowerPoint)
- Professional and demonstrates high integrity
- Shifts focus or course of action when necessary; flexible
- Resilient, maintaining high levels of performance under stress
- Excellent leadership and visionary skills
- Excellent organization and planning skills
- Strong interpersonal skills

Working Conditions: Normal business office environment. Must be able to remain in a stationary position for periods of time while constantly operating a computer and or other office productivity machinery such as a calculator or telephone. The person in this position needs to occasionally move about inside the office to access file cabinets, office machinery or communicate with coworkers.

Travel: Frequent travel throughout the state as required. Must have valid driver's license.

ADA: The above statements cover what are generally believed to be the principal and essential functions of this job. Specific circumstances may allow or require some people assigned to the job to perform a somewhat different combination of job duties.

<https://www.linkedin.com/jobs/view/staff-counsel-at-american-integrity-insurance-company-2448408162>



Appendix A - JOB POSTINGS STAFF COUNSEL

3/26/2021 Staff Counsel Position- First Party Defense in Sunrise, FL at Heritage Insurance



STAFF COUNSEL POSITION- FIRST PARTY DEFENSE IN SUNRISE , FLAT HERITAGE INSURANCE

Date Posted: 3/12/2021

APPLY

([HTTPS://APPLICATION.CAREERBUILDER1.COM/HERITAGEPCI/APPLY/CB1/J3TSFIPATH=TNJOB&JOB_D1D=J3TSFG73H9C71DF2WYV&SC_CMP1=JS_JOBDETAILS_.US](https://application.careerbuilder1.com/heritagepci/apply/cb1/j3tsfipath=tnjob&job_d1d=j3tsfg73h9c71df2wyyv&sc_cmp1=js_jobdetails_.us))

JOB SNAPSHOT

Employee Type: Full-Time

Location: Sunrise, FL

JobType: Legal

Date Posted: 3/12/2021

JOB DESCRIPTION

Position Summary:

A Staff Counsel in the Heritage Legal Department is responsible for all phases of litigation from initial assignment through trial.

- A Staff Counsel will be assigned and personally responsible for between 100 - 150 cases depending on experience level and types of cases.

Essential Duties and Responsibilities

Responsible for developing a Litigation Plan in conjunction and consultation with the assigned Litigation Examiner .

- Responsible for the implementation of the Litigation Plan, and the modification of the Litigation Plan as deemed necessary throughout every phase of litigation.
- Responsible for complying with the Heritage Litigation Handbook and Guidelines .
- Responsible for ensuring compliance with all Orders entered in each assigned case.
- Responsible for complying with all Administrative Orders in effect within the specific jurisdiction that the attorney works within.
- Responsible for ensuring complete compliance with the Florida Rules of Civil Procedure and the Florida Evidence Code in every assigned matter.

<https://heritagepci.jobs.net/en-US/job/staff-counsel-position-first-party-defense/J3T5FG73H9C71DF2WYV>



Appendix A - JOB POSTINGS STAFF COUNSEL

JOB REQUIREMENTS

Key Competencies

- A thorough understanding of the Florida Rules of Civil Procedure...TrainingCivil-Procedure-Rules-Updated-4-6-20.pdf
- A thorough understanding of the Florida Evidence Code.
<https://www.flsenate.gov/Laws/Statutes/2018/Chapter90> (<https://www.flsenate.gov/Laws/Statutes/2018/Chapter90>)
- A thorough understanding of the Florida Rules of Judicial Administration...TrainingFlorida-Rules-of-Judicial-Administration.pdf
- A thorough understanding of all Administrative Orders in effect within each jurisdiction that the attorney handles.
- A thorough understanding of Florida Insurance Code, specifically Chapter 624 and Chapter 627.
- A thorough understanding of the Rules Regulating the Florida Bar, specifically the Rules of Professional Conduct...TrainingRules Regulating the Florida Bar.pdf...TrainingRules of Professional Conduct.pdf.
- A thorough understanding of the Florida Administrative Code <https://www.flrules.org/> (<https://www.flrules.org/>), specifically
 - Chapter 690 - Insurance Regulation,
 - Chapter 69B-153 Deceptive Insurance Practices,
 - Chapter 69B-166 Property and Casualty Insurer Practices, Chapter 69B-220 Adjusters.
 - For sinkhole losses, Chapter 69B-251 Neutral Evaluators.
- Extensive knowledge of case law governing Florida insurance claims.

Other Required Qualifications

- Highly organized with the ability to handle and maintain daily tasks for his/her assigned case load.
- Strong communication skills
- Articulate presentation skills using technology
- Strong and persuasive legal writing skills and oral advocacy skills
- Ability to clearly and succinctly articulate position
- Independent ability to analyze legal issues with minimal supervision
- Appreciation for and commitment to delivery of high-quality legal work
- Works collaboratively with team members and others
- Demonstrates desire to acquire effective trial skills with increased litigation complexity
- Demonstrates superior legal acumen
- Demonstrates personal commitment to professional development
- Continued development of technical skills with a goal of handling the highest complexity cases
- Personal integrity and adherence to a high degree of professionalism and ethical competency
- Strong research skills
- Strong negotiation skills
- Multi-tasking tolerance and success
- Decision making and problem-solving abilities
- Sense of urgency/responsiveness

<https://heritagepci-jobs.net/en-US/job/staff-counsel-position-first-party-defense/J3T5FG73H9C71DF2WYV>



Appendix A - JOB POSTINGS STAFF COUNSEL

Minimum Education and Licensure Requirements

- D. degree from ASA-approved program
- Licensed by the Florida Bar and a member in good standing

Minimum Experience Requirements

- **Associate Staff Counsel**
 - 1 year of experience practicing in Florida.
 - 6 months specializing in insurance law.
- **Staff Counsel**
 - 5 years of experience practicing in Florida
 - 2 years of experience specializing in insurance law.
 - 1 year of experience specializing in first-party property
- **Senior Staff Counsel**
 - 15 years of experience practicing in Florida.
 - 10 years of experience practicing in insurance law.
 - 5 years of experience specializing in first-party property.

Management/Supervisory Responsibilities

- **Associate Staff Counsel**
 - Responsible for supervising assigned Legal Assistant and Litigation Paralegal
- **Staff Counsel**
 - Responsible for supervising assigned Legal Assistant and Litigation Paralegal
 - Responsible for supervising assigned Associate Staff Counsel
- **Senior Staff Counsel**
 - Responsible for supervising assigned Legal Assistant and Litigation Paralegal
 - Responsible for supervising assigned Staff Counsel

<https://heritagepci-jobs.net/en-US/job/staff-counsel-position-first-party-defense/J3T5FG73H9C71DF2WYV>



Appendix A - JOB POSTINGS STAFF COUNSEL

3/26/2021

Careers At Security First Managers LLC



Menu

Careers At Security First Managers LLC

Careers

Current job opportunities are posted here as they become available.

Home

Subscribe to our RSS feeds to receive instant updates as new positions become available.

Current

Staff Attorney

Openings

Department:Location: Litigation XXXXX, FL

Summary of Position:

Security First Managers is looking for multiple attorneys interested in pursuing a new career opportunity in the insurance industry. Levels I, II, and III are dependent on experience level.

Position number and locations are:

- Ormond Beach - Nine (9) positions
- South Florida - Three (3) positions
- Tampa Bay Area - Two (2) positions

Successful candidates will use knowledge and skills learned in traditional legal fields to settle legal disputes that arise from claims. Staff Attorneys will have the opportunity to build litigation skills in a professional environment, working as part of the Security First litigation team. The selected candidate will manage a caseload of litigated files.

Essential Job Functions:

- Leads or works directly on moderate risk litigation representing Security First in trials or hearings before courts including mediations and arbitrations
- Reviews and evaluates assigned cases and lawsuits
- Prepares and tries cases as required in all courts
- Provides legal advice and counsel to claims
- Assists in evaluating claims in litigation and performs research for Litigation Examiners
- Collaborates Litigation Examiners/Specialists to provide an Agreed Litigation Plan for the defense of each

<https://securityfirstmanagers.hrmdirect.com/employment/view.php?req=1515879&jbsrc=1014>



Appendix A - JOB POSTINGS STAFF COUNSEL

- Provides legal advice and counsel to claims
- Assists in evaluating claims in litigation and performs research for Litigation Examiners/Specialists
- Collaborates Litigation Examiners/Specialists to provide an Agreed Litigation Plan for the defense of each case
- Recognizes, promotes, and participates in settlement opportunities including mediations and arbitrations. Negotiates as authorized
- Keeps the assigned Litigation Examiner/Specialist informed throughout the life of the file
- Takes deposition of parties, witnesses, and experts; participates in discovery and motion practice as warranted
- Provides documentation outlining claims in litigation to effectively assess loss and litigation expense including attorney's fees awards
- Present a professional and helpful appearance
- Assists in other areas of department or other departments as required
- Other duties as assigned with or without accommodation

Minimum Requirements:

- JD degree from a regionally accredited law school
- Licensure with the Florida Bar
- First Party Property experience required Commitment to the highest ethical and professional standards; personal and professional integrity, unquestioned discretion in maintaining confidentiality
- Accurate, thorough, and keen attention to detail
- Comprehensive knowledge of legal terminology; property/casualty claims practices a plus
- Strong communication and interpersonal skills; excellent written and oral communication skills in both public and private settings
- PC Literate with a firm understanding of Microsoft Office Programs

Required Competencies:

- Managerial Courage
- Negotiating
- Perspective
- Organizing
- Functional/Technical Skills
- Interpersonal Savvy
- Decision Quality
- Priority Setting

Disclaimer:

The above statements are intended to describe the general nature and level of work being performed by employees assigned to this classification. They are not intended to be construed as an exhaustive list of all responsibilities, duties and skills required of employees assigned to this position. Our company is a drug- free workplace, and all candidates which are offered a position will be required to submit

<https://securityfirstmanagers.hrmdirect.com/employment/view.php?req=1515879&jbsrc=1014>